

**CITY COUNCIL MEETING  
TUESDAY, JULY 7, 2020**

**DOCUMENTS RECEIVED  
AFTER PUBLISHED AGENDA**

# **AGENDA QUESTIONS & ANSWERS**

**Items 2, 4, & 10**

**AGENDA QUESTIONS & ANSWERS**

**MEETING DATE: July 7, 2020**

**Item #2: [CONS 20-252](#) Adopt a Resolution Approving the Report and Nuisance Abatement/Municipal Code Liens with the County Recorder's Office for Non-Abatable Code Violations**

Regarding Agenda item 2, Non-Abatable code violations, would you please clarify what types of things qualify as non-abatable vacant property standards or public nuisance items?

Non-Abatable code violations are typically those violations which cannot be immediately abated due to the significant cost associated with the abatement or the abatement's complexity. Typically, these items include but are not limited to violations of the California Building Code (un-permitted construction, un-permitted modifications to building electrical or mechanical systems), Violations of Zoning Code (approved land use, un-permitted accessory dwelling units etc.) and Violations of California Health and Safety Code (Unsafe Structures, Vacant and Neglected Buildings etc.). An example might be an unpermitted shed or accessory dwelling unit constructed so it doesn't meet zoning setback from property lines.

**Item #4: [CONS 20-274](#) Adopt a Resolution Approving Reports and Special Assessments for Residential Rental Inspection Program Fees Past Due**

1032 rental property owners failed to pay the \$88 RRI fee this year. That seems quite high for such a small fee. Does staff have any idea why so many folks refused to pay such a small fee?

Since the staff report was submitted, more payments have come in, so some of these fees may have been paid. Last year, there were about 400 nonpayments, but staff believes the number is higher this year because we substantially increased the number of units in the rental inspection program, and the COVID-19 pandemic has delayed some payments as well for economic reasons. Payments may be made through July.

Regarding Agenda item 4: Rental Inspection Fees, were the inspections generally up to date last year?

In general, most rental inspections fees were up to date during the last year. This year, payments may have been compromised by a wider range of concerns primarily related to COVID-19 as typical payment time frames coincided with City closures. Additionally, the City's Housing Division has added an additional number of rental properties to existing data sets.

**Item #10: [PH 20-054](#) Zoning Text Amendment for Tobacco Retail Sales Establishments: Introduction of an Ordinance and Adoption of a Resolution for a Zoning Text Amendment to Chapter 10, Article 1, Section 10-1.2780, Tobacco Retail Sales Establishments, of the Hayward Municipal Code Relating to Tobacco Retail Sales Establishments (Report from Development Services Director Simpson)**

Does Council have discretion to grant an exception or variance to the 1000-foot proximity rules?

Example: A grocer wants to open on Tennyson Blvd. within 1000 feet of a park, a school and another Tobacco retailer. But the grocer insists on selling Tobacco as a condition of opening the store. Does the ordinance give Council the authority to grant an exception or variance to allow the new grocery store to open and sell non-flavored tobacco products?

Council is granted such authority in the Cannabis ordinance. I recommend that staff be ready with similar language in case Council directs staff to modify the ordinance on Tuesday evening.

Language has been drafted to allow the approving body discretion, with certain findings, to make an exception to the 1,000 foot proximity rule if the Council chooses to add this to the Ordinance.

# **eCOMMENTS RECEIVED**

## **Public Comment & Item 10**

**eComments received for July 7, 2020 Hayward City Council Meeting:**

Item	Name	Comment	Position
<p>The Public Comment section provides an opportunity to address the City Council on items not listed on the agenda or Information Items. The Council welcomes your comments and requests that speakers present their remarks in a respectful manner, within established time limits, and focus on issues which directly affect the City or are within the jurisdiction of the City. As the Council is prohibited by State law from discussing items not listed on the agenda, your item will be taken under consideration and may be referred to staff.</p>	Alison Morrison	Good Evening Council, Mayor & Public. At the last meeting safety and community engagement was mentioned to be reviewed on upcoming July 21 meeting. Could the council consider following agenda items: concerns regarding increased crime in downtown Hayward where businesses remain closed due to Covid-19, homeless openly engaged in illegal activity (i.e. drug use, sex, and threats of physical harm to bystanders) and the protocols needed for the community to follow to get timely police response?	Neutral
<p>10. PH 20-054 Zoning Text Amendment for Tobacco Retail Sales Establishments: Introduction of an Ordinance and Adoption of a Resolution for a Zoning Text Amendment to Chapter 10, Article 1, Section 10-1.2780, Tobacco Retail Sales Establishments, of the Hayward Municipal Code Relating to Tobacco Retail Sales Establishments (Report from Development Services Director Simpson)</p>	Rima Khoury	Before you ban hookah please understand the facts. There is no teen hookah epidemic. Hookahs are not being confiscated in schools. Hookahs are 3' tall and cannot be easily concealed. Hookahs take 30 minutes to set up and need hot coals. Hookah is not vape. Hookah has been practiced for a thousand years by Arabs, Persians, Armenians, Turks and Indians, who still practice their cultural traditions. A flavored tobacco ban is a hookah ban because hookah only comes in flavors. Please exempt hookah.	Oppose

**ITEM #10 PH 20-054**

**Zoning Text Amendment for Tobacco  
Retail Sales Establishments: Introduction of  
an Ordinance and Adoption of a Resolution  
for a Zoning Text Amendment to Chapter 10,  
Article 1, Section 10-1.2780, Tobacco Retail  
Sales Establishments, of the Hayward  
Municipal Code Relating to Tobacco Retail  
Sales Establishments  
(Report from Development Services  
Director Simpson)**

**PUBLIC COMMENTS**



## The African American Tobacco Control Leadership Council

July 6, 2020

**To:** Mayor Barbara Halliday, Mayor Pro Tempore Francisco Zemen, Councilmember Al Mendall, Councilmember Sara Lamnin, Councilmember Elisa Marquez, Councilmember Mark Salinas and Councilmember Aisha Wahab

**From:** The African American Tobacco Control Leadership Council

**Re: End the Menthol Exemption that Allows the Sale of Menthol Products in Hayward, Especially in the Midst of the COVID-19 Pandemic!**

The African American Tobacco Control Leadership Council (AATCLC) implores the Hayward City Council to end the exemption that allows the sale of menthol tobacco products in the city of Hayward. We were pleased to testify back in March on this issue. And we are pleased to see that the ordinance that you will be considering tomorrow would remove that exemption. This is no minor matter. We already know that 80% of youth's 12-17 start smoking using menthol and flavored cigarettes (Ambrose et al., 2015). Indeed, in the midst of the COVID 19 pandemic, this is precisely the time to put strong public health measures in place. And in the midst of the fight for making Black Lives Matter, nothing could be more important than getting these products out of our community.

Make no mistake about it, COVID-19 is not an equal opportunity killer: Blacks and Brown folks are dying disproportionately of this disease all around the country. We know that smoking weakens the immune system of the lungs, the very site that the coronavirus thrives on. And we already know that menthol cigarettes and flavored little cigars are the vectors for death and disease in the Black, Brown and other poor communities of color. And as if the add insult to injury, an article in the European Respiratory Journal, shows that current smokers and people with chronic obstructive pulmonary disease (COPD) have more receptor cells in their lungs that attract the coronavirus ([https://www.eurekalert.org/pub\\_releases/2020-04/elf-hlo040720.php](https://www.eurekalert.org/pub_releases/2020-04/elf-hlo040720.php)). And yes, African Americans have disproportionately high rates of COPD! The Council needs to take every step that it can to protect the citizens of Heyward, especially its poor communities of color. By preventing the tobacco industry from targeting and hooking youth and low-income communities to menthol flavored tobacco products, we can also help reduce potential vulnerability of these communities to COVID-19 and improve the health of all communities in Heyward.

Some have suggested that there should be adult venue stores carve outs to sell menthol cigarettes and flavored little cigars. Well, the Oakland experience shows that that is precisely what shouldn't be done. When Oakland past its adult only carve out in 2017, there were only 5 adult-



only tobacco stores; today there over 50! Luckily, Oakland ended this carve out earlier this month voting unanimously to remove the exemption, thus prohibiting the sale of menthol cigarettes, flavored little cigars and flavored e-juices city-wide. Hayward does not need to go down that rabbit-hole.

We should note that some groups, spurred on and funded by the tobacco industry, have been spreading falsehoods, stating that prohibiting the sale of menthol and flavored tobacco products, including flavored e-juices will lead to the “criminalization” of particularly young Black men. Nothing could be further from the truth. The ordinances adopted around the country ***prohibit the sale*** of flavored products, they would ***not prohibit the possession*** of these products. Hence, we are calling on the Hayward City Council that you join your sister cities of San Francisco, Berkeley, Richmond, Alameda and others to prohibit the sale of menthol and all flavored tobacco products, with no exemptions. Nearly 60 cities around the Country have adopted menthol prohibitions: <https://no-smoke.org/wp-content/uploads/pdf/flavored-tobacco-product-sales.pdf>

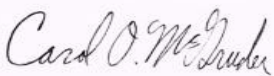
This is precisely the time to adopt strong tobacco control measures that can protect our families. We already know that menthol and flavors “makes the poison go down easier.” Let’s not now allow menthol to make covid-19 go down easier too! The Council needs to put the health of its residents in the forefront of their thoughts, not the interests of tobacco and vaping industry and their surrogates. This is not the time for half-steps, like continuing to allow these products to be sold in adult-only venues, rather it is time to take a stand for the public’s health and get menthol and flavored tobacco products, the vector for the disease, death and coronavirus, straight out of Hayward!

We are all counting on you!

Sincerely,



Phillip Gardiner, Dr.P.H. Co-Chair AATCLC [www.savingblacklives.org](http://www.savingblacklives.org)



Carol McGruder, Co-Chair AATCLC



Valerie Yerger, N.D., Co-Chair AATCLC

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**From:** Agamroop Kaur  
**Sent:** Tuesday, July 7, 2020 3:02 PM  
**To:** List-Mayor-Council  
**Cc:** CityClerk; Maggie Flores  
**Subject:** Big Tobacco regulation

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**CAUTION:**This is an external email. Do not click on links or open attachments unless you know the content is safe.

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Hi Mayor and Council Members,

My name is Agamroop Kaur. My comments are for agenda item 10. I'm a student but not in Hayward, I am not a Hayward resident either, however I normally would be in Hayward every weekend at the Sikh temple and have friends and family in Hayward as well. I may not be at school in Hayward, however I can still identify the impact tobacco products have on the youth through hearing the stories and instances from my friends and cousins in Hayward, and draw parallels to my own community where I live. We all see things like kids exchanging jules during class, going into the bathroom and smelling flavors like strawberry and watermelon, seeing videos on social media of teens vaping and puffing into the camera. This is not okay! Tobacco companies have pulled these kids into a trap that they can't get out of. That is what we are discussing here today, are you the city of Hayward willing to help today's youth, help these kids and pull them out of the trap set out by Big Tobacco, choose this generation's health over helping tobacco companies become more wealthy? The big question is are you willing to let our generation suffer and have other individuals become rich from our suffering? We are counting on you to make the right choice, to choose our health over the money Tobacco companies and retailers make by putting kids in a dangerous situation. We are counting on you to not only help Hayward's children, but set the example for cities who haven't even considered putting a flavor ban.

Therefore, I support a comprehensive ordinance that ends the sale of flavored tobacco products and menthol cigarettes with NO EXEMPTIONS! Thank you for taking a stand against Big Tobacco and protecting Hayward youth and families.

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**From:** Aleris Law  
**Sent:** Tuesday, July 7, 2020 1:13 PM  
**To:** List-Mayor-Council; CityClerk; Maggie Flores  
**Subject:** Agenda Item Number 10: Tobacco Retail Sales Establishments

**CAUTION:**This is an external email. Do not click on links or open attachments unless you know the content is safe.

Dear Mayor Halliday and councilmembers,

My name is Aleris Law, I'm an Emerging Community Leader with Breathe California, and I'm a proponent of increasing restrictions on tobacco retail licensing.

When I was 6 years old, my mom caught me pretending to smoke, lollipop stick in hand. Immediately, she sat me down and explained why a couple months before, my uncle had to go to the hospital to get images done. She showed me those images, scans of his hardening lungs. She told me about how he'd picked up one carton of cigarettes, just for fun, and before he knew it, had to take care of four kids and ruined lungs. Scarred for life, I threw my stick away and vowed never to touch a cigarette in my entire life.

A lot of kids, though, don't get this talk from their parents. Even if they do, other pressures, like the desire to fit in, or the impulse to just try it once, overwhelm them. To some, the supposed benefits, such as a nice taste, increased "cool factor", or a façade of maturity, far outweigh the costs that will come much, much later, when they are many times older than they are now. I may be just a bit too old to be considered Gen Z, but I can understand the generational attitude of "the world was screwed up a long time ago, so who cares?" But we, as their elders, recognize that our actions now have impact later.

The world might be screwed up, but the next generation will be the ones who inherit it. It's up to those of us who have power to make change to protect them. Even if our communities struggle with the impacts of tobacco, the load of preventing youth addiction to tobacco shouldn't be fully placed on them. There will always be people who slip through the cracks, but we should at least stop up those gaps as much as possible, and help as many as we can.

There are so many beautiful things in this world left out there to explore, so don't let the thing that takes our children's breath away be a mango-flavored vape pod. Don't let them sacrifice a healthy future for another hit on that e-cigarette. We've read the facts, we know that tobacco has terrible effects on human health - so let's do something about it. It's up to us to push for higher standards, to set better examples, and to create a healthier world. More comprehensive tobacco retail licensing will help us do that. Together, we can clear the air and keep our community safe. Thank you.

Sincerely,

Aleris Law  
Emerging Community Leader  
Breathe California



# AMERICANS FOR NONSMOKERS' RIGHTS

July 6, 2020

Mayor Barbara Halliday  
Hayward City Council  
777 B St.  
Hayward, CA 94541-5007

Dear Mayor Halliday and members of the City Council,

Americans for Nonsmokers' Rights encourages the City Council to strengthen Hayward's **tobacco retailer license requirements to end the sale of all flavored tobacco products**, as well as set a minimum price and pack size for tobacco products, end the sale of vaping products, require pharmacies to be tobacco free, and increase youth-sensitive buffers to 1,000 feet.

Communities across California are **ending the sale of all flavored tobacco products, including menthol cigarettes and flavored electronic smoking devices, in all retailers without exception** in order to limit the negative public health consequences of tobacco use and to reduce the impact of targeted tobacco industry marketing, especially to youth and low-income communities of color.

