

**CORRESPONDENCE  
FROM  
OCTOBER 25, 2021  
CITY COUNCIL  
MEETING**



**BARBARA FERRER, Ph.D., M.P.H., M.Ed.**  
Director

**MUNTU DAVIS, M.D., M.P.H.**  
County Health Officer

**MEGAN McCLAIRES, M.S.P.H.**  
Chief Deputy Director

**TONY KUO, M.D., M.S.H.S.**  
Director  
Division of Chronic Disease & Injury Prevention  
3530 Wilshire Blvd., 8<sup>th</sup> Floor  
Los Angeles, California 90010  
TEL (213) 351-7825 • FAX (213) 351-2713

[www.publichealth.lacounty.gov](http://www.publichealth.lacounty.gov)

October 25, 2021

Pasadena City Hall  
100 North Garfield Avenue, Room S249  
Pasadena, CA 91109-7215

Honorable Mayor Gordo and Councilmembers:

The County of Los Angeles is committed to protecting the health and well-being of youth and the general public. Both the FDA and the U.S. Surgeon General have warned that flavored tobacco products, such as electronic smoking devices and little cigars and cigarillos, can be dangerous to new users' health and well-being, establishing habits that can lead to long-term addiction.<sup>1,2</sup> Flavored e-cigarettes are not tested nor are approved as smoking cessation devices, and may expose users to high levels of nicotine. Prohibiting the sale of flavored tobacco products will help in preventing long-term disease and death from tobacco use.

Menthol cigarettes have been shown to increase youth initiation, inhibit cessation, and promote relapse. Scientific studies have shown that because of its sensory effects and flavor (minty taste and cooling sensation) menthol may enhance the addictiveness of cigarettes. Although the use of cigarettes is declining in the U.S., sales of menthol cigarettes have steadily increased in recent years, especially among young people and new smokers.<sup>3</sup>

For these reasons, on September 24, 2019, the County of Los Angeles Board of Supervisors approved an ordinance creating restrictions on retail sales of tobacco products. The new restrictions and requirements apply to tobacco retailers in unincorporated Los Angeles County. The law does not apply to personal possession or use of tobacco products. Beginning May 1, 2020, retailers are no longer able to sell any flavored tobacco or flavored tobacco products, including, but not limited to, menthol cigarettes, hookah tobacco, and flavored products meant for use in electronic smoking devices. Under this ordinance, tobacco flavored tobacco products may continue to be sold.

We thank you for your leadership and commitment in supporting healthy neighborhoods where all community members thrive. We stand ready to share our experiences and lessons learned with your city, as you proceed with your policy and its implementation in the community.

RECEIVED  
2021 OCT 25 AM 8:51  
CITY CLERK  
CITY OF PASADENA



**BOARD OF SUPERVISORS**

- Hilda L. Solis**  
First District
- Holly J. Mitchell**  
Second District
- Sheila Kuehl**  
Third District
- Janice Hahn**  
Fourth District
- Kathryn Barger**  
Fifth District

October 25, 2021

Page 2

If you have questions or need further information about the County's ordinance, please feel free to contact Tonya Gallow, MSW, Director of the Los Angeles County Tobacco Control and Prevention Program, at 213-351-7890 or via email [tobacco1@ph.lacounty.gov](mailto:tobacco1@ph.lacounty.gov). For your interest, an FAQ on the County's Tobacco Ordinance is included alongside this letter.

Sincerely,



Tony Kuo, M.D., M.S.H.S.

Division of Chronic Disease and Injury Prevention  
Los Angeles County Department of Public Health

TK:mm

---

<sup>1</sup> U.S. Surgeon General. (December). Surgeon General's Advisory on E-cigarette Use Among Youth [Press release]. Retrieved on 10/7/2019: <https://ecigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-ecigaretteuse-among-youth-2018.pdf>.

<sup>2</sup> Centers for Disease Control and Prevention. Vital Signs: Tobacco Product Use Among Middle and High School Students-United States 2011-2018. Morbidity and Mortality Weekly Report 2019, 68(06).

<sup>3</sup> California Department of Public Health, California Tobacco Control Program. California Tobacco, The Truth About Menthol Cigarettes (2017).