We are very glad that the City Council is considering adopting language that will end the sale of all flavored tobacco products without exemption. The purpose of tobacco retailer licensing regulations is to reduce access to the products that are enticing young people to start on a lifetime of nicotine addiction.

It's important for Hayward to take strong action because in spite of years of health progress in California, tobacco use and exposure is still the leading cause of preventable death and disease, and our state is still the largest cigarette market in the U.S. Communities are adopting these laws as part of ongoing efforts to lower tobacco-related disease burdens and rising healthcare costs through better prevention policies and programs.

**Flavors are the key to attracting kids to tobacco products**, including vaping products like JUUL, menthol cigarettes, and fruit-flavored little cigars and cigarillos like Swisher Sweets. Flavors, especially menthol, make it easier to inhale the nicotine; the science on this is clear.

The 2017-2018 California Student Tobacco Survey found that 84% of high school students who use tobacco are using vaping products and **86% of students who use tobacco are using flavored products**. It is significant that the 2019 National Youth Tobacco Survey found that **64% of high school e-cigarette users use mint or menthol flavors**.

**Tobacco companies and vaping companies have everything to gain from addicting young people to their products.** Research shows that the earlier a person starts using nicotine, the higher the risk of addiction, and the harder it becomes to quit. The use of flavors is strategic because it targets the age group that is most susceptible to nicotine addiction.

Research also indicates that youth who begin nicotine use with e-cigarettes (vaping) are significantly more likely to progress to cigarette smoking than youth who do not use e-cigarettes.

Likewise, **youth smokers are more likely to use menthol cigarettes** than any other age group. Over half of smokers ages 12-17 use menthol cigarettes, compared to less than one-third of smokers over age 35. Significantly, more than 80% of African-American smokers use menthols.

It is important to take action because the tobacco and vaping industries continue the deceptive and targeted marketing of their products to youth, communities of color, low-income communities, and the LGBTQ community. **When it comes to industry tactics, some things never change.**

**We also support adopting minimum pack size and minimum price requirements** for tobacco products. Setting a minimum price and minimum pack size is an important component of reducing tobacco products' availability to youth. Right now, cigarillos and little cigars are available for prices as low as 6 for 99 cents. The low price point, along with small packages, makes these products even more appealing and available to youth.

Hayward has the opportunity to join jurisdictions that have already adopted strong tobacco retailer licensing requirements—including ending the sale of flavored tobacco products without exception—which includes Alameda, Berkeley, Fremont, Lafayette, Livermore, Sacramento, San Francisco, and unincorporated Alameda County.

**Likewise, given the respiratory risks associated with COVID-19, it is important to reduce all risks to lung health.** Health experts warn the coronavirus can be even more dangerous for people who smoke or vape because it's a respiratory disease that attacks the lungs, and people who use tobacco products are more susceptible to severe COVID-19 infections.

The coronavirus doesn't discriminate, but people of color and low-income families are bearing the brunt of this disease, and these are the same populations that continue being targeted by Big Tobacco with flavored products.

**Hayward should put the community's health ahead of tobacco industry profits.**

Thank you for your leadership and desire to make Hayward the best place to live, work, and visit. Please feel free to contact me at 510-841-3045 if you have any questions, comments, or feedback.

Sincerely,



Cynthia Hallett, MPH  
President and CEO

*Americans for Nonsmokers' Rights is a national, member-based, not-for-profit organization based in Berkeley, CA that is dedicated to helping nonsmokers breathe smokefree air since 1976.*



07/07/2020

Mayor Barbara Halliday  
Councilmember Sara Lamnin  
Councilmember Elisa Márquez  
Councilmember Al Mendall  
Councilmember Mark Salinas  
Councilmember Aisha Wahab  
Councilmember Francisco Zermeño  
Hayward City Hall  
777 B St.  
Hayward, CA 94541-5007  
Via e-mail: [List-Mayor-Council@hayward-ca.gov](mailto:List-Mayor-Council@hayward-ca.gov); [cityclerk@hayward-ca.gov](mailto:cityclerk@hayward-ca.gov)

RE: Support for Strengthening City of Hayward's Tobacco Retail Licensing Ordinance with no exemptions

Dear Mayor Halliday and Councilmembers:

Bay Area Community Resources supports strengthening Hayward's existing Tobacco Retail Licensing Ordinance to:

- End the sale of all flavored tobacco products, including menthol cigarettes, with no exemptions
- Raise the minimum package size requirement to 20 little cigars and include a minimum price requirement of \$8.00 for cigarettes, little cigar packages and cigars
- Increase youth-sensitive buffers to 1000 feet
- End the sale of tobacco in pharmacies
- End the sale of electronic smoking devices
- Hold retailers accountable, strengthen enforcement language and ensure that youth should not be penalized for possession, use or purchase of tobacco products

These measures are best practices to reduce tobacco-related illness and death and promote health equity. Additionally, by preventing Big Tobacco from targeting and hooking youth and low-income communities to cheap flavored tobacco products, we can also reduce potential risks to COVID-19 and improve the health of all communities in Hayward.

Bay Area Community Resources provides vital community resources to youth and families in need all across the bay. We serve our community with after school programs, workforce education, and education services for communities impacted by tobacco, alcohol, and other drugs. We stand with

communities and families asking for safe, healthy communities, where kids aren't targeted by malicious industries like Big Tobacco.

According to CA Healthy Kids Survey results from Hayward Unified School District (2017-2018):

- 63% of 11<sup>th</sup> graders believe that it is either very or fairly easy to obtain e-cigarettes or vaping devices
- 49% of 11<sup>th</sup> graders believe that it is either very or fairly easy to obtain cigarettes
- 47% of 11<sup>th</sup> graders perceive little to no harm in using e-cigarettes compared to smoking cigarettes
- Almost 1 in 3 (32%) HUSD 11<sup>th</sup> graders have used electronic cigarettes

Tobacco companies have historically targeted youth, communities of color and the LGBTQ community with aggressive marketing of flavored tobacco products, including menthol. Research shows that 95% of African American teen smokers, 61% of Asian teen smokers, and 58% of Hispanic teen smokers report smoking menthol-flavored cigarettes.<sup>1</sup> Flavors including menthol, grape, cotton candy, bubble gum and gummy bear mask the harsh taste of tobacco and are highly appealing to youth, encouraging a new generation of smokers. Four out of 5 kids who have used tobacco started with a flavored product. Youth who smoke menthol are more likely to become addicted to nicotine than their peers that smoke non-menthol. As a result, vulnerable communities bear a disproportionate burden of tobacco-related disease and death; for example, 47,000 African Americans die annually from smoking-related illnesses, making tobacco use the largest preventable cause of death among African Americans and across the whole population.<sup>2</sup>

Establishing a minimum price of \$8.00 for cigarettes and little cigars and a minimum pack size requirement of 20 little cigars has been shown to be an effective strategy for reducing smoking rates among youth and low-income populations.<sup>3</sup> In Alameda County, over 77% of tobacco retailers near schools sell little cigars for less than \$1.00, cheaper than the price of a candy bar. Nearly 1 in 4 (23%) of male high school seniors smoke cigars<sup>4</sup> and are disproportionately used by black high school students.<sup>5</sup> Making tobacco products less affordable for youth make them less accessible.

Additionally, increasing youth buffers to 1000 feet and making pharmacies tobacco free reduce tobacco retailer density and establish pharmacies as places of health. Youth are mostly getting their products from retail locations as they are very accessible in their neighborhoods. In Hayward, over 65% of tobacco stores are located within 1000 feet of youth sensitive areas like schools, parks, playgrounds and daycares and are also disproportionately located in low-income neighborhoods of the city. Very few independent pharmacies exist anymore and of those existing, almost all are tobacco-free. In other jurisdictions, big chain pharmacies are not closing due to adopted tobacco-free pharmacy requirements.

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<sup>1</sup> Giovino GA, Villanti AC, Mowery PD, et al. 2015. Differential trends in cigarette smoking in the USA: is menthol slowing progress? *Tobacco Control*. 24 (1): 28-37.

<sup>2</sup> U.S. Department of Health and Human Services, Centers for Disease Control and Prevention. 2003. Pathways to Freedom: Winning the Fight Against Tobacco. Available at: <http://www.fairwarning.org/wp-content/uploads/2015/11/pathways.pdf>

<sup>3</sup> White, Justin and David Boettiger. 2019. Estimating the Effects of a Minimum Floor Price Law on Tobacco Use in Oakland, California. Philip R. Lee Institute for Health Policy Studies, University of California, San Francisco.

<sup>4</sup> Robert Wood Johnson Foundation (RWJF), American Cancer Society Cancer Action Network (ACS CAN), Campaign for Tobacco-Free Kids, American Heart Association, Americans for Nonsmokers' Rights, and American Lung Association. (2014, December). Broken Promises to Our Children: A State-by-State Look at the 1998 State Tobacco Settlement 16 Years Later. Available at [tobaccofreekids.org/microsites/statereport2015/](http://tobaccofreekids.org/microsites/statereport2015/). Retrieved March 4, 2015.

<sup>5</sup> U.S. Department of Health and Human Services (HHS). (2014). The Health Consequences of Smoking-SO Years of Progress: A Report of the Surgeon General. Atlanta, GA: HHS, Centers for Disease Control and Prevention (CDC), National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health (OSH). Printed with corrections. January 2014.

Hayward should join Oakland, Fremont, Livermore and Unincorporated Alameda County in adopting a strong tobacco retail license ordinance. This is crucial to preventing a new generation of smokers and preventing the added risks of COVID-19 on our communities. No city in the County should have to be the go-to place to get cheap flavored tobacco products.

Thank you for your continued leadership and putting the health of Hayward's youth and communities first.

Sincerely,

Mary Jo Williams, Chief Operating Officer

[mjwilliams@bacr.org](mailto:mjwilliams@bacr.org)

415-755-2305



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**From:** Bodh Kunwar  
**Sent:** Monday, July 6, 2020 10:40 PM  
**To:** List-Mayor-Council  
**Subject:** PROTEST AGAINST BAN OF FLAVORED TOBACCO

**CAUTION:**This is an external email. Do not click on links or open attachments unless you know the content is safe.

Reference: Hayward City Agenda  
Item PH 20-054,

Dear Mayor and Council Members:

I am a business owner at 31235 Mission Blvd, Hayward, operating Gas Station, Food Mart, and Carwash for over 25 years. Ban of the sale of Flavored Tobacco in Hayward, while its sale in the nearby cities remains permissible, will cause loss of business to owner and and loss of tax revenue to the city without providing any benefits to the city or the resident of the city as customer can easily purchase it from stores few blocks away in the nearby cities. I therefore protest this agenda, and request you to vote "NO" on the Agenda to defeat the proposal/measure.

Than you.

Sincerely yours  
Bodh Kunwar  
KCB GAS & MART, INC.

July 3, 2020

Mayor Barbara Halliday  
Councilmember Sara Lamnin  
Councilmember Elisa Márquez  
Councilmember Al Mendall  
Councilmember Mark Salinas  
Councilmember Aisha Wahab  
Councilmember Francisco Zermeño

Hayward City Hall  
777 B St.  
Hayward, CA 94541-5007  
Via e-mail: [List-Mayor-Council@hayward-ca.gov](mailto:List-Mayor-Council@hayward-ca.gov)

RE: Support for Strengthening City of Hayward's Tobacco Retail Licensing Ordinance

Dear Mayor Halliday and Councilmembers:

I am a Professor of Pediatrics and Director of Research in the Division of Adolescent Medicine, Department of Pediatrics at Stanford University. I am a developmental psychologist with additional training in adolescent and young adult health. I am also the Founder and Executive Director of the Stanford Tobacco Prevention Toolkit, an online educational tool about tobacco products including e-cigarettes. I have over 25 years of experience researching why youth use tobacco, including e-cigarettes.

I am writing to provide strong support of strengthening Hayward's existing Tobacco Retail Licensing Ordinance to:

- End the sale of all flavored tobacco products, including menthol cigarettes, with no exemptions
- Raise the minimum package size requirement to 20 little cigars and include a minimum price requirement of \$8.00 for cigarettes, little cigar packages and cigars
- Increase youth-sensitive buffers to 1000 feet
- End the sale of tobacco in pharmacies
- End the sale of electronic smoking devices
- Hold retailers accountable and ensure that youth should not be penalized for possession, use or purchase of tobacco products

I know you have received several letters in support of this Ordinance, so I will just provide some additional information based on my own research and experiences.

The two most common forms of tobacco use among youth are e-cigarettes and hookah, with well over 27% of youth admitting to using e-cigarettes in the last month, and over 20% using hookah, and these numbers are undoubtedly underestimates, based on my experience talking with hundreds of educators and youth across the country.

There are over 15,000 flavors available for e-cigarettes, and numerous flavors in other tobacco products, including flavors that attract young and new users, such as honey doo doo, unicorn poop, and sugar booger. These are NOT adult flavors. These flavors are for youth! Also, youth use mint, menthol, fruit, and candy flavors, as clear from my own research and national data. Most adolescent tobacco users cite flavors as a reason for use, as flavors mask the harsh taste of tobacco, resulting in a more pleasant taste and smell than that found with tobacco alone. Most youth report they would **quit** using tobacco if flavors were not available.

Now, some people argue that youth don't use mint or menthol, yet studies clearly show that these are popular flavors for youth. National data show that about 60% of youth e-cigarette users use mint or menthol, and my own data from California show that between 25-30% of e-cigarette users use mint or menthol. Youth also use mint flavored smokeless tobacco, cigars, hookah and other tobacco products. Also, flavors mask the risks that are inherent in tobacco, including the fact that many e-cigarettes and in particular the newer pod-based products have as much nicotine, and highly concentrated nicotine, as found in 1-2 packs of cigarettes.

Now, you will likely hear arguments that adults need flavors to successfully quit smoking conventional cigarettes. However, that is simply not borne out by research. While adults may like flavors, they are more likely to quit smoking cigarettes without flavors, and the evidence that e-cigarettes help adults quit smoking conventional cigarettes is mixed, at best. If flavors truly help adults quit, then let them be regulated as a cessation product and given as a prescription, but not be readily available for youth. Further, we have FDA-approved and PROVEN ways to help adults quit smoking. We simply don't need e-cigarettes.

Further, evidence is clear that adults are not quitting cigarettes and nicotine through e-cigarettes. Instead, they are simply SWITCHING from one tobacco product to another, and e-cigarettes are not necessarily safer. Indeed, much recent research shows that e-cigarettes are harmful to the lungs and heart, possibly as harmful as are cigarettes.

Based on this clear scientific evidence, there is no reason for having any flavored tobacco product including menthol, and no reason to have e-cigarettes on the market. Both flavors and e-cigarettes are being used largely by youth, not adults, and have no place in our cities.

Now, let's discuss **access**. I know from my own scientific publications and others, that youth are easily accessing e-cigarettes and other tobacco products from retail and vape shops, and in pharmacies. Many local vape and retail shops are not IDing youth, or don't recognize that the legal age to purchase tobacco in California is 21. We need better regulation and enforcement of these shops, and the only way to do that is to have stricter retail licensing fees, regulations and strict enforcement such as the ones outlined in your proposed ordinance. We do NOT need to penalize youth; that is not effective. Additionally, the minimum price and pack size provisions make the products less accessible financially to youth, as youth are far more price sensitive than adults, and are thus more easily afford lower cost (and loosies or individual tobacco products) more readily. Further, evidence including a recent publication from my own lab makes it clear that reducing tobacco retailer density, including near schools and other youth-populated areas, will reduce the availability of tobacco products to youth.

NOW is the time to act. As we fight COVID-19, it has never been more important to keep our lungs healthy. Coronavirus attacks the lungs – and there is clear evidence including from my own lab that smoking AND vaping harm the lungs. Thus, there is concern among health experts that people who smoke or vape are at greater risk for serious complications from COVID-19.

We MUST do everything we can to prevent tobacco use, especially among youth. The evidence is clear. The extraordinarily high levels of nicotine get kids addicted, flavors including fruit, candy, mint and menthol, attract and keep kids addicted to tobacco, adults don't need flavored e-cigarettes to quit smoking, and we need to restrict youth access to all tobacco products. I urge you to pass your proposed ordinance, to protect the health of our kids.

Thank you.



Bonnie Halpern-Felsher, PhD, FSAHM (pronouns: [she/her](#))  
Professor of Pediatrics  
Taube Research Faculty Scholar  
Professor (By courtesy), Health Research & Policy  
Director of Fellows' Scholarship, Department of Pediatrics  
Director of Research, Division of Adolescent Medicine  
Co-leader, Scholarly Concentrations, Pediatrics Residency Program

Founder and Executive Director, [Tobacco Prevention Toolkit](#) and the [Cannabis Awareness and Prevention Toolkit](#).

Division of Adolescent Medicine  
Department of Pediatrics  
Stanford University  
770 Welch Road, Suite 100  
Palo Alto, CA 94304  
[bonnie.halpernfelsher@stanford.edu](mailto:bonnie.halpernfelsher@stanford.edu)  
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**Breathe California  
of the Bay Area,  
Golden Gate, and  
Central Coast**

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Margo Sidener, MS, CHES

A member of the  
**Breathe America**™  
Alliance

July 6, 2020

The Honorable Barbara Halliday, Mayor  
And City Council Members  
City of Hayward  
Hayward City Hall  
777 B St.

Hayward, CA 94541-5007

Via e-mail: [List-Mayor-Council@hayward-ca.gov](mailto:List-Mayor-Council@hayward-ca.gov) ; [cityclerk@hayward-ca.gov](mailto:cityclerk@hayward-ca.gov)

Dear Mayor Halliday and Council Members:

I am writing on behalf of Breathe California to support the strengthening of Hayward's Tobacco Retail License. I know that you have heard from me before, but this ordinance is just too important for the health of Hayward's youth to resist sending an additional request.

We urge you to enact a strong ordinance that does all the following:

- Bans the sale of all flavored tobacco products, including menthol cigarettes, with no exemptions;
- Bans the sale of electronic smoking devices;
- Increases the minimum size of a pack to 20 little cigars and the minimum price of cigarettes, cigars, or little cigars to \$8.00;
- Bans the sale of tobacco within 1,000 feet of child-sensitive areas; and
- Bans the sale of tobacco in pharmacies.

We know from research that these methods will work to keep tobacco out of the hands of more kids, and to thwart tobacco industry targeting of our most vulnerable communities.

Breathe California, serving the Bay Area since 1908, has a mission to fight lung disease in all its forms and works with its communities to promote lung health. We are dedicated to working to eliminate tobacco use and prevent initiation to tobacco. Adopting the above strong measures will help tremendously.

Thanks for your Support,

Margo Sidener, MS, CHES  
Chief Executive Officer

---

**From:** Brian  
**Sent:** Monday, July 6, 2020 7:25 PM  
**To:** List-Mayor-Council; CityClerk; Maggie Flores  
**Subject:** Agenda Item Number 10: Tobacco Retail Sales Establishments

**CAUTION:**This is an external email. Do not click on links or open attachments unless you know the content is safe.

Dear Mayor Halliday and Councilmembers:

I am a member of the Alameda County Tobacco Control Coalition.

Four years ago, as a volunteer helping to conduct a survey for the county, I visited tobacco retailers on Tennyson Road and saw many packs of 5 and 6 cigarillos on sale for \$1 or less, which clearly demonstrated that Hayward's minimum pack size of five cigars, and minimum price of \$5 for single cigars was not effectively reducing the price of these products aimed at low income youth.

A recent survey of tobacco litter at Bay Area high schools found 71 pieces of little cigar and cigarillo litter at four schools in low income areas with predominantly African American and Latinx students, which shows that school age children of color are acquiring and using these addictive products.

San Leandro, Albany, Fremont, Alameda, Oakland and Unincorporated County have adopted minimum price policies for packs of cigars, with Oakland and Unincorporated County being the gold standard at an \$8 minimum price and minimum pack size of 20.

In addition, Oakland, Unincorporated County, Union City, Alameda, Berkeley and Albany have stopped the redemption of tobacco coupons, closing off another trick up Big Tobacco's sleeve to try to keep prices down.

Based on results of the CDC's Community Preventive Services Task Force, interventions that increase the unit price for tobacco products by 20% reduce overall consumption of tobacco products by 10.4%, adult tobacco use by 3.6%, and initiation of tobacco use by youth by 8.6%. Evidence also indicates these interventions are effective in reducing tobacco-related disparities among income groups and may reduce disparities by race and ethnicity.

Thank you for your consideration of this information.

Sincerely,

Brian Davis

---

**From:** Caroline Baker  
**Sent:** Tuesday, July 7, 2020 12:43 PM  
**To:** List-Mayor-Council  
**Subject:** Item #10 Tobacco ordinance

**CAUTION:**This is an external email. Do not click on links or open attachments unless you know the content is safe.

To the Members of the Hayward City Council.

Thank you for considering such a comprehensive ordinance that will protect the youth of Hayward from falling into the trap of addiction to tobacco products. In order to align with Best Practices, I encourage you to do the following:

Ensure that there are no exemptions and no loopholes.

Cap the number of Tobacco Retail licenses issued citywide.

Include graduated license suspension and penalties.

Ensure no penalties for youth possession, purchase, or use of tobacco products.

Include all forms of tobacco products including Hookas, vapes, cigarillos, cigars, etc.

Thank you,

Carol Baker  
Co-chair Tobacco Free Coalition of Santa Clara County  
Volunteer Legislative Ambassador, American Cancer Society Cancer Action Network

---

**From:** Cathy McDonald  
**Sent:** Tuesday, July 7, 2020 2:38 PM  
**To:** List-Mayor-Council  
**Subject:** Re Item #10 tonight's City Council Meeting  
**Attachments:** Hayward Ordinance letter of support Dr. Cathy McDonald.pdf; Untitled attachment 00008.txt

Mayor Halliday and Council Members,

Thank you for your leadership re: Tobacco Retail licensure. It is now time to upgrade your tobacco retail license requirements to help stem the tide of youth who have been recruited by all flavors of e-cigarettes including menthol and by menthol cigarettes to set them up for a lifetime of nicotine addiction and profit for the tobacco industry. I know from years of experience working with youth and adults addicted to nicotine, that the measures you are considering will protect many young people from developing this relentless addiction.

Please adopt the measures before you with NO EXEMPTIONS because exemptions are the loop holes of failure. Please

- \*End the sale of ALL flavored tobacco products, including menthol e-cigs and cigarettes in the city
- \*Adopt a minimum pack size of 20 little cigars and cigarillos
- \*Adopt a tobacco-free pharmacy requirement consistent with the mission of health - not death
- \*Adopt A minimum price requirement of \$8.00 for cigarettes and little cigars.
- \*Increase youth buffer zones from 500-1000 feet.

I have worked with youth for over 40 years and one of the things they like most is to do what adults do. Please do not include an exemption for adult only stores. If you

do you will likely see the number of adult only stores expand exponentially just as it did in neighboring Oakland.

I have attached a letter regarding item #10 sent on June 3, 2020.

You have the opportunity to alter this epidemic in Hayward and I am confident that you will continue your leadership! Thank you!

Cathy McDonald, MD, MPH  
Program Consultant  
Lifelong Tobacco Dependence Treatment Training Program based at  
East Bay Community Recovery Project  
Oakland, CA

:





July 6, 2020

Mayor Barbara Halliday  
Councilmember Sara Lamnin  
Councilmember Elisa Márquez  
Councilmember Al Mendall  
Councilmember Mark Salinas  
Councilmember Aisha Wahab  
Councilmember Francisco Zermeño  
Hayward City Hall  
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Hayward, CA 94541-5007

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Youth Advisory Council  
Eden Computer Clubhouse  
Project New Start Tattoo Removal  
Program  
Center for Child Protection at UCSF  
Benioff Children's Hospital Oakland  
The Ever Forward Club  
Iglesia de Dios Fuente de Vida Church  
The Spiritual Assembly of Bahai'i

RE: Support for Strengthening City of Hayward's Tobacco Retail Licensing Ordinance with no exemptions

Dear Mayor Halliday and Councilmembers:

Eden Youth and Family Center supports strengthening Hayward's existing Tobacco Retail Licensing Ordinance to:

- End the sale of all flavored tobacco products, including menthol cigarettes, with no exemptions
- Raise the minimum package size requirement to 20 little cigars and include a minimum price requirement of \$8.00 for cigarettes, little cigar packages and cigars
- Increase youth-sensitive buffers to 1000 feet
- End the sale of tobacco in pharmacies
- End the sale of electronic smoking devices
- Hold retailers accountable, strengthen enforcement language and ensure that youth should not be penalized for possession, use or purchase of tobacco products

These measures are best practices to reduce tobacco-related illness and death and promote health equity. Additionally, by preventing Big Tobacco from targeting and hooking youth and low-income communities to cheap flavored tobacco products, we can also reduce potential risks to COVID-19 and improve the health of all communities in Hayward.

Eden Youth and Family Center is a committed advocate for substance abuse prevention in the Hayward community and has been with other agencies, the community, youth programs, and the local schools to educate the most vulnerable youth about drugs and tobacco. EYFC has ran both the Youth Advisory Council, as well as Hayward Coalition for a Healthy Youth, which have worked tirelessly to develop, analyze, and advocate for substance abuse awareness in the community. In particular, the Youth Advisory Council has learned an enormous amount about substance use while simultaneously developing incredible skills in public speaking and advocacy while performing peer to peer education and community engagement.

680 W. Tennyson Road, Hayward, CA 94544

According to CA Healthy Kids Survey results from Hayward Unified School District (2017-2018):

- 63% of 11<sup>th</sup> graders believe that it is either very or fairly easy to obtain e-cigarettes or vaping devices
- 49% of 11<sup>th</sup> graders believe that it is either very or fairly easy to obtain cigarettes
- 47% of 11<sup>th</sup> graders perceive little to no harm in using e-cigarettes compared to smoking cigarettes
- Almost 1 in 3 (32%) HUSD 11<sup>th</sup> graders have used electronic cigarettes

Tobacco companies have historically targeted youth, communities of color and the LGBTQ community with aggressive marketing of flavored tobacco products, including menthol. Research shows that 95% of African American teen smokers, 61% of Asian teen smokers, and 58% of Hispanic teen smokers report smoking menthol-flavored cigarettes.<sup>1</sup> Flavors including menthol, grape, cotton candy, bubble gum and gummy bear mask the harsh taste of tobacco and are highly appealing to youth, encouraging a new generation of smokers. Four out of 5 kids who have used tobacco started with a flavored product. Youth who smoke menthol are more likely to become addicted to nicotine than their peers that smoke non-menthol. As a result, vulnerable communities bear a disproportionate burden of tobacco-related disease and death; for example, 47,000 African Americans die annually from smoking-related illnesses, making tobacco use the largest preventable cause of death among African Americans and across the whole population.<sup>2</sup>

Establishing a minimum price of \$8.00 for cigarettes and little cigars and a minimum pack size requirement of 20 little cigars has been shown to be an effective strategy for reducing smoking rates among youth and low-income populations.<sup>3</sup> In Alameda County, over 77% of tobacco retailers near schools sell little cigars for less than \$1.00, cheaper than the price of a candy bar. Nearly 1 in 4 (23%) of male high school seniors smoke cigars<sup>4</sup> and are disproportionately used by black high school students.<sup>5</sup> Making tobacco products less affordable for youth make them less accessible.

Additionally, increasing youth buffers to 1000 feet and making pharmacies tobacco free reduce tobacco retailer density and establish pharmacies as places of health. Youth are mostly getting their products from retail locations as they are very accessible in their neighborhoods. In Hayward, over 65% of tobacco stores are located within 1000 feet of youth sensitive areas like schools, parks, playgrounds and daycares and are also disproportionately located in low-income neighborhoods of the city. Very few independent pharmacies exist anymore and of those existing, almost all are tobacco-free. In other jurisdictions, big chain pharmacies are not closing due to adopted tobacco-free pharmacy requirements.

Hayward should join Oakland, Fremont, Livermore and Unincorporated Alameda County in adopting a strong tobacco retail license ordinance. This is crucial to preventing a new generation of smokers and preventing the added risks of COVID-19 on our communities. No city in the County should have to be the go-to place to get cheap flavored tobacco products.

Thank you for your continued leadership and putting the health of Hayward's youth and communities first.

<sup>1</sup> Giovino GA, Villanti AC, Mowery PD, et al. 2015. Differential trends in cigarette smoking in the USA: is menthol slowing progress? *Tobacco Control*. 24 (1): 28-37.

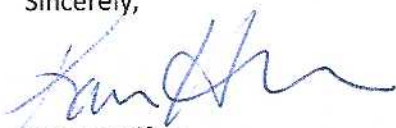
<sup>2</sup> U.S. Department of Health and Human Services, Centers for Disease Control and Prevention. 2003. *Pathways to Freedom: Winning the Fight Against Tobacco*. Available at: <http://www.fairwarning.org/wp-content/uploads/2015/11/pathways.pdf>

<sup>3</sup> White, Justin and David Boettiger. 2019. *Estimating the Effects of a Minimum Floor Price Law on Tobacco Use in Oakland, California*. Philip R. Lee Institute for Health Policy Studies, University of California, San Francisco.