## County of Los Angeles Tobacco Ordinance Frequently Asked Questions *Updated October 2020*

On September 24, 2019 the County of Los Angeles Board of Supervisors approved an Ordinance creating restrictions on retail sales of tobacco products and a new Business License requirement. The new restrictions only apply to tobacco retailers in the unincorporated areas of the County. The law does not apply to personal possession or use of tobacco products. To determine if your business is located in an unincorporated area of Los Angeles County, visit <http://gis.lacounty.gov/districtlocator/> and enter your business address to see if it is in an "unincorporated" area, or visit <https://lavote.net/apps/precinctsmaps> and select "District Map Look Up by Address" in the drop-down box under the title "Precincts Maps Application."

- 1. What are the new restrictions on retail sales of flavored tobacco products?**  
Retailers may not sell any flavored tobacco or flavored tobacco products, including, but not limited to, menthol cigarettes and flavored products meant for use in electronic smoking devices.
- 2. Do the new restrictions apply to online sales of tobacco products?**  
No, online sales of all tobacco products are regulated by the State of California, pursuant to California's STAKE Act (Business and Professions Code section 22960 et seq.)
- 3. When does the flavored tobacco product and menthol cigarette sales prohibition go into effect?**  
The prohibition on sales of flavored tobacco products and menthol cigarettes began on May 1, 2020.
- 4. When is the last day to sell flavored tobacco products and menthol cigarettes?**  
The last day to sell flavored tobacco products and menthol cigarettes was April 30, 2020.
- 5. Which retailers can sell flavored tobacco products and menthol cigarettes?**  
After May 1, 2020, no retailer in the unincorporated areas of the County may sell flavored tobacco products that impart a characterizing flavor or menthol cigarettes. Retailers with a valid Tobacco Retail License may sell unflavored tobacco products and/or tobacco products containing only the flavor of tobacco.

As of November 1, 2019, pharmacies may no longer obtain or renew a Tobacco Retail License.

6. **Which retailers are affected by the prohibition on sales of flavored tobacco products and menthol cigarettes?**

Any retailer that sells tobacco products and/or cigarettes will be affected by the prohibition on sales of flavored tobacco products and menthol cigarettes.

7. **What is a flavored tobacco product?**

A flavored tobacco product is a product containing tobacco or nicotine which is intended for human consumption, imparting a characterizing flavor and includes, but is not limited to, menthol cigarettes, flavored little cigars, flavored vaping products (including flavored vaping juices not containing tobacco or nicotine), flavored chew, flavored hookah tobacco, and flavored pipe tobacco.

8. **What is a characterizing flavor?**

A characterizing flavor is a taste or aroma, excluding the taste or aroma of tobacco, imparted either prior to or during consumption of a tobacco product or any byproduct produced by the tobacco product, including but not limited to, menthol, mint, wintergreen, fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, or spice. Characterizing flavor includes flavor in any form, mixed with or otherwise added to any tobacco product or nicotine delivery device, including electronic smoking devices.

9. **I am confused by the Ordinance's definitions of little cigar and cigarillo. If a little cigar or cigarillo weighs more than the weight specified in the Ordinance's definition, is it still required to be sold in packages of 20 or more?**

Pursuant to California Health and Safety Code section 14950 (b) (1), County Code section 11.35.020 (M) defines a little cigar as "any roll of tobacco wrapped in a leaf of tobacco or any substance containing tobacco and weighing not more than three pounds per thousand". Products labeled by a manufacturer as a little cigar or small cigar may not be sold individually or in packages of less than 20 units. In addition, many cigarillos and little cigars contain flavors and as of May 1, 2020, flavored tobacco products, including flavored cigarillos and little cigars other than tobacco flavored, cannot be sold in the unincorporated areas of the County of Los Angeles regardless of pack size. Enforcement of the Ordinance will be focused on retail sales of flavored products, including little cigars and cigarillo, as well as ensuring that products labeled by a manufacturer as a little cigar or small cigar are not sold individually or in packages of less than 20 units. DPH will not enforce pack size restrictions on tobacco products labeled as cigarillos.

Little cigars may only be sold or offered for sale in an original manufacturer's sealed package of 20 units or more that is intended for sale to consumers. The bundling of individual and/or packages of multiple little cigars to create a package of 20 units or more is prohibited.

**10. Can pharmacies sell tobacco products?**

Pharmacies that currently have a Tobacco Retail License may continue to sell tobacco, tobacco products, and/or tobacco paraphernalia until their Tobacco Retail License expires, but in no case may a pharmacy sell flavored tobacco products after April 30, 2020. The new law prohibits pharmacies, including stores with an on-site pharmacy, from obtaining or renewing a Tobacco Retail License and no retailer, including pharmacies, may sell tobacco, tobacco products, and/or tobacco paraphernalia without a Tobacco Retail License.