<sup>4</sup> Robert Wood Johnson Foundation (RWJF), American Cancer Society Cancer Action Network (ACS CAN), Campaign for Tobacco-Free Kids, American Heart Association, Americans for Nonsmokers' Rights, and American Lung Association. (2014, December). *Broken Promises to Our Children: A State-by-State Look at the 1998 State Tobacco Settlement 16 Years Later*. Available at [tobaccofreekids.org/microsites/statereport2015/](http://tobaccofreekids.org/microsites/statereport2015/). Retrieved March 4, 2015.

<sup>5</sup> U.S. Department of Health and Human Services (HHS). (2014). *The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General*. Atlanta, GA: HHS, Centers for Disease Control and Prevention (CDC), National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health (OSH). Printed with corrections. January 2014.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Karen Halfon', written in a cursive style.

Karen Halfon

Executive Director

925-337-2758

[khalfon@eyfconline.org](mailto:khalfon@eyfconline.org)



July 6, 2020

Mayor Barbara Halliday  
Councilmember Sara Lamnin  
Councilmember Elisa Márquez  
Councilmember Al Mendall  
Councilmember Mark Salinas  
Councilmember Aisha Wahab  
Councilmember Francisco Zermeño  
Hayward City Hall  
777 B Street  
Hayward, CA 94541-5007  
Via e-mail: [List-Mayor-Council@hayward-ca.gov](mailto:List-Mayor-Council@hayward-ca.gov)

RE: Support for Strengthening City of Hayward's Tobacco Retail Licensing Ordinance

Dear Mayor Halliday and Councilmembers:

First 5 Alameda County supports strengthening Hayward's existing Tobacco Retail Licensing Ordinance to:

- End the sale of all flavored tobacco products, including menthol cigarettes, with no exemptions
- Raise the minimum package size requirement to 20 little cigars and include a minimum price requirement of \$8.00 for cigarettes, little cigar packages and cigars
- Increase youth-sensitive buffers to 1000 feet
- End the sale of tobacco in pharmacies
- End the sale of electronic smoking devices
- Hold retailers accountable and ensure that youth should not be penalized for possession, use or purchase of tobacco products

These measures are best practices to reduce tobacco-related illness and death and promote health equity. Additionally, by preventing Big Tobacco from targeting and hooking youth and low-income communities to cheap flavored tobacco products, we can also reduce potential risks to COVID-19 and improve the health of all communities in Hayward.

First 5 Alameda County is the local leading policy voice and funder of programs focused solely on young children. Ensuring that children can grow and thrive in environments free from the targeted sale of tobacco products is very closely tied to our mission to promote optimal health and development, narrow disparities, and improve the lives of children and their families. First 5's, established by Proposition 10 (1998), are the foundation for building early childhood systems of care in California. Prop 10 levies a tax on cigarettes and other tobacco products to provide funding for early childhood development programs. Revenues generated from this tax must be used to educate Californians on the importance of early childhood development and smoking cessation.

Recent mapping performed by the Alameda County Public Health Department shows that in the city of Hayward there are an alarming amount of tobacco retailers in close proximity to youth sensitive areas (including schools, daycares, parks and playgrounds), areas with higher poverty levels, and census tracts with a higher proportion of Latinx residents. While concerning, these facts are sadly not surprising.

According to CA Healthy Kids Survey results from Hayward Unified School District (2017-2018):

- 63% of 11<sup>th</sup> graders believe that it is either very or fairly easy to obtain e-cigarettes or vaping devices
- 49% of 11<sup>th</sup> graders believe that it is either very or fairly easy to obtain cigarettes
- 47% of 11<sup>th</sup> graders perceive little to no harm in using e-cigarettes compared to smoking cigarettes
- Almost 1 in 3 (32%) HUSD 11<sup>th</sup> graders have used electronic cigarettes

Tobacco companies have historically targeted youth, communities of color and the LGBTQ community with aggressive marketing of flavored tobacco products, including menthol. Research shows that 95% of African American teen smokers, 61% of Asian teen smokers, and 58% of Hispanic teen smokers report smoking menthol-flavored cigarettes.<sup>1</sup> Flavors including menthol, grape, cotton candy, bubble gum and gummy bear mask the harsh taste of tobacco and are highly appealing to youth, encouraging a new generation of smokers. Four out of 5 kids who have used tobacco started with a flavored product. Youth who smoke menthol are more likely to become addicted to nicotine than their peers that smoke non-menthol. As a result, vulnerable communities bear a disproportionate burden of tobacco-related disease and death; for example, 47,000 African Americans die annually from smoking-related illnesses, making tobacco use the largest preventable cause of death among African Americans and across the whole population.<sup>2</sup>

When tobacco is cheap and pack-sizes are small, tobacco products are more affordable for youth and low-income populations to buy. In Alameda County, over 77% of tobacco retailers near schools sell little cigars for less than \$1.00, cheaper than the price of a candy bar. Unfortunately, cheap prices for tobacco products are most available in low-income communities of color and communities which have high proportions of school-aged youth. Nearly 1 in 4 (23%) of male high school seniors smoke cigars<sup>3</sup> and are disproportionately

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<sup>1</sup> Giovino GA, Villanti AC, Mowery PD, et al. 2015. Differential trends in cigarette smoking in the USA: is menthol slowing progress? Tobacco Control. 24 (1): 28-37.

<sup>2</sup> U.S. Department of Health and Human Services, Centers for Disease Control and Prevention. 2003. Pathways to Freedom: Winning the Fight Against Tobacco. Available at: <http://www.fairwarning.org/wp-content/uploads/2015/11/pathways.pdf>

<sup>3</sup> Robert Wood Johnson Foundation (RWJF), American Cancer Society Cancer Action Network (ACS CAN), Campaign for Tobacco-Free Kids, American Heart Association, Americans for Nonsmokers' Rights, and American Lung Association. (2014, December).

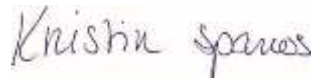
used by black high school students.<sup>4</sup> Establishing a minimum price of \$8.00 and a minimum pack size requirement of 20 little cigars has been shown to be an effective strategy for reducing smoking rates among youth and low-income populations.<sup>5</sup>

Additionally, making pharmacies tobacco-free further reduces the density of tobacco retailers and establishes pharmacies as places of health. Very few independent pharmacies exist anymore and of those existing, almost all are tobacco-free. In other jurisdictions, big chain pharmacies are not closing due to adopted tobacco-free pharmacy requirements.

Many other jurisdictions in Alameda County are also taking steps to strengthen their tobacco control regulations. First 5 Alameda County asks that Hayward joins Oakland, Fremont, Livermore and Unincorporated Alameda County to create a network of jurisdictions with strong tobacco retail ordinances. No city in the County should have to be the go-to place to get cheap flavored tobacco products.

Strengthening Hayward's existing Tobacco Retail Licensing law is crucial to preventing a new generation of smokers and preventing the added risks of COVID-19 on our communities. Thank you for putting the health of our youth and communities before tobacco industry profits and ensuring that all of Hayward's youth have the opportunity to lead healthy lives.

Sincerely,



Kristin Spanos  
Chief Executive Officer  
First 5 Alameda County

---

Broken Promises to Our Children: A State-by-State Look at the 1998 State Tobacco Settlement 16 Years Later. Available at [tobaccofreekids.org/microsites/statereport2015/](http://tobaccofreekids.org/microsites/statereport2015/). Retrieved March 4, 2015.

<sup>4</sup> U.S. Department of Health and Human Services (HHS). (2014). The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General. Atlanta, GA: HHS, Centers for Disease Control and Prevention (CDC), National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health (OSH). Printed with corrections. January 2014.

<sup>5</sup> White, Justin and David Boettiger. 2019. Estimating the Effects of a Minimum Floor Price Law on Tobacco Use in Oakland, California. Philip R. Lee Institute for Health Policy Studies, University of California, San Francisco.

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**From:** frank.burton  
**Sent:** Tuesday, July 7, 2020 2:52 PM  
**To:** List-Mayor-Council  
**Subject:** Item Number 10 for tonight's City Council Meeting: Support for Strengthening City of Hayward's Tobacco Retail Licensing Ordinance with no exemptions

**CAUTION:**This is an external email. Do not click on links or open attachments unless you know the content is safe.

Dear Mayor Halliday and Councilmembers:

I strongly support strengthening Hayward's existing Tobacco Retail Licensing Ordinance to:

- End the sale of all flavored tobacco products, including menthol cigarettes **and cigars, with no exemptions**
- Raise the minimum package size requirement to 20 little cigars and include a minimum price requirement of \$8.00 for cigarettes, little cigar packages and cigars
- Increase youth-sensitive buffers to 1000 feet
- End the sale of tobacco in pharmacies
- End the sale of electronic smoking devices
- Hold retailers accountable, strengthen enforcement language and ensure that youth should not be penalized for possession, use or purchase of tobacco products

These measures are best practices to reduce tobacco-related illness and death and promote health equity. Additionally, by preventing Big Tobacco from targeting and hooking youth in all communities and adults in low-income communities to cheap flavored tobacco products, we can also reduce potential risks to COVID-19 and improve the health of all communities in Hayward.

Any retailer who complains about how much these changes will cost them in sales has no legitimacy to their claim because they assumed the risk of additional scrutiny and regulation of tobacco-related products because they have been known for many decades to kill thousands of Americans every year.

Even though I quit smoking several decades ago, I still consider myself to be a recovering nicotine addict, having gotten hooked again several times after having stopped for several months, then smoking "just one" cigarette or cigar. I started smoking when I was 12 years old, and smoked for over 30 years. I took training in and taught Smoking Cessation Classes at Redwood High School in Castro Valley for two years during the 1990s, learning a tremendous amount about the high level of addictiveness of nicotine, which makes it as difficult to quit as cocaine, and the manipulativeness of Big Tobacco in their ad campaigns designed to hook people, especially teenagers, on nicotine.

I know from personal experience that flavored tobacco products, including menthol, have an extra attraction for nicotine addicts.

I also know from personal experience how horrible it is to lose a family member to lung cancer, having lost a brother to lung cancer when he was in his forties, because of his smoking.

I urge you to approve and adopt Staff's recommendation for Approval and Adoption of the Proposed Text Amendment to the Tobacco Retail Sales Establishments Ordinance, HMC Section 10-1.2780, and also the resolution proposed by Staff as Attachment III.

Frank Burton  
Hayward CA 94541



---

**From:** Issa Abuaita  
**Sent:** Tuesday, July 7, 2020 9:27 AM  
**To:** List-Mayor-Council  
**Subject:** Comment on Agenda Item 10. City Council Meeting 7/7/2020

**CAUTION:**This is an external email. Do not click on links or open attachments unless you know the content is safe.

I oppose a ban on flavored tobacco without an exemption for Hookah. Many cultures use hookah like Americans use beer at a bbq because drinking alcohol is against their religion.

Hookah is completely different than an e-cigarette. First, it's used in a large water pipe and difficult to hide, in a backpack for instance. It's difficult to use without someone noticing. It takes time to set up. Setting one up actually takes 20 minutes and at least an hour to consume. Because of this, hookah is not very appealing to youth.

Of course, we don't want our youth to use any tobacco products nor do we want them using marijuana or alcohol for that matter. Banning hookah just doesn't raise the same youth use issues. Specifically, the latest information from the CDC on youth use of hookah is only 2.6% compared to almost 26 percent for vaping.

Please protect our youth but also save our tax paying businesses, the employees of those business and the important cultural tradition of hookah by exempting hookah from the flavor ban.

Thank you.

July 7, 2020

Mayor Barbara Halliday  
Councilmember Sara Lamnin  
Councilmember Elisa Márquez  
Councilmember Al Mendall  
Councilmember Mark Salinas  
Councilmember Aisha Wahab  
Councilmember Francisco Zermeño  
Hayward City Hall  
777 B St.  
Hayward, CA 94541-5007  
Via e-mail: [List-Mayor-Council@hayward-ca.gov](mailto:List-Mayor-Council@hayward-ca.gov); [cityclerk@hayward-ca.gov](mailto:cityclerk@hayward-ca.gov)

RE: Support for Strengthening City of Hayward's Tobacco Retail Licensing Ordinance with no exemptions

Dear Mayor Halliday and Councilmembers:

My name is Jannell Gladen and I am a parent of 2 teens. My family has experienced the heartache that addiction to flavored tobacco products cause. My teen has continued to struggle with nicotine addiction that was a direct result of candy flavored vape. He started vaping just before 6<sup>th</sup> grade. Now he smokes cigarettes and vapes.

My son had several friends over recently, doing an outside patio social distancing get together, and when I looked out the window I saw several of them vaping. Not only are these products very easy to obtain, they are cheap and affordable for youth. These products are ubiquitous.

This industry states these products are only for adults and help adults quit smoking. Well the exact opposite is true for my family. The retailers will tell you they never sell to underage youth. Well that is a lie. I track my teen and he's at a variety of smoke and vape shops around our town and will drive to other cities to find vape and cigarettes now that the Tri-Valley has passed strong ordinances banning flavored tobacco sales. I'm hoping that Hayward will do the right thing to protect our youth and ban all flavored tobacco products.

I thereby support strengthening Hayward's existing Tobacco Retail Licensing Ordinance to:

- End the sale of all flavored tobacco products, including menthol cigarettes, with no exemptions
- Raise the minimum package size requirement to 20 little cigars and include a minimum price requirement of \$8.00 for cigarettes, little cigar packages and cigars
- Increase youth-sensitive buffers to 1000 feet
- End the sale of tobacco in pharmacies
- End the sale of electronic smoking devices
- Hold retailers accountable, strengthen enforcement language and ensure that youth should not be penalized for possession, use or purchase of tobacco products

These measures are best practices to reduce tobacco-related illness and death and promote health equity. Additionally, by preventing Big Tobacco from targeting and hooking youth and low-income communities to cheap flavored tobacco products, we can also reduce potential risks to COVID-19 and improve the health of all communities in Hayward.

According to CA Healthy Kids Survey results from Hayward Unified School District (2017-2018):

- 63% of 11<sup>th</sup> graders believe that it is either very or fairly easy to obtain e-cigarettes or vaping devices
- 49% of 11<sup>th</sup> graders believe that it is either very or fairly easy to obtain cigarettes
- 47% of 11<sup>th</sup> graders perceive little to no harm in using e-cigarettes compared to smoking cigarettes
- Almost 1 in 3 (32%) HUSD 11<sup>th</sup> graders have used electronic cigarettes
- 

Tobacco companies have historically targeted youth, communities of color and the LGBTQ community with aggressive marketing of flavored tobacco products, including menthol. Research shows that 95% of African American teen smokers, 61% of Asian teen smokers, and 58% of Hispanic teen smokers report smoking menthol-flavored cigarettes.<sup>1</sup> Flavors including menthol, grape, cotton candy, bubble gum and gummy bear mask the harsh taste of tobacco and are highly appealing to youth, encouraging a new generation of smokers. Four out of 5 kids who have used tobacco started with a flavored product. Youth who smoke menthol are more likely to become addicted to nicotine than their peers that smoke non-menthol. As a result, vulnerable communities bear a disproportionate burden of tobacco-related disease and death; for example, 47,000 African Americans die annually from smoking-related illnesses, making tobacco use the largest preventable cause of death among African Americans and across the whole population.<sup>2</sup>

Establishing a minimum price of \$8.00 for cigarettes and little cigars and a minimum pack size requirement of 20 little cigars has been shown to be an effective strategy for reducing smoking rates among youth and low-income populations.<sup>3</sup> In Alameda County, over 77% of tobacco retailers near schools sell little cigars for less than \$1.00, cheaper than the price of a candy bar. Nearly 1 in 4 (23%) of male high school seniors smoke cigars<sup>4</sup> and are disproportionately used by black high school students.<sup>5</sup> Making tobacco products less affordable for youth make them less accessible.

Additionally, increasing youth buffers to 1000 feet and making pharmacies tobacco free reduce tobacco retailer density and establish pharmacies as places of health. Youth are mostly getting their products from retail locations as they are very accessible in their neighborhoods. In Hayward, over 65% of tobacco stores are located within 1000 feet of youth sensitive areas like schools, parks, playgrounds and daycares

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<sup>1</sup> Giovino GA, Villanti AC, Mowery PD, et al. 2015. Differential trends in cigarette smoking in the USA: is menthol slowing progress? *Tobacco Control*. 24 (1): 28-37.

<sup>2</sup> U.S. Department of Health and Human Services, Centers for Disease Control and Prevention. 2003. Pathways to Freedom: Winning the Fight Against Tobacco. Available at: <http://www.fairwarning.org/wp-content/uploads/2015/11/pathways.pdf>

<sup>3</sup> White, Justin and David Boettiger. 2019. Estimating the Effects of a Minimum Floor Price Law on Tobacco Use in Oakland, California. Philip R. Lee Institute for Health Policy Studies, University of California, San Francisco.

<sup>4</sup> Robert Wood Johnson Foundation (RWJF), American Cancer Society Cancer Action Network (ACS CAN), Campaign for Tobacco-Free Kids, American Heart Association, Americans for Nonsmokers' Rights, and American Lung Association. (2014, December). Broken Promises to Our Children: A State-by-State Look at the 1998 State Tobacco Settlement 16 Years Later. Available at [tobaccofreekids.org/microsites/statereport2015/](http://tobaccofreekids.org/microsites/statereport2015/). Retrieved March 4, 2015.

<sup>5</sup> U.S. Department of Health and Human Services (HHS). (2014). The Health Consequences of Smoking-SO Years of Progress: A Report of the Surgeon General. Atlanta, GA: HHS, Centers for Disease Control and Prevention (CDC), National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health (OSH). Printed with corrections. January 2014.

and are also disproportionately located in low-income neighborhoods of the city. Very few independent pharmacies exist anymore and of those existing, almost all are tobacco-free. In other jurisdictions, big chain pharmacies are not closing due to adopted tobacco-free pharmacy requirements.

Hayward should join Oakland, Fremont, Livermore and Unincorporated Alameda County in adopting a strong tobacco retail license ordinance. This is crucial to preventing a new generation of smokers and preventing the added risks of COVID-19 on our communities. No city in the County should have to be the go-to place to get cheap flavored tobacco products.

Thank you for your continued leadership and putting the health of Hayward's youth and communities first.

Sincerely,

Jannell Gladen

SAMPLE

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**From:** Kristie Wang  
**Sent:** Tuesday, July 7, 2020 3:02 PM  
**To:** List-Mayor-Council; CityClerk; Maggie Flores  
**Subject:** Agenda Item Number 10: Tobacco Retail Sales Establishments

**CAUTION:**This is an external email. Do not click on links or open attachments unless you know the content is safe.

July 7, 2020

Mayor Barbara Halliday  
Councilmember Sara Lamnin  
Councilmember Elisa Márquez  
Councilmember Al Mendall  
Councilmember Mark Salinas  
Councilmember Aisha Wahab  
Councilmember Francisco Zermeño  
Hayward City Hall  
777 B St.  
Hayward, CA 94541-5007

Via e-mail: [List-Mayor-Council@hayward-ca.gov](mailto:List-Mayor-Council@hayward-ca.gov); [cityclerk@hayward-ca.gov](mailto:cityclerk@hayward-ca.gov)

RE: Support for Strengthening City of Hayward's Tobacco Retail Licensing Ordinance with no exemptions

Dear Mayor Halliday and Councilmembers:

I'm a member of the Alameda County Tobacco Control Coalition and mother of two teens. I've seen first hand the scourge of flavored tobacco among youth in our community. I strongly urge you to pass a comprehensive ordinance to restrict the sale of all flavored tobacco products, including menthol and electronic smoking devices.

Please put the health of our children ahead of retailer profits. Adults can still get these products online. We have to do everything we can to protect our youth and save them from a lifetime of tobacco addiction.

Sincerely,  
Kristie Wang

-----Original Message-----

From: Leilany < >

Sent: Tuesday, July 7, 2020 7:13 PM

To: List-Mayor-Council <List-Mayor-Council@hayward-ca.gov>

Cc: CityClerk <CityClerk@hayward-ca.gov>

Subject:

CAUTION:This is an external email. Do not click on links or open attachments unless you know the content is safe.

Dear Mayor and Council Member,

My name is Leilany Martinez. I'm a Hayward resident and student. My comments are for Agenda for item number 10. Given the current pandemic, local leaders need to do everything i their power to protect residents against Coronavirus. Smoking cigarettes and vaping weakens the lungs. During this time our students are looking for new ways to cope and deal with the boredom they faces during shelter in place. Some result in trying tobacco and vaping. I have experienced smoking flavored tobacco and after just a few puffs i felt light headed and ended up have a seizure. Luckily I was fine after but what other students who may experience this may not be fine. I support a comprehensive ordinance that ends the sale of flavored tobacco products and menthol cigarettes with NO EXEMPTIONS! Thank you for taking a stand against Big Tobacco and protecting Hayward youth and families.

Sent from my iPhone

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**From:** Liz Williams <Liz.Williams@no-smoke.org>  
**Sent:** Monday, July 6, 2020 4:35 PM  
**To:** List-Mayor-Council; CityClerk  
**Subject:** Letter of support for tobacco retail licensing ordinance  
**Attachments:** Letter to Hayward\_07.06.20.pdf

**CAUTION:**This is an external email. Do not click on links or open attachments unless you know the content is safe.

Dear Mayor Halliday and members of the City Council,

Americans for Nonsmokers' Rights would like to submit the attached letter of support for Hayward to strengthen the city's tobacco retail licensing regulations, including ending the sale of all flavored tobacco products.

We hope Hayward will join the other communities that prohibit the sale of all flavored tobacco products without exception. You can see the ANR Foundation's list here: [Municipalities Prohibiting the Sale of All Flavored Tobacco Products](#).

Sincerely,

Liz Williams | Project & Policy Manager  
Americans for Nonsmokers' Rights | [nonsmokersrights.org](https://nonsmokersrights.org)  
American Nonsmokers' Rights Foundation | [no-smoke.org](https://no-smoke.org)  
2530 San Pablo Ave, Suite J | Berkeley, CA 94702  
510-841-3032 x314  
[Join Us!](#) | [Email Alerts](#)



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**From:** Marlene Hurd  
**Sent:** Tuesday, July 7, 2020 1:52 PM  
**To:** List-Mayor-Council  
**Cc:** CityClerk; Maggie Flores  
**Subject:** Agenda Item 10: Tobacco Retail Sales Establishments

**CAUTION:**This is an external email. Do not click on links or open attachments unless you know the content is safe.

My name is Marlene Christine Hurd, I am a member of the Alameda County Tobacco Control Coalition. My comments are for Agenda item 10

Given the current pandemic, local leaders need to do everything in their power to protect residents against the Coronavirus. Smoking cigarettes and vaping weakens the lungs. Now is the time for the council to implement stronger tobacco control measures to prevent illness and inequities in our communities.

I support a comprehensive ordinance that ends the sale of flavored tobacco products and menthol cigarettes with NO EXEMPTIONS! Thank you for taking a stand against Big Tobacco and protecting Hayward youth and families.

Thank you,  
Marlene Christine Hurd, B.A. NCC  
Member, Alameda County Tobacco Control Coalition



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**From:** Miritos Iniguez  
**Sent:** Tuesday, July 7, 2020 1:12 PM  
**To:** List-Mayor-Council  
**Subject:** Agenda Item #10

**CAUTION:**This is an external email. Do not click on links or open attachments unless you know the content is safe.

My name is Ramiro Iniguez. I'm a Hayward resident and student and my comments are for Agenda Item 10. I want a healthy, vibrant community with stores that sell things that will make our lives better and I want store owners who are not going to profit off products that make us sick. I need them to be held accountable

Tobacco is a big deal for me. Throughout my who 3 years of enrolled in Tennyson High, have I encountered kids smoking in bathrooms and the side area of the school. The youth are not to be blamed since they receive it from adults selling in the community. We need to make sure that we ensure to apply safeguards in place so my peers and others don't end up the same way. I am very concerned about how the liquor stores in our community don't really have to be responsible for how they sell their products. The City of Hayward has 119 tobacco retailers. Over 65% of tobacco stores are located within 1000 feet of youth sensitive areas like schools, parks, playgrounds, and daycares. They are also disproportionately located in low-income neighborhoods of the city. These retailers create opportunities and motives to get youth to buy tobacco. Rather than having tobacco stores all over the community, create more groceries, and help create resources for us to procure during this time of the year. This is why I am in support of a Tobacco Retail License for the unincorporated area. Please make sure that businesses are held accountable for selling to youth. That is the right thing to do for our community.

Thank you for giving me an opportunity to let me give a piece of my mind about this situation and have a good evening.

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**From:** Moe Chahine  
**Sent:** Tuesday, July 7, 2020 1:02 PM  
**To:** List-Mayor-Council  
**Subject:** Hookah exemption letter

**CAUTION:**This is an external email. Do not click on links or open attachments unless you know the content is safe.

Dear Council Members,

I am writing this letter to express the importance of hookah in our community.

As a middle eastern hookah is part of our friends and family gatherings.

Smoking Hookah is an experience that brings our community together to laugh, share and enjoy life's small moments. Please keep our community together by exempting the hookah ban.

Best Regards,

Moe Chahine

--  
Best Regards

Moe Chahine.

Compliance Check Inspections of Tobacco Product Retailers Through 4/30/20 - Search Results