**11. Why is the County of Los Angeles prohibiting the sale of flavored tobacco products in unincorporated areas of the County?**

The County is committed to protecting the health and well-being of youth and the general public. Both the FDA and the U.S. Surgeon General have warned that flavored tobacco products, such as electronic smoking devices and little cigars and cigarillos, help new users establish habits that can lead to long-term addiction.<sup>1,2</sup> Flavored e-cigarettes are not tested and/or approved smoking cessation devices and may expose users to high levels of nicotine. Prohibiting the sale of flavored tobacco products in the unincorporated areas of the County will help prevent tobacco-related disease and death.

**12. Why is the County of Los Angeles prohibiting the sale of menthol cigarettes?**

Menthol cigarettes have been shown to increase youth initiation, inhibit cessation, and promote relapse. Scientific studies have shown that because of its sensory effects and flavor: minty taste and cooling sensation, menthol may enhance the addictiveness of cigarettes. Although the use of cigarettes is declining in the U.S., sales of menthol cigarettes have steadily increased in recent years, especially among young people and new smokers.<sup>3</sup>

**13. How much time do retailers have in order to sell existing inventory of flavored tobacco products and menthol cigarettes?**

Existing tobacco retailers with a valid Tobacco Retail License will have until April 30, 2020 to sell any flavored tobacco products and/or menthol cigarettes.

New tobacco retailers who obtain the required license(s) prior to April 30, 2020, may sell flavored tobacco products until April 30, 2020.

**14. May a retailer sell flavored liquids that do not contain nicotine or tobacco?**

No. Retailers may not sell flavored liquids separately as those are considered characterizing flavors. The new law prohibits the sale of characterizing flavor in any form, that can be mixed with or otherwise added to any tobacco product or nicotine delivery device, including electronic smoking devices.

**15. Will the County mail a notice about the last day to sell flavored tobacco products?**

Yes. The County is issuing these *Frequently Asked Questions* and additionally, will mail notices and host webinars and in-person sessions throughout the

unincorporated areas of the County in order to provide information on the new law, including the last day to sell flavored tobacco products, which is April 30, 2020.

**16. What is the new Business License requirement?**

The new Business License requirement is for all Tobacco Shops exclusively or predominately selling tobacco, tobacco products, or tobacco paraphernalia, including vaping products and cigars. Tobacco Shops include, but are not limited to, smoke shops, cigar shops, vape shops, and hookah lounges.

**17. How do I know if my store is a Tobacco Shop?**

A Tobacco Shop is a business devoted exclusively or predominantly to the sale of tobacco, tobacco products, and tobacco paraphernalia. According to California Business and Professions Code Section 22962 (a) (4), a tobacco store is defined as a business that primarily sells tobacco products, generates more than 60 percent of its gross revenues annually from the sale of tobacco products and tobacco paraphernalia, does not permit any person under 21 years of age to be present or enter the premises, and does not permit the consumption of alcoholic beverages or food by patrons on the premises.

Please note that "tobacco products and paraphernalia" include any product containing, made, or derived from tobacco or nicotine, including, but not limited to, cigarettes, cigars, chewing tobacco, pipe tobacco, and snuff, as well as electronic smoking devices, electronic cigarettes, electronic cigars, electronic pipes, electronic hookahs, and vaping devices.

**18. If I have a Tobacco Shop, will I need two licenses from the County?**

Yes. Tobacco Shops will need a new Business License pursuant to the new law, as well as a Tobacco Retail License, in order to sell tobacco, tobacco products, and tobacco paraphernalia.

**19. If I have a Tobacco Shop, what are the operating requirements for the new Business License?**

The new Business License requires that Tobacco Shops must 1) post signage, 2) comply with space restrictions for outward facing advertising in store windows, 3) restrict entrance and sale of tobacco to those 21 and over, 4) provide sufficient exterior lighting, 5) prohibit the consumption of food and beverages (including alcohol) by patrons, 6) prohibit the use of tobacco products, except in a Smokers' Lounge, 7) prohibit the consumption of food and beverages (including alcohol) by patrons in a Smokers' Lounge, and 8) prohibit loitering.