You searched for:  
 City contains: Hayward  
 State is CA

Retailer Name	Street Address	City	State	Zip	Minor Involved	Sale to Minor	Product Type	Brand	Inspection Date	Decision Date	Inspection Result	Link	Charges
THE GR8 VAPES	1090 LA PLAYA DR	HAYWARD	CA	94545	Yes	No	N/A	N/A	Not available	1/11/2019	No Violations Observed		N/A
FOOD MAXX	27300 HESPERIAN BOULEVARD	HAYWARD	CA	94545	Yes	No	N/A	N/A	Not available	4/14/2017	No Violations Observed		N/A
	76 1974 WEST TENNYSON ROAD	HAYWARD	CA	94545	Yes	No	N/A	N/A	Not available	3/29/2017	No Violations Observed		N/A
	76 3500 BREAKWATER AVENUE	HAYWARD	CA	94545	Yes	No	N/A	N/A	Not available	3/29/2017	No Violations Observed		N/A
FOOD MART/76	26115 HESPERIAN BOULEVARD	HAYWARD	CA	94545	Yes	No	N/A	N/A	Not available	3/29/2017	No Violations Observed		N/A
SMOKEYS SMOKE SHOP AND GIFTS	25088 HESPERIAN BOULEVARD	HAYWARD	CA	94545	Yes	No	N/A	N/A	Not available	3/29/2017	No Violations Observed		N/A
	76 3500 BREAKWATER AVENUE	HAYWARD	CA	94545	Yes	No	N/A	N/A	Not available	9/16/2016	No Violations Observed		N/A
FOOD MART/76	26115 HESPERIAN BOULEVARD	HAYWARD	CA	94545	Yes	No	N/A	N/A	Not available	9/16/2016	No Violations Observed		N/A
	76 1974 WEST TENNYSON ROAD	HAYWARD	CA	94545	Yes	No	N/A	N/A	Not available	9/16/2016	No Violations Observed		N/A
FOOD MAXX	27300 HESPERIAN BOULEVARD	HAYWARD	CA	94545	Yes	No	N/A	N/A	Not available	9/16/2016	No Violations Observed		N/A
SMOKEYS SMOKE SHOP AND GIFTS	25088 HESPERIAN BOULEVARD	HAYWARD	CA	94545	Yes	No	N/A	N/A	Not available	9/16/2016	No Violations Observed		N/A
7-ELEVEN / 76 GAS	700 W A ST	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	6/9/2016	No Violations Observed		N/A
EXPRESS 880 FOOD MART	391 W A ST	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	6/9/2016	No Violations Observed		N/A
JJ'S SHOP N SAVE	21400 ROYAL AVE	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	6/9/2016	No Violations Observed		N/A
SMOKE SHOP	18884 HESPERIAN BLVD	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	6/9/2016	No Violations Observed		N/A
VALERO	525 W A ST	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	6/9/2016	No Violations Observed		N/A
11-7 WHATEVER SHOP	21305 MISSION BLVD	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	6/8/2016	No Violations Observed		N/A
A.A.S. MARKET	218 A ST	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	6/8/2016	No Violations Observed		N/A
CHERRYLAND GROCERY	688 BLOSSOM WAY	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	6/8/2016	No Violations Observed		N/A
NEW HANDY CORNER MARKET	446 BLOSSOM WAY	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	6/8/2016	No Violations Observed		N/A
HANKS LIQUORS	19989 MECKLAND AVE	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	6/8/2016	No Violations Observed		N/A
HAYWARD SUPERMARKET	22624 BLACKWOOD AVE	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	6/8/2016	No Violations Observed		N/A
PRIYAS MARKET AND LIQUORS	20008 MECKLAND AVE	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	6/8/2016	No Violations Observed		N/A
ROYAL MARKET	698 W SUNSET BLVD	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	6/8/2016	No Violations Observed		N/A
MECKLAND MINI MART	21726 MECKLAND AVE	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	6/8/2016	No Violations Observed		N/A
MI PUEBLITO	471 W A ST	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	6/8/2016	No Violations Observed		N/A
	76 3500 BREAKWATER AVENUE	HAYWARD	CA	94545	Yes	Yes	Cigarettes in a package	Camel	5/19/2016	5/26/2016	Warning Letter Issued		1140.14(a)-Sale to a minor; 1140.14(b)(1)-Failure to verify age
FOOD MART/76	26115 HESPERIAN BOULEVARD	HAYWARD	CA	94545	Yes	Yes	Cigarettes in a package	Camel	5/19/2016	5/26/2016	Warning Letter Issued		1140.14(a)-Sale to a minor; 1140.14(b)(1)-Failure to verify age
SMOKEYS SMOKE SHOP AND GIFTS	25088 HESPERIAN BOULEVARD	HAYWARD	CA	94545	Yes	Yes	Cigarettes in a package	Camel	5/19/2016	5/26/2016	Warning Letter Issued		1140.14(a)-Sale to a minor; 1140.14(b)(1)-Failure to verify age
WALGREENS #06502	23958 HESPERIAN BLVD	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	5/20/2016	No Violations Observed		N/A
7-ELEVEN #2366-36870A	25965 INDUSTRIAL BLVD STE 101	HAYWARD	CA	94545	Yes	No	N/A	N/A	Not available	5/20/2016	No Violations Observed		N/A
SOUTHLAND CHEVRON	24350 HESPERIAN BLVD	HAYWARD	CA	94545	Yes	No	N/A	N/A	Not available	5/20/2016	No Violations Observed		N/A
HELLO MARKET	24032 HESPERIAN BLVD	HAYWARD	CA	94545	Yes	No	N/A	N/A	Not available	5/20/2016	No Violations Observed		N/A
ROTTEN ROBBIE # 46	27814 HESPERIAN BLVD	HAYWARD	CA	94545	Yes	No	N/A	N/A	Not available	5/19/2016	No Violations Observed		N/A
HAYWARD FOOD & LIQUOR	28260 HESPERIAN BLVD	HAYWARD	CA	94545	Yes	No	N/A	N/A	Not available	5/19/2016	No Violations Observed		N/A
VALERO GAS MINI MART	20450 HESPERIAN BLVD	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	5/19/2016	No Violations Observed		N/A
KARAVAN LIQUORS	27445 HESPERIAN BLVD	HAYWARD	CA	94545	Yes	No	N/A	N/A	Not available	5/19/2016	No Violations Observed		N/A
THE PIT STOP	28250 HESPERIAN BLVD	HAYWARD	CA	94545	Yes	No	N/A	N/A	Not available	5/19/2016	No Violations Observed		N/A
	76 1974 WEST TENNYSON ROAD	HAYWARD	CA	94545	Yes	Yes	Cigarettes in a package	Marlboro	4/20/2016	4/28/2016	Warning Letter Issued		1140.14(a)-Sale to a minor; 1140.14(b)(1)-Failure to verify age
FOOD MAXX	27300 HESPERIAN BOULEVARD	HAYWARD	CA	94545	Yes	Yes	Cigarettes in a package	Newport	4/20/2016	4/28/2016	Warning Letter Issued		1140.14(a)-Sale to a minor; 1140.14(b)(1)-Failure to verify age
VALERO	26978 HESPERIAN BLVD	HAYWARD	CA	94545	Yes	No	N/A	N/A	Not available	4/22/2016	No Violations Observed		N/A
7-ELEVEN STORE 2234-14182G	2175 ALDENGATE WAY	HAYWARD	CA	94545	Yes	No	N/A	N/A	Not available	4/20/2016	No Violations Observed		N/A
HAYWARD CHEVRON	26990 HESPERIAN BLVD	HAYWARD	CA	94545	Yes	No	N/A	N/A	Not available	4/20/2016	No Violations Observed		N/A
CITY CIGARETTES	27072 HESPERIAN BLVD	HAYWARD	CA	94545	Yes	No	N/A	N/A	Not available	4/20/2016	No Violations Observed		N/A
PERRYS LIQUORS	27220 HESPERIAN BLVD	HAYWARD	CA	94545	Yes	No	N/A	N/A	Not available	4/20/2016	No Violations Observed		N/A
7-ELEVEN AND 76 GAS	29874 MISSION BLVD	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	4/8/2016	No Violations Observed		N/A
CHEVRON	29900 MISSION BLVD	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	4/8/2016	No Violations Observed		N/A
INDUSTRIAL GAS	1833 INDUSTRIAL PKWY W	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	4/8/2016	No Violations Observed		N/A
GOLDEN GATE GASOLINE	1565 INDUSTRIAL PKWY W	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	4/8/2016	No Violations Observed		N/A
METRO PCS SMOKE SHOP	411 INDUSTRIAL PKWY	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	4/8/2016	No Violations Observed		N/A
WHIPPLE 17-76	2492 WHIPPLE RD	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	4/7/2016	No Violations Observed		N/A
RITE AID #5920	31091 MISSION BLVD	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	4/7/2016	No Violations Observed		N/A
NIMITZ CHEVRON	30151 INDUSTRIAL PKWY SW	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	4/7/2016	No Violations Observed		N/A
MEXICO SUPER	32575 MISSION BLVD	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	4/7/2016	No Violations Observed		N/A
MISSION SHELL	31235 MISSION BLVD	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	4/7/2016	No Violations Observed		N/A
SMOKE SHOP	31089 MISSION BLVD	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	4/7/2016	No Violations Observed		N/A
SUPER STOP	551 GARIN AVE	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	4/7/2016	No Violations Observed		N/A
STOP NSAVE #106	338 W TENNYSON RD	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	2/26/2016	No Violations Observed		N/A
7-ELEVEN FOOD STORE 2232-14186 G	375 W TENNYSON RD	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	2/26/2016	No Violations Observed		N/A
WALGREENS #2306	1138 W TENNYSON RD	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	2/26/2016	No Violations Observed		N/A
ROTTEN ROBBIE # 49	720 W TENNYSON RD	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	2/26/2016	No Violations Observed		N/A
FOOD SOURCE #710	26905 MISSION BLVD	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	2/26/2016	No Violations Observed		N/A
MT NGUYEN 76 INC	1109 W TENNYSON RD	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	2/26/2016	No Violations Observed		N/A
ALL STAR SERVICE INC	1220 W TENNYSON RD	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	2/26/2016	No Violations Observed		N/A
ARCO	650 W TENNYSON RD	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	2/26/2016	No Violations Observed		N/A
EL CHARRO MARKET	480 W TENNYSON RD	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	2/26/2016	No Violations Observed		N/A
CIGARETTES LEADER	26953 MISSION BLVD STE K	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	2/26/2016	No Violations Observed		N/A

CITY MINI MART	27945 MANON AVE	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	2/26/2016	No Violations Observed	N/A
TENNYSON LIQUOR & DELI	1190 W TENNYSON RD	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	2/26/2016	No Violations Observed	N/A
DISCOUNT LIQUOR & GROCERY	27826 MISSION BLVD	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	2/26/2016	No Violations Observed	N/A
GNG FOOD & LIQUORS	583 W TENNYSON RD	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	2/26/2016	No Violations Observed	N/A
T.N.T. LIQUORS & GROCERIES	27575 MISSION BLVD	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	2/26/2016	No Violations Observed	N/A
STEVES LIQUORS	1145 W TENNYSON RD	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	2/26/2016	No Violations Observed	N/A
ZACHS MARKET	50 W TENNYSON RD	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	2/26/2016	No Violations Observed	N/A
SUPERWAY MARKET	121 W TENNYSON RD	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	2/26/2016	No Violations Observed	N/A
TENNYSON SHELL	1097 W TENNYSON RD	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	2/26/2016	No Violations Observed	N/A
VALERO	438 W TENNYSON RD	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	2/26/2016	No Violations Observed	N/A
FAST BREAK FOOD AND MORE; 76 GAS	898 A ST	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	2/19/2016	No Violations Observed	N/A
MANDO'S AUTO CARE; CHEVRON GAS	486 A ST	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	2/19/2016	No Violations Observed	N/A
LA ESPERANZA TRICOLOR	340 A ST	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	2/19/2016	No Violations Observed	N/A
WORLD EXPRESS	22253 Foothill Blvd	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	2/19/2016	No Violations Observed	N/A
VALERO	22690 Foothill Blvd	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	2/19/2016	No Violations Observed	N/A
WALGREENS #2401	21463 Foothill Blvd	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	2/18/2016	No Violations Observed	N/A
QUIK STOP MARKET #5127	505 A ST	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	2/18/2016	No Violations Observed	N/A
LUCKYS #715	22555 MISSION BLVD	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	2/18/2016	No Violations Observed	N/A
LEES DONUTS #8	21471 Foothill Blvd	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	2/18/2016	No Violations Observed	N/A
SAFeway STORE 971	22280 Foothill Blvd	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	2/18/2016	No Violations Observed	N/A
B ST LIQUORS	1681 B ST	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	2/18/2016	No Violations Observed	N/A
FOOTHILL CHEVRON	21501 Foothill Blvd	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	2/18/2016	No Violations Observed	N/A
CIGARETTES CITY	1960 B ST	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	2/18/2016	No Violations Observed	N/A
EDENS LIQUOR AND DELI	1086 A ST	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	2/18/2016	No Violations Observed	N/A
FOOTHILL FOOD AND LIQUOR	21460 Foothill Blvd	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	2/18/2016	No Violations Observed	N/A
SMOKER FRIENDLY HAYWARD	24068 GRAND ST	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	2/18/2016	No Violations Observed	N/A
SERVO GAS AND SNACK	22810 Foothill Blvd	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	2/18/2016	No Violations Observed	N/A
LA GRANDE MARKET	22766 3RD ST	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	2/18/2016	No Violations Observed	N/A
R & H LIQUOR	1201 A ST	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	2/18/2016	No Violations Observed	N/A
L & M LIQUOR	22610 VERMONT ST	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	2/18/2016	No Violations Observed	N/A
N & M LIQUOR	210 A ST	HAYWARD	CA	94541	Yes	No	N/A	N/A	Not available	2/18/2016	No Violations Observed	N/A
CIGARETTE OUTLET SMOKE SHOP	414 W HARDER RD	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	11/3/2015	No Violations Observed	N/A
NATIONAL GAS	392 W HARDER RD	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	11/3/2015	No Violations Observed	N/A
GRAND GASOLINE	25757 SOTO RD	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	11/3/2015	No Violations Observed	N/A
WALGREENS #04659	164 W JACKSON ST	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	11/2/2015	No Violations Observed	N/A
7-ELEVEN 14175F	24883 SANTA CLARA ST	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	11/2/2015	No Violations Observed	N/A
7-ELEVEN 2231-18177A	130 HARDER RD	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	11/2/2015	No Violations Observed	N/A
CIGARETTES 4 LESS	25125 SANTA CLARA ST STE A	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	11/2/2015	No Violations Observed	N/A
LUCKYS #716	25151 SANTA CLARA ST	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	11/2/2015	No Violations Observed	N/A
SAFeway STORE 797	231 W JACKSON ST	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	11/2/2015	No Violations Observed	N/A
VALERO 92	390 W JACKSON ST	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	11/2/2015	No Violations Observed	N/A
BOBBY DISCOUNT LIQUORS	24895 SANTA CLARA ST	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	11/2/2015	No Violations Observed	N/A
MAC D LIQUORS	153 HARDER RD	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	11/2/2015	No Violations Observed	N/A
THE DONUT FACTORY	790 JACKSON ST	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	11/2/2015	No Violations Observed	N/A
76 GAS	210 W JACKSON ST	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	9/18/2015	No Violations Observed	N/A
CIGARETTE CENTER	24703 AMADOR ST STE 8	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	9/18/2015	No Violations Observed	N/A
SMOKE SHOP	24289 MISSION BLVD	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	9/18/2015	No Violations Observed	N/A
VALERO	138 JACKSON ST	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	9/18/2015	No Violations Observed	N/A
7-ELEVEN FOOD STORE 2234 18348C	24476 MISSION BLVD	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	9/17/2015	No Violations Observed	N/A
7-ELEVEN 2234 18825G	339 JACKSON ST	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	9/17/2015	No Violations Observed	N/A
JACKSON 92 ARCO	365 JACKSON ST	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	9/17/2015	No Violations Observed	N/A
MISSION CHEVRON	24086 MISSION BLVD	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	9/17/2015	No Violations Observed	N/A
COUNTRY LIQUORS	201 JACKSON ST	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	9/17/2015	No Violations Observed	N/A
DONUT EXPRESS	430 WINTON AVE	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	9/17/2015	No Violations Observed	N/A
EAST WINTON VALERO	193 WINTON AVE	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	9/17/2015	No Violations Observed	N/A
HAYWARD-LIQUOR & GROCERIES	849 SYCAMORE AVE	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	9/17/2015	No Violations Observed	N/A
JACKSON LIQUOR	566 JACKSON ST	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	9/17/2015	No Violations Observed	N/A
SHAMROCK LIQUOR	396 WINTON AVE	HAYWARD	CA	94544	Yes	No	N/A	N/A	Not available	9/17/2015	No Violations Observed	N/A



July 7, 2020

City of Hayward  
777 B Street  
Hayward, CA 94541

**RE: Proposed Tobacco Regulation Amendments**

Dear Mayor and Councilmembers:

As the Executive Director of the National Association of Tobacco Outlets (NATO), a national retail trade association that represents more than 60,000 retail stores throughout the country including several Hayward retail store members, I am writing to submit our comments and concerns regarding the proposed amendments to your tobacco regulations on the City Council July 7, 2020 agenda. These changes would prohibit the sale of all flavored tobacco products, including menthol cigarettes, flavored smokeless tobacco, flavored cigars, pipe tobacco, and all electronic smoking devices.

**Pandemic Impact and Economic Crisis Will Be Magnified by a Flavored Tobacco Product Ban:**

During the current emergency caused by the Coronavirus, we believe that now is not the appropriate time for a local government to consider an ordinance that would prohibit the sale of legal products. This is especially true when employees of retail stores that sell food, groceries and beverages have been designated by the U.S. Department of Homeland Security as “essential workers for critical infrastructure” and should remain working to provide basic necessities to the public, and that both the State of California and Alameda County have designated such stores as “essential businesses” and that the County recently extended its Stay at Home order through May.