**20. If I currently have a Tobacco Retail License, do I need a new Tobacco Shop business license?**

Maybe. Tobacco Retail License holders who are not considered Tobacco Shops will not need to obtain a new Tobacco Shop Business License; however, current Tobacco Retail License holders who operate a Tobacco Shop (as defined

above) will be required to get a new Tobacco Shop Business License.

**21. How much will the required County licenses cost?**

The initial Tobacco Shop Business License fee is \$778 for the first two years and \$142 for subsequent two-year applications. As part of the initial business license process, the Department of Regional Planning requires a one-time Business License Referral fee pursuant to Section 22.250.010 of the County Code.

The Tobacco Retail License is \$235 per year and is not changed by the new law.

**22. When are retailers required to get the new Tobacco Shop Business License?**

Existing Tobacco Shops with a valid Tobacco Retail License must apply for the new Tobacco Shop Business License by May 1, 2020. Existing Tobacco Shops without a valid Tobacco Retail License must apply for the new Tobacco Shop Business License and obtain a Tobacco Retail License by May 1, 2020.

Tobacco Shops not currently operating must apply for and obtain the new Tobacco Shop Business License and a Tobacco Retail License before they may begin operations.

**23. Does the Tobacco Shop Business License authorize the sale of cannabis or cannabis products?**

No, the Tobacco Shop Business License does not authorize the sale of cannabis or cannabis products. The sale of cannabis and cannabis products is prohibited within the unincorporated areas of the County.

**24. Where can I go if I have more questions?**

- The County's Department of Public Health is available to answer questions related to the Tobacco Retail License as well as the health effects of smoking and resources to help smokers quit.
  - Phone: (213) 351-7890
  - Email: [tobacco1@ph.lacounty.gov](mailto:tobacco1@ph.lacounty.gov)
  - Website: <http://www.lapublichealth.org/tob/>
  
- The **Business Licensing Section** of the Treasurer and Tax Collector's Office is available to answer questions regarding the new Tobacco Shop Business License and the process to apply for and obtain the new Tobacco Shop Business License.
  - Phone: (213) 974-2011
  - Email: [businesslicense@ttc.lacounty.gov](mailto:businesslicense@ttc.lacounty.gov)
  
- The County's **Department of Consumer and Business Affairs** has an Office of Small Business that is available to assist all business needs, regardless of what stage of the business continuum the business is in and

can connect businesses to County and community business resources. The Office of Small Business' Concierge can conduct a business assessment for businesses affected by the new law to determine business needs, opportunities to grow, and programs that can help them stay afloat. The Small Business Concierge can be contacted at:

- Department of Consumer and Business Affairs  
Office of Small Business  
133 North Sunol Drive, Room 218  
Los Angeles, CA 90063  
(323) 881-3964  
[www.DCBA.lacounty.gov](http://www.DCBA.lacounty.gov)  
[concierge@dcba.lacounty.gov](mailto:concierge@dcba.lacounty.gov)

## Sources

<sup>1</sup> U.S. Surgeon General. (December). Surgeon General's Advisory on E-cigarette Use Among Youth [Press release]. Retrieved on 10/7/2019: <https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf>.

<sup>2</sup> Centers for Disease Control and Prevention. Vital Signs: Tobacco Product Use Among Middle and High School Students-United States 2011-2018. Morbidity and Mortality Weekly Report 2019, 68(06).

<sup>3</sup> California Department of Public Health, California Tobacco Control Program. California Tobacco, The Truth About Menthol Cigarettes (2017).

**Martinez, Ruben**

---

**From:** Jaime Rojas Jr <  
**Sent:** Monday, October 25, 2021 9:24 AM  
**To:** PublicComment-AutoResponse  
**Subject:** Letter for Tonight's City Council Meeting  
**Attachments:** NATO Letter on Pasadena CA Tobacco Ordinance (October 2021).pdf

**CAUTION:** This email was delivered from the Internet. Do not click links or open attachments unless you *know* the content is safe. Report phish using the Phish Alert Button. [Learn more...](#)

Good Morning City Clerk,

On behalf of the National Association of Tobacco Outlets, please find attached a letter regarding agenda #11 at tonight's city council meeting. Should you have any questions, please do not hesitate to contact me.

Thank you for your consideration.