According to our convenience store and service station members, their stores in Hayward have experienced a loss of 45% in gasoline sales and a decrease of up to 20% or more in grocery, snack, beverage, and tobacco product sales. These declines are significant because the average convenience store relies on tobacco product sales, including menthol cigarettes and other flavored tobacco products, for approximately 36% of in-store sales.

If flavored tobacco products are banned, hundreds of brands will be removed from store shelves and legal-age customers will drive to an adjacent suburb to buy not only their preferred tobacco products, but purchase gasoline, grocery items and beverages. The end result would be losses far greater than the current combined 65% declines in gasoline and other product sales. These retailers have done everything possible to survive the pandemic, but they will not survive an across-the-board ban on legal flavored tobacco products that results in even higher aggregate sales declines. Moreover, the closure of these stores will leave a deep void in the public’s need for retailers that sell gas, food, and beverages.

**Traditional Flavored Tobacco Products Should be Removed from the Ordinance:** We ask that the Planning Commission and the City Council give serious consideration to removing traditional flavored

tobacco products (menthol cigarettes, flavored smokeless products, pipe tobacco, and flavored cigars) from the proposed sales ban ordinance for the following reasons:

- Based on the following data from the California Healthy Kids Survey 2018-2019 of 11<sup>th</sup> graders in the Hayward Unified School District, these traditional tobacco products are not the issue because use rates of these products are at historic lows. Of Hayward 11<sup>th</sup> graders:
  - 93% *have never smoked a single cigarette*
  - 97% *have never tried smokeless tobacco*
  - 98% *had not smoked even one cigarette or used any smokeless tobacco in the last 30 days*
  - 87% *had not used an electronic cigarette in the last 30 days*

Use of cigars and pipe tobacco are not even reported in the Survey and presumably the question is no longer asked as the response numbers would be meaningless.

- Hayward retailers have a near perfect 96% compliance check passing by not selling tobacco to an underage minor record according to the outcome of 125 retail tobacco compliance checks conducted from 2015 to 2019 by the Food and Drug Administration (see accompanying FDA retail compliance check report).
- With retailers now being prohibited under a new federal law that went into effect in December of 2019 from selling tobacco products to anyone under 21, the new federal age 21 law should be allowed to work to further reduce underage access to and use of tobacco products.
- With the California legislature Senate Bill 793 that would ban flavored tobacco products statewide, consideration of a local flavored ban needs to be postponed to avoid putting Hayward's retailers at a severe disadvantage to nearby stores.

NATO and its Hayward retail members share everyone's interest in keeping tobacco products out of the hands of persons under 21 years old, but the ordinance overreaches because the main concern should be with the rise in underage vaping as shown by the California Health Kids Survey data.

**Vaping Product Restrictions Need to be Explored with Retailers:** While the vaping issue is being addressed by the Food and Drug Administration through a ban on those vaping products used most often by underage youth including flavored cartridge-type electronic nicotine devices (except tobacco and menthol flavors), we urge you to enter into a dialogue with NATO and retailers so that we can provide additional information and discuss various options for responding to the underage use of electronic cigarette products. The opportunity to work with the Planning Commission and the City Council to address this issue would be appreciated.

We urge the Hayward City Council not to move forward with any attempt to impose a ban on all electronic cigarettes and flavored tobacco products, and to certainly not even consider making any such changes under the existing state of emergency we find ourselves.

Sincerely,

***Thomas A. Briant***

NATO Executive Director

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**From:** Patricia Sanchez, MPH  
**Sent:** Tuesday, July 7, 2020 3:35 PM  
**To:** List-Mayor-Council  
**Subject:** Re Item #10 tonight's City Council Meeting

**CAUTION:**This is an external email. Do not click on links or open attachments unless you know the content is safe.

Good Evening Mayor Halliday and Council Members,

My name is Patricia Sanchez and I work with LifeLong Medical Care's Tobacco Treatment Program, part of East Bay Community Recovery Project in West Oakland. Our program provides training and technical assistance across Alameda County to public health and behavioral health providers, clinics and agencies, helping treat tobacco dependence in our most vulnerable communities. This gives our program a unique perspective on the challenges faced by healthcare providers and the treatment of tobacco in the communities they serve.

In spite of the critically important tobacco sales Hayward ordinance passed in 2014, flavored tobacco products—including menthol—continue to be highly accessible to Hayward residents.

Recently, and due to the pandemic—providers have shared the increase use of tobacco products by their patients who are feeling more anxiety and life stressors due to job loss. Our medical providers are urgently seeking community support services to help aid those interesting in quitting tobacco and also help protect patients who currently using tobacco as it puts them at higher risk of acquiring and having complications with Covid-19. Tobacco sale local ordinances have one of the largest impact in helping people quit. By removing this exemption, not only are you helping protect youth from experimenting and becoming addicted to flavored tobacco products but you are also protecting adults in the community by providing a healthier environment that will support people in their quit attempts.

Also, in working directly with medical providers, we have seen an increase inquiry on best practices for treating nicotine dependence in youth who have become severely addicted to flavored vaping products. Many pediatricians are uncertain about how to use this medication with adolescents, especially those who are under 18 years old. As a mother of 2 young children, I can't seem to understand how we continue to look the other way when there are substances out in our community that are directly advertised to children, and making them addicted.

I urge you to close the loophole in the existing ordinance immediately to help protect our Hayward youth and help those who are already addicted to tobacco. I hope the Hayward City Council will stand with students, parents, community leaders, and health professionals to protect Hayward families from Big Tobacco.

Patricia Sanchez, MPH  
Program Manager, Tobacco Treatment Program  
A LifeLong East Bay Community Recovery Project (EBCRP)  
Work 510-446-7167



**Care.  
Compassion.  
Community.**



**Patricia Sanchez, MPH**

Program Manager - Tobacco Cessation & Training

LifeLong East Bay Community Recovery Project (EBCRP)  
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**From:** Phillip Gardiner  
**Sent:** Monday, July 6, 2020 7:18 AM  
**To:** List-Mayor-Council; CityClerk; Barbara Halliday; Francisco Zermeno; Al Mendall; Sara Lamnin; Elisa Marquez; Mark Salinas; Aisha Wahab  
**Cc:** Carol McGruder; Dr. Val; Phillip Gardiner; Lee, Anna, Public Health, CHS; Cummings, Paul, Public Health, CHS  
**Subject:** End the Sale of Flavored Menthol and All flavored Tobacco Products in Hayward  
**Attachments:** Menthol Restrictions Hayward 3.docx

**CAUTION:**This is an external email. Do not click on links or open attachments unless you know the content is safe.

Mayor Halliday and Councilmembers,

Attached is the 3rd letter that the African American Tobacco Control Leadership Council has sent you this year requesting that you remove menthol and all flavored tobacco products from the City of Hayward. This is especially important in the midst of the COVID-19 pandemic that is disproportionately affecting communities of color. Moreover, with the fight for Black Lives Matter, nothing you could do that would be more important for the Black Community than to remove the vector of death and disease, menthol cigarettes and flavored little cigars, from our community.

We look forward to the Council meeting tomorrow.

We are all Counting on You!

Phillip Gardiner, Dr. P.H.  
Co-Chair African American Tobacco Control Leadership Council

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**From:** Reilly Musser  
**Sent:** Tuesday, July 7, 2020 12:02 PM  
**To:** List-Mayor-Council  
**Subject:** Agenda Item 10 - PH 20-054 for 7pm meeting 7/7/20

**CAUTION:**This is an external email. Do not click on links or open attachments unless you know the content is safe.

Mayor Halliday,

My name is Reilly Musser, I am the VP of Marketing and Merchandising for Rotten Robbie Gas Stations. We have 2 sites in Hayward that this amendment affects and we oppose it. We scan ID's all day, every day and we are good at it. It's typically easier to buy drugs on the street than to get cigarettes at a convenience store. We not only are checking IDs for Tobacco, but for Lottery and Alcohol as well. Tobacco is already highly regulated product, convenience stores have a great record and we don't need more regulation. You have to be 21 to buy tobacco, we require our cashiers to scan IDs and we employ a Mystery Shopper Program to secretly shop our stores and bonus our employees every time they pass the shop. Most convenience stores use the same tools that we do to scan IDs and mystery shop their staff. The city of Hayward will lose out on sales tax revenue and just send those customers to the next city over to buy the products they want. You are mostly just taking choice away from an adult smokers.

Please oppose this amendment.

Thank You,

Reilly Robinson Musser  
Vice President of Marketing and Merchandising  
Robinson Oil Corp. dba Rotten Robbie Gas Stations  
955 Martin Ave.  
Santa Clara, CA 95050  
[www.rottenrobbie.com](http://www.rottenrobbie.com)  
Since 1938

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**From:** Rima Khoury  
**Sent:** Monday, July 6, 2020 1:22 PM  
**To:** List-Mayor-Council  
**Subject:** FW: Agenda Item # 10

**CAUTION:**This is an external email. Do not click on links or open attachments unless you know the content is safe.

PLEASE READ FOR PUBLIC COMMENT (re-sent, sorry the first one had a typo)

Dear Mayor and Councilmembers of Hayward,

Before you inadvertently vote to ban the thousand year cultural tradition of hookah in the city of Hayward please understand the facts.

There is no teen hookah epidemic. The FDA and CDC reports have made it clear that hookah is not the problem with youth. There are no facts that support a ban on hookah.

Hookahs are not being confiscated in schools. Hookahs are 3 feet tall and cannot be easily concealed in your pocket or backpack like vape. Hookahs take 25 – 30 minutes to set up and need hot coals, therefore it cannot be smoked during recess in the bathroom at school. Hookah's cost over \$200 for all the parts and accessories, making it out of reach for most kids.

Gov. Gavin Newsom stated in his executive order address on September 16, 2019 that "hookah is not the problem in classrooms".

Furthermore, FDA recently stated in their Guidance for the Industry dated January 2020 that although data shows that flavored tobacco entice youth, that such data does NOT appear to raise comparably urgent public health concerns with youth usage of hookah products because the lower prevalence of youth use of these products suggests that they do NOT appear to be as appealing to youth at this time. Emphasis added.

Hookah is not the problem.

Yet hookah is becoming collateral damage in the war against vape. Hookah is not vape. Hookah has been practiced for over a thousand years by Arabs, Persians, Armenians, Turks and Indians, many of which have immigrated to America and still practice their cultural traditions. Hookah is the center piece of social gatherings and is often offered to guests as a sign of hospitality and respect.

Many immigrant small business owners have built their business doing what they know from their home country. Often times they work 20 hour days, seven days a week to support multiple generations of their family. Rather than banning hookah and crippling these immigrant small business owners, consider passing reasonable regulations that address youth usage and access. Many of these business owners that have been operating legally for years would be happy to work with law makers to address youth access issues. These hookah lounge and retailer owners often have several years remaining on their leases and have personally guaranteed their leases. They will not only lose their business, but their homes and no longer be able to support their family and extended family.

A tobacco flavor ban is a ban on hookah because it only comes in flavors. Even hundreds of years ago hookah was made with molasses and honey.

The federal government has recently passed a 21 and over minimum for tobacco products across all fifty states. In addition, the FDA has passed an e-cigg ban on flavored cartridges. May 12, 2020 is the FDA deadline for all vape and hookah products to be accepted for FDA review, after which any products without FDA authorization will be unlawfully on the market and their products seized and injunctions restricting sales will be issued along with fines and penalties. The federal government is addressing the youth access issue and also providing legislation across the board, eliminating the patchwork of laws from city to city and closing loop holes for bad actors to skirt the law.

Please exempt hookah from the proposed flavored tobacco amendment. Thank you.



**RIMA KHOURY, ESQ.**  
GENERAL COUNSEL  
(619) 331-3535 EXT. 723  
**FUMARI INC.**

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**From:** Rochelle Collins  
**Sent:** Monday, July 6, 2020 7:30 PM  
**To:** List-Mayor-Council; CityClerk; Maggie Flores  
**Subject:** Support Youth In Decisions Regarding the Tobacco TRL

**CAUTION:**This is an external email. Do not click on links or open attachments unless you know the content is safe.

Hello, City Council and Mayor of Hayward,

I urge you to strengthen the tobacco retail license ordinance ending the sale of cheap flavored tobacco products, including menthol cigarettes, in Hayward.

The tobacco industry is using these products to lure a new generation of youth into addiction. I have worked in the city of Hayward for the last 17 years, and I consider my second home. I direct a youth alcohol, tobacco, and other drugs prevention, education, and treatment program in Hayward. My staff provide services to youth and families at all the high schools, including Brenkwitz, as well as supportive services to the elementary and middle schools, along with the charter and private schools. Vaping is the number one problem for students starting in the 4th grade and increasing through high school. Juul and more important puff bars are the number one drug of choice for youth in Hayward. Tobacco companies, Juul, and other companies have targeted low-income communities, especially black and brown youth, with the attractiveness of flavored cigarettes and menthol cigarettes. The youth in Hayward deserve to be free of tobacco as well as have caring adults working effortlessly to ensure that tobacco does not get into the hands of youth. Youth have reported to my staff (verbally and in writing) that they get flavored tobacco and menthol cigarettes from tobacco outlets in the downtown and A Street corridor and from retailers on Tennyson. They report that it is easy to get tobacco products from these retailers especially flavored tobacco products, vaping and E-cigarette devices, and menthol cigarettes - the favorites of African American youth and adults. Increasing retail business in Hayward is important for a thriving city, yet the youth of Hayward should take precedence over money and taxes. HUSD is losing a large number of families moving to different cities due to the poor home life for youth in Hayward. Let's make Hayward a family friendly, welcoming, and no access to tobacco for the youth.

E-cigarettes now come in over 15,000 flavors, from gummy worm to cotton candy. Flavored cigars make up more than half of the U.S. cigar market. And over half of youth smokers use menthol cigarettes.

I am concerned that Hayward continues to have tobacco retailers that can sell cheap flavored tobacco, and these stores are found more often in low-income communities of color. All of these flavors have helped fuel the popularity of cigarettes, e-cigarettes, and cigars among youth. In fact, 81% of kids who have used tobacco products started with a flavored product.

Please strengthen the ordinance and end the sale of all flavored tobacco products, including menthol cigarettes, with no exemptions. Please also include:

- a minimum price requirement of \$8.00 for cigarettes and little cigars
- a minimum pack size of 20 little cigars, and
- a tobacco-free pharmacies requirements to protect our youth from accessing these products.