Jaime Rojas

--  
National Association of Tobacco Outlets  
Legislative Consultant



Tarzana, CA 91356  
Tel:  
[www.RCGcommunications.com](http://www.RCGcommunications.com)

10/25/2021  
Item 11



# NATO

October 25, 2021

Mayor Victor M. Gordo  
Members of the Pasadena City Council  
100 North Garfield Ave.  
Pasadena, CA 91101

**RE: Proposed Flavored Tobacco Products Ban**

Dear Mayor Gordo 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 many Pasadena retail stores, I am writing to submit our comments and concerns regarding your Tobacco Retail Ordinance proposal on your October 25, 2021, agenda that would ban the sale of all flavored tobacco products, including the sale of menthol cigarettes, mint and wintergreen smokeless tobacco products, flavored cigars, flavored pipe tobacco and flavored electronic cigarettes. We would ask that the City Council not adopt this ordinance for the reasons explained below.

**Three Studies Find that Banning Flavored Tobacco Products Is Associated with Increased Youth and Young Adult Smoking**

According to a growing number of studies, the banning of all flavored tobacco products can result in increasing the number of underage youth and young adults that return to smoking cigarettes.

**Study No. 1: University of Memphis School of Public Health, Science Direct-Addictive Behavior Reports (June 2020):** The first study investigating the impact of the City of San Francisco flavored tobacco ban ordinance found that after the ban was in force for nearly a year, flavored tobacco product use was reduced, but *cigarette smoking among 18-24-year-olds increased by over 35%*. The study also found that most consumers of flavored tobacco find other sources for these products.

Link: <https://www.sciencedirect.com/science/article/pii/S2352853220300134?via%3Dihub>

**Study No. 2: Yale School of Public Health Study, JAMA Pediatrics (May 2021):** The second study regarding San Francisco's flavored tobacco ban ordinance was conducted by the Yale School of Public Health and compared youth smoking rates among high school students in the San Francisco School District to the smoking rates of high school students in seven other metropolitan school districts located in cities that did not have a flavored tobacco ban.

According to the study, the smoking rate for San Francisco high school students under the age of 18 increased from 4.7% in 2017 before the adoption of the city's ordinance to 6.2% in 2019, the year after the ordinance was enacted. This is a 32% increase in underage youth cigarette smoking rates in the San Francisco school district. At the same time, the underage smoking rates in the other metropolitan school districts that are located in cities which did not have a flavored tobacco product sales ban continued to decline and averaged 2.8% as of 2019.

Link: [https://jamanetwork.com/journals/jamapediatrics/fullarticle/2780248?utm\\_source=twitter&utm\\_campaign=content-shareicons&utm\\_content=article\\_engagement&utm\\_medium=social&utm\\_term=052421&s=03#.YKwb0ZyP66Y.twitter](https://jamanetwork.com/journals/jamapediatrics/fullarticle/2780248?utm_source=twitter&utm_campaign=content-shareicons&utm_content=article_engagement&utm_medium=social&utm_term=052421&s=03#.YKwb0ZyP66Y.twitter)

**Study No. 3: Milken Institute School of Public Health, George Washington University, Nicotine & Tobacco Research (July 31, 2021):** A third study conducted through the Milken Institute School of Public Health at George Washington University found similar impacts from flavored vapor bans on young adult tobacco users. The study compiled young adult smoking rates in six major metropolitan cities that enacted a flavored tobacco product ban. The study abstract included the following findings:

Moreover, if vape product sales were restricted to tobacco flavors, 39.1% of users reported being likely to continue using e-cigarettes but 33.2% were likely to switch to cigarettes. If vape product sales were entirely restricted, e-cigarette users were equally likely to switch to cigarettes versus not (~40%).

Link: <https://doi.org/10.1093/ntr/ntab154>

**Low and Declining Use Rates of Traditional Tobacco Products Require Caution in Flavor Bans:** According to California's Healthy Kids Survey for 2018-2019, in Pasadena Unified School District only 3% of 11th graders had ever smoked a cigarette and only 1% were current users; and 1% had ever tried or currently use smokeless tobacco. The same survey found that in 2019, 15% of 11<sup>th</sup> graders used e-cigarettes. These 2019 figures should be considered in the context of recent findings by the FDA that e-cigarette use among youth declined about one-third in 2020, and declined sharply again in 2021, such that nationally, current e-cigarette use among high schoolers is at 11.3%, about a 60% decrease from two years earlier. See *E-Cigarette Use Among Middle and High School Students — National Youth Tobacco Survey, United States, 2021*, US Department of Health and Human Services, Centers for Disease Control and Prevention, Morbidity and Mortality Weekly Report, October 1, 2021, Vol. 70, No. 39. This means that the empirical data showing very low and declining underage use rates does not support the wholesale banning of all flavored tobacco products that legal age adults prefer to use.

**FDA Plans to Ban Menthol Cigarettes and Flavored Cigars:** The City of Pasadena should not pursue a flavored tobacco ban ordinance because the Food and Drug Administration announced in April 2021 that the agency will be issuing a new regulation banning the sale of menthol cigarettes and all flavored cigars. With such a sweeping regulation, the city council should pause and allow the FDA to proceed with its proposed regulation that would ban some of the same flavored tobacco products that would be prohibited under the proposed ordinance.

**FDA Actions on Electronic Cigarettes and Other Nicotine Products:** The FDA has taken significant actions that have resulted in the removal of a substantial number of flavored electronic nicotine delivery system (ENDS) products from the market. These strong measures should be allowed to work to further reduce youth access to and use of electronic nicotine vapor products.

Specifically, in February 2020, the FDA adopted a ban on the sale of all flavored cartridge-based and pod-based electronic cigarettes, except for tobacco and menthol flavored products. This action removed hundreds of ENDS products from the market. In addition, the FDA required that manufacturers of all electronic cigarette products file what is known as a pre-market tobacco product application (PMTA) with the agency by September 9, 2020, to keep their products on the market.

The FDA was required to process those PMTAs within one year. That year just elapsed, and the Food and Drug Administration has thus far completed about 98% of the reviews of the Pre-Market Tobacco Applications it received by its September 2020 deadline. Most of the applications are for flavored vapor products. The FDA has thus far rejected over 6 million electronic cigarette products and has granted exactly *one* application for an e-cigarette, Vuse Solo, and for two tobacco-flavored cartridges used with that device. That is, at this time, *no flavored vapor product* has been granted marketing approval by the FDA.

The FDA has also authorized marketing applications for four flavored modern nicotine products, Verve Discs and Verve Chews in Blue Mint and Green Mint flavors. These are the first flavored products that have been granted marketing authority by the FDA. The significance of the Vuse and Verve decisions should not be lost on the Council. For the FDA to authorize those applications, it was required to and did find, after exhaustive scientific studies, that the marketing of those products was “appropriate for the protection of the public health.” By granting these applications, for the first time the FDA has stated that e-cigarettes and modern oral nicotine products, including flavored versions of the latter, could protect public health. As the FDA is still working on the remaining 2% of applications filed by the September 2020 deadline, it would be premature for the city to issue a blanket ban on all flavored tobacco products as the FDA may well grant marketing approval of other products, some of which may be flavored, that are “appropriate for the protection of the public health.” The city’s ban on those products would work against the public health benefits of those products.

**Voters Want to Decide Whether Flavor Bans Make Sense:** California Senate Bill 793, which would have banned most flavored tobacco products statewide, has been referred to the voters who will vote in November 2022 whether to allow the statewide flavor ban bill to go into effect. Voters want their say on flavor bans. We respectfully suggest that deferring action until the voters have spoken is in the best interests of Pasadena and its retailers.

**Pandemic Impact and Economic Crisis Will Be Magnified by a Flavored Tobacco Product Ban:** As the COVID-19 pandemic continues, it is not the time for the city council to consider prohibiting the sale of legal tobacco products. Our convenience store members have experienced losses of up to 45% in gasoline sales and 20% or more in grocery, snack, beverage, and tobacco product sales, significant numbers because convenience stores usually rely on tobacco product sales for approximately 36% of in-store sales. Tobacco specialty stores that rely on tobacco product sales for up to 90% of total sales will be devastated by the loss of hundreds of products. Additionally, these stores have recently found it difficult to attract and retain employees, causing their payroll costs to rise.

Retailers have done everything possible to survive the pandemic, but if Pasadena retailers must remove hundreds of flavored products from their shelves, it will be very difficult to compete with retailers in neighboring localities or with illicit sellers who do not care to whom they sell their products, and employee layoffs and even store closures are real possibilities.

NATO and its Pasadena retail members share everyone’s interest in keeping tobacco and electronic nicotine vapor products out of the hands of persons under 21 years old but banning all these flavored products makes no sense from a health standpoint or economic point of view. Indeed, Pasadena’s retailers are exemplary in

keeping tobacco products out of the hands of underage persons. Why would the Pasadena City Council want to harm these responsible retailers and chase their customers to other jurisdictions or to illicit markets?