**I support a comprehensive ordinance that ends the sale of flavored tobacco products and menthol cigarettes with NO EXEMPTIONS! Thank you for taking a stand against Big Tobacco and protecting Hayward youth and families.**

Thank you for your continued leadership and ensuring Hayward values youth.

Rochelle U. Collins, MSW, Clinical Psychologist Ph.D. Trainee  
Program Director  
Preferred Pronoun: She/Her/Hers  
Project Eden & Project Eden – East County, A Program of Horizon Services, Inc.  
1866 B Street, Suite 101  
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**From:** Serena Chen  
**Sent:** Tuesday, July 7, 2020 3:03 PM  
**To:** List-Mayor-Council; CityClerk  
**Subject:** Banning flavored products - Agenda Item 10

**CAUTION:**This is an external email. Do not click on links or open attachments unless you know the content is safe.

Dear Mayor Halliday and Members of the Council,

RE: Agenda Item 10

As a public health advocate in Alameda County since 1991, I have had the honor (and challenge) of supporting strong secondhand smoke and tobacco control measures to keep our residents safe and healthier. Since the early 1990's, I have come before this council and worked with some of you and city staff on crafting the strongest possible protections.

Now in COVID times it is more important than ever to practice proven public health protections against flavored tobacco products, electronic smoking devices, minimum pricing/pack size and establishing buffer zones. While CVS has long stopped selling tobacco products, the other big box pharmacies have resisted adopting the same policy. However, in cities that have banned the sale of tobacco in pharmacies, they have all complied without challenge. I recall back in 2014, when Hayward led the State and the County in adopting their TRL, Hayward staff also helped put on a regional workshop for city attorneys, police departments and community development staff to provide technical assistance and expertise with speakers from each of those sectors.

However, as 30 years of working with cities on adopting tobacco control laws has taught me, I must urge you to be unequivocal in your commitment to protecting youth from a lifelong addiction to nicotine. And last year, we were met with the growing vaping epidemic which reversed this Country's steady decline in tobacco use for youth and saw the extreme effects of vaping in the form of severe vaping-related lung injuries called EVALI which hospitalized 2,700 young adults and resulted in 60 reported deaths.

As we continue living through this current crisis, it have become crystal clear that half measures and mixed messages has and will result in more infections and deaths in the case of COVID. Please approach this ordinance amendment as a clear statement with the necessary annual compliance checks, a 100% ban on flavored products and electronic smoking devices and discounted pricing and coupons -- WITH NO EXEMPTIONS for "adults only" establishment.

And please resist the temptation to "blame the victim" by instating punishments on the youth. These measures may feel good for adults – there is nothing so frustrating as seeing a young teen smoking/vaping – but punishing them will only introduce them to the juvenile justice system which has proven to be counter-productive as well as ineffective in reducing youth tobacco use.

Without taking a clear and strong stance, Hayward will remain the "go-to" place in the County with loopholes – where youth will know where they can access flavored tobacco products and vapes.

Please be strong – we are all in this together.

Sincerely,

--

*Serena*

Serena Chen, 陳月眉

Tobacco Endgame Advocate

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**From:** Shonte Anneke Powers | Lounge Ambassador - USA  
**Sent:** Monday, July 6, 2020 9:00 PM  
**To:** List-Mayor-Council  
**Subject:** Total Flavor Tobacco Ban

**CAUTION:**This is an external email. Do not click on links or open attachments unless you know the content is safe.

Hello,

The main focus of the ordinance should focus only on restricting flavored electronic cigarettes and nicotine vapor products. Hookah should not be included in this category. It is not something that can be done discreetly, or quickly. It takes about 15 minutes to be set up, and the pipe alone is at least 2 feet tall. Please exempt hookah from the ordinance.

Shonté P.



**Shonte' Powers**  
Brand Ambassador  
[www.alfakher.com](http://www.alfakher.com)

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**From:** Sunshine Joyce Batasin  
**Sent:** Tuesday, July 7, 2020 2:35 PM  
**To:** List-Mayor-Council; CityClerk  
**Subject:** Agenda Item 10: Tobacco Retail Sales Establishments

**CAUTION:**This is an external email. Do not click on links or open attachments unless you know the content is safe.

Dear Mayor Halliday and Councilmembers:

My name is Sunshine Joyce Batasin and I am an Emerging Community Leader with Breathe California of the Bay Area. I am a current undergraduate student at the University of San Francisco, and used to live in the City of Hayward when I was in elementary school. I support the strengthening of Hayward's Tobacco Retail License with no exemptions.

I would like to tell you about my experience working as a summer camp counselor. In the years that I worked in this job, I noticed that children refuse to eat anything that doesn't taste good to them. At the time, I figured it was something they would outgrow, but then I realized this: personally, from protein bars to coffee, if a store didn't have something in the flavor I wanted, I wouldn't try it or buy it. Preferences are universal, and it's evident that companies — including the tobacco industry — have expanded their selection to target and attract a much younger audience. They have been successful; I have met many people who have succumbed to the temptation of flavored and sweet-smelling tobacco products, and are now at risk for numerous diseases. The impact and risk of respiratory diseases has gained global attention, and COVID-19 has highlighted the devastating impact on high-risk individuals.

In my first year of college, I was offered cinnamon cigarettes and mint vape pens by a friend who started smoking when he was 12, and continues to this day. One of my classmates, who used to smoke easy-to-hide vape pens out of his backpack in high school classes, can easily point out the best- and worst-tasting flavors. Furthermore, a friend of mine had a falling-out with his roommate because he began to smoke, but couldn't stop. The effects are devastating, and will ultimately impact the livelihood of youth living in Hayward and beyond.

Although we do not have the power to control what the tobacco industry produces, you have the power of prevention. I am urging the Hayward City Council to support a stronger Tobacco Retail License that will eliminate the sale of flavored tobacco products and menthol cigarettes with no exemptions in order to create a Healthier Hayward.

I hope you and your loved ones are safe and healthy. I urge you to support this ordinance to keep your residents in good health as well.

Kindest regards,  
Sunshine Joyce Batasin

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***Sunshine Joyce Batasin***  
*University of San Francisco '23*  
*BS in Nursing, Health and Child/Youth Studies Minors*  
*Emerging Community Leader (ECL), Breathe California of the Bay Area*  
*Community Service Officer, USF Nursing Students' Association*  
*University Ambassador, USF Office of Undergraduate Admission*

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**From:** Annie Tegen  
**Sent:** Tuesday, July 7, 2020 3:00 PM  
**To:** List-Mayor-Council  
**Subject:** Letter of support for Item #10: TRL & Flavored Tobacco Ordinance

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1400 EYE STREE

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Mayor Barbara Halliday  
Councilmember Sara Lamnin  
Councilmember Elisa Márquez  
Councilmember Al Mendall  
Councilmember Mark Salinas  
Councilmember Aisha Wahab  
Councilmember Francisco Zermeño  
Hayward City Hall  
777 B St.  
Hayward, CA 94541-5007

***RE: Updating City of Hayward's Tobacco Retail Licensing Ordinance to Strengthen Restrictions on the Sale of Menthol Cigarettes and Other Flavored Tobacco Products, and Minimum Pricing for Tobacco Products***

Dear Mayor Halliday and Councilmembers:

The Tobacco-Free Kids Action Fund supports strengthening Hayward's existing Tobacco Retail Licensing Ordinance to:

- End the sale of all flavored tobacco products, including menthol cigarettes, which target youth of color
- Raise the minimum package size requirements and including minimum price requirements
- End the sale of tobacco in pharmacies and near child-sensitive areas

The best way to prevent tobacco-related illness and death and promote health equity is to prevent youth and vulnerable communities from starting to smoke in the first place.

The Tobacco-Free Kids Action Fund (TFKAF) is solely devoted to reducing tobacco use and its deadly toll by advocating for public policies that prevent kids from using tobacco, and help smokers quit. **TFKAF commends Hayward for being a national leader in its commitment to reducing the death and disease from tobacco use.** It is encouraging to see cities and counties in California continue to take thoughtful, evidenced-based steps to reduce the number of kids who start using tobacco and help tobacco users quit.

According to CA Healthy Kids Survey results from Hayward Unified School District (2018-2019):

- 60% of 11<sup>th</sup> graders believe that it is either very or fairly easy to obtain e-cigarettes or vaping devices
- 43% of 11<sup>th</sup> graders believe that it is either very or fairly easy to obtain cigarettes
- 45% of 11<sup>th</sup> graders perceive little to no harm in using e-cigarettes compared to smoking cigarettes
- 15% of 11<sup>th</sup> graders have used electronic cigarettes in the past month

Flavors such as menthol, grape, cotton candy, bubble gum and gummy bear mask the harsh taste of tobacco and are highly appealing to youth, encouraging a new generation of tobacco users. Four out of 5 kids who have used tobacco started with a flavored product.

Tobacco companies have historically targeted youth, communities of color and the LGBTQ community with aggressive marketing of flavored tobacco products, including menthol. Research shows that 71% of African American youth smokers, 40% of Asian teen smokers, and 57% of Hispanic teen smokers report smoking menthol-flavored cigarettes.<sup>[1]</sup> Youth who initiate smoking with menthol are more likely to become addicted, long-term smokers. As a result of industry targeting, vulnerable communities bear a disproportionate burden of tobacco-related disease and death; for example, 47,000 African Americans die annually from smoking-related illnesses, making tobacco use the largest preventable cause of death among African Americans and across the whole population.<sup>[2]</sup>

When tobacco is cheap and pack sizes are small, tobacco products are more affordable for youth and low-income populations to buy. In Alameda County, over 77% of tobacco retailers near schools sell little cigars for less than \$1.00, cheaper than the price of a candy bar. Unfortunately, cheap prices for tobacco products are most available in low-income communities of color and communities which have high proportions of school-aged youth. Cigars are particularly attractive to youth, as they can come in kid-friendly flavors, such as candy and fruit flavorings, which are prohibited in cigarettes. More high school students smoked cigars than cigarettes in 2019 and African-American high school students smoke cigars at significantly higher rates compared to other races or ethnicities.<sup>[3]</sup> Establishing a minimum price and an increased pack size requirement for the sale of tobacco products is an effective strategy for reducing access to these products and reducing smoking rates among vulnerable populations.

Additionally, making pharmacies tobacco-free further reduces the density of tobacco retailers and establishes pharmacies as places of health, enabling pharmacists to dispense medications in the back of the store without cancer-causing tobacco being sold at the front of the store. Very few independent pharmacies exist anymore and of those that still exist, almost all are tobacco-free. In jurisdictions that have passed these laws, big chain pharmacies are not closing due to adopted tobacco-free pharmacy requirements. Tobacco-free pharmacies would have a positive impact for the health of the city.

Many other jurisdictions in Alameda County are also taking steps to strengthen their tobacco control regulations. In the past year alone, the Cities of Alameda, Albany, Fremont, Livermore and Unincorporated Alameda County have adopted Tobacco Retail Licensing (TRL) provisions to prohibit the sale of flavored tobacco products city-wide (no exemptions), including prohibiting menthol cigarettes and flavored e-cigarettes. These jurisdictions have also adopted minimum pricing and package size requirements and prohibited the redemption of tobacco discounts and coupons to ensure that little cigars are less accessible to youth and low-income populations. The City of Alameda and Unincorporated Alameda County's TRLs went further to prohibit the sale of tobacco products in retailers located within close proximity to youth-sensitive areas, as well as prohibiting the sale of tobacco in pharmacies.

Strengthening the existing Tobacco Retail Licensing law by prohibiting the sale of all flavored tobacco products in Hayward, including menthol tobacco products, creating a minimum price and increasing package size requirements, and prohibiting the sale of tobacco in pharmacies can protect youth of color from accessing flavored and cheap tobacco products and are crucial to preventing a lifetime of tobacco addiction.

Thank you for putting the health of our youth and communities before tobacco industry profits, and ensuring that all of Hayward's youth have the opportunity to lead healthy lives.

Sincerely,

A handwritten signature in black ink that reads "Annie" followed by a stylized flourish.

Annie Tegen, MPH  
Director, U.S. Western Region  
Campaign for Tobacco-Free Kids  
[ategen@tobaccofreekids.org](mailto:ategen@tobaccofreekids.org)

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<sup>[1]</sup> Villanti, A., et al., "Changes in the prevalence and correlates of menthol cigarette use in the USA, 2004–2014," *Tobacco Control*, published online October 20, 2016

<sup>[2]</sup> U.S. Department of Health and Human Services, Centers for Disease Control and Prevention. 2003. Pathways to Freedom: Winning the Fight Against Tobacco. Available at: <http://www.fairwarning.org/wp-content/uploads/2015/11/pathways.pdf>

<sup>[3]</sup> U.S. Centers for Disease Control & Prevention (CDC), "Tobacco Product Use and Associated Factors Among Middle and High School Students — United States, 2019," *Morbidity and Mortality Weekly Report (MMWR)* 68(12), December 6, 2019, <https://www.cdc.gov/mmwr/volumes/68/ss/pdfs/ss6812a1-H.pdf>.

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**From:** Tricia Barr  
**Sent:** Tuesday, July 7, 2020 3:12 PM  
**To:** CityClerk; Maggie Flores; Barbara Halliday; Francisco Zermeno; Al Mendall; Sara Lamnin; Elisa Marquez; Mark Salinas; Aisha Wahab  
**Cc:** List-Mayor-Council  
**Subject:** Support for Agenda item #10: tobacco retail ordinance

**CAUTION:**This is an external email. Do not click on links or open attachments unless you know the content is safe.

Dear Mayor Halliday and City Council members,

I'm a parent of three kids in middle and high school. I'm supportive of the ordinance, as written. Flavored tobacco and e-cigarettes are getting in the hands of youth, including through supposedly "adult only" stores. Please do as other nearby jurisdictions have done and adopt the ordinance, as written, without exemptions.

I assume you've seen the data, but I wanted to share it just in case. According to CA Healthy Kids Survey results from Hayward Unified School District (2017-2018):

- 63% of 11<sup>th</sup> graders believe that it is either very or fairly easy to obtain e-cigarettes or vaping devices
- 49% of 11<sup>th</sup> graders believe that it is either very or fairly easy to obtain cigarettes
- 47% of 11<sup>th</sup> graders perceive little to no harm in using e-cigarettes compared to smoking cigarettes
- Almost 1 in 3 (32%) HUSD 11<sup>th</sup> graders have used electronic cigarettes

We know youth usage has gone up since then, so I assume the same can be said in Hayward. We need you to protect our youth.

Best regards,  
Tricia Barr  
PTA member advocate