We urge the Pasadena City Council not to move forward with the proposed ban on flavored tobacco and electronic cigarette products. Thank you for your consideration.

Sincerely,

***Thomas A. Briant***

NATO Executive Director

## Martinez, Ruben

---

**From:** Phillip Gardiner < >  
**Sent:** Monday, October 25, 2021 9:35 AM  
**To:** PublicComment-AutoResponse  
**Subject:** End the Sale of Menthol and All Flavored Tobacco Products in Pasadena  
**Attachments:** Menthol Restrictions Pasadena.docx; Menthol AA Mendez.pdf; Menthol Val Editorial.pdf

**CAUTION:** This email was delivered from the Internet. Do not click links or open attachments unless you *know* the content is safe. Report phish using the Phish Alert Button. [Learn more...](#)

Mayor and Councilmembers,

The African American Tobacco Control Leadership Council Strongly encourages the Pasadena City Council to end the sale of menthol and all flavored tobacco products in the City of Pasadena. Unfortunately, yet graphically new research shows beyond a doubt that menthol cigarettes disproportionately kill and debilitate members of the Black community. From an recently published research article aptly titled:

Consequences of a match made in hell: the harm caused by menthol smoking to the African American population over 1980–2018

**" . . . menthol cigarettes were responsible for 1.5 million new smokers, 157 000 smoking-related premature deaths and 1.5 million life-years lost among African Americans over 1980–2018. While African Americans constitute 12% of the total US population, these figures represent, respectively, a staggering 15%, 41% and 50% of the total menthol-related harm" (Mendez & Le, 2021).**

These findings speak for themselves. Enough is enough!

We have attached a letter to the Council, and the above mentioned article and an accompanying editorial

We are all counting on you to do the right thing,

Respectfully,

Phillip Gardiner, Dr. P.H.

Co-Chair African American Tobacco Control Leadership Council

10/25/2021

Item 11



## The African American Tobacco Control Leadership Council

October 14, 2021

**To:** Mayor, Victor Gordo, Vice Mayor/Council Member Andy Wilson, Councilmember Tyron Hampton, Council Member Felicia Williams, Council Member John J Kennedy, Council Member Gene Masuda, Council Member Jess Rivas, and Council Member Steve Madison

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

**Re: Prohibit the Sale of Menthol and all Other Flavored Tobacco Products in Pasadena. No Exemptions: All Flavors, All Products, All Locations!**

The African American Tobacco Control Leadership Council (AATCLC) strongly encourages the Pasadena City Council to prohibit the sale of menthol and all flavored tobacco products. No exemptions. We are glad to see that the Council is finally addressing this issue and it couldn't come at a better time. We already know that 80% of youth, 12-17 start smoking using flavored cigarettes (Ambrose et al., 2015). Indeed, in the midst of the COVID 19 pandemic nothing could be more important than getting these products out of our community. We already know that smokers are more susceptible to COVID infection (CDC, 2020). If the Council truly wants a healthier Pasadena, and we believe that you do, then it is imperative that the sale of menthol and all other flavored tobacco products be prevented and that the predatory marketing of these products be stopped and be recognized as a social injustice; an issue that disproportionately impacts poorer communities, marginalized groups, youths, and communities of color.

**Menthol the Ultimate Candy Flavor; It Helps the Poison Go Down Easier!**

**This is no minor matter.** Menthol and flavored tobacco products are driving tobacco-related deaths and diseases nation-wide. While the use of non-flavored tobacco cigarettes has been decreasing, the use of menthol cigarettes is on the rise, among youth and adults; among Latinos, Blacks, and Whites (Villanti, 2016). Let's be clear, the majority of women smokers smoke menthol cigarettes; folks from the LGBTQ community disproportionately smoke these products; 47% of Latino smokers prefer menthol cigarettes, with 62% of Puerto Rican smokers using menthol; nearly 80% of Native Hawaiians; a majority of Filipinos; and a majority of smokers with behavioral health issues smoke menthol cigarettes. Frankly, the most marginalized groups disproportionately use these so-called "minty" products (CDC, 2010; Fallin, 2015; Forbes, 2013; Delnevo, 2011; Hawaii State Dept. of Health, 2009; Euromonitor, 2008; Hickman, 2015).

Be appraised that 85% African American adults and 94% of Black youth who smoke are using menthol products (Giovino, 2013). These striking statistics arise from the predatory marketing of these products in the Black Community, where there are more advertisements, more lucrative promotions, and *cheaper prices* for menthol cigarettes compared to other communities

(Henriksen et al., 2011; Seidenberg et al., 2010). These predacious practices for the past 50 years have led to Black folks dying disproportionately from heart attacks, lung cancer, strokes and other tobacco related diseases (RSG, 2014).

**Take note that new research, just published this summer shows that menthol cigarettes were responsible for 1.5 million new smokers, 157 000 smoking-related premature deaths and 1.5 million life-years lost among African Americans over 1980–2018. While African Americans constitute 12% of the total US population, these figures represent, respectively, a staggering 15%, 41% and 50% of the total menthol-related harm (Mendez & Le, 2021).**

The Council should be aware that menthol is an anesthetic by definition, and as if to add insult to injury, masks the harsh taste of tobacco and allows for deeper inhalation of toxins and greater amounts of nicotine. The greater the nicotine intake, the greater the addiction. Hence, it is no surprise menthol cigarette users find it harder to quit than non-menthol cigarette users (Ton et al., 2015; Levy et al., 2011). The “cool refreshing taste of menthol” heralded by the tobacco industry is just a guise; ultimately, menthol and all flavors allow the poisons in cigarettes and cigarillos “to go down easier!”

### **Hookah: The Manipulation of Culture for Industry Profits!**

While we have all have become aware of the meteoric rise of E-Cigarette use, especially among kids, another addictive product is growing in popularity: flavored shisha / Hookah. Let’s not be fooled: passing tobacco smoke through water does nothing to stop the user from inhaling all the toxins, nicotine and cancer-causing chemicals associated with tobacco smoking. Let’s be clear, Hookah is just as deadly as cigarettes, if not more. Studies show that in a single hookah smoking session of 40 minutes, smokers consume 25 times the tar, 125 times the smoke 2.5 times the nicotine and 10 times the carbon monoxide compared to smoking a cigarette (Primack et al., 2016). Moreover, both patrons and employees at Hookah lounges are exposed to elevated levels of 2<sup>nd</sup> hand smoke an already recognized cause of cancer (Zhou et al., 2016)

Then there is the fiction that Hookah smoking is a 1000-year-old tradition in the Middle East. Look, tobacco only made its way the Europe some 500 years ago and only gradually made its way to the Middle East 3 to 4 hundred years ago. Make no mistake about it, it’s the Hookah Lounge owner’s manipulation of culture argument that is used to attract more business and profits. Flavored shisha like Blue Mist, Irish Kiss and Sex on the Beach has nothing to do with Middle Eastern Culture. Once it was determined in the 1960s that smoking kills, Islamic Leaders deemed tobacco, Hookah and Shisha Forbidden. At bottom, Hookah lounges with their nightclub atmosphere has nothing to do with Middle Eastern Culture, rather it’s all about the Benjamin’s! It’s not about getting rid of all hookahs or all tobacco products, it’s about getting rid of all flavors, at all places, in all products, period.

### **We Can’t Wait on the State or the FDA**

The AATCLC is calling upon the Pasadena City Council to join a growing number of cities, counties and states around the country that are prohibiting, jurisdiction-wide, the sales of menthol cigarettes and all other flavored tobacco products. In June 2018, San Francisco voters

passed the first ever citywide restriction on the sales of all flavored tobacco products, including menthol cigarettes and flavored e-cigarette juices. This “strongest flavor ban law ever” was rapidly replicated in the numerous cities in California and around the Country, including Oakland, Alameda, Hayward, Fremont, Berkeley and Sacramento, just to mention a few. Today over 60 municipalities prohibit the sale of all menthol tobacco products including flavored e-juices <https://no-smoke.org/wp-content/uploads/pdf/flavored-tobacco-product-sales.pdf> Indeed, in June of 2020, the State of Massachusetts became the first State to prohibit the sale of menthol and all flavored tobacco products state-wide and in August of 2020 California followed suit and became the second state to do so. With the tobacco industry forcing a referendum of SB 793 in November of 2022, it becomes even more imperative that local jurisdictions take steps to protect their citizenry. **We can’t wait on the State, let’s take steps to make Pasadena healthier now!**

And while it is important that the FDA finally began the rulemaking process in April of 2021 to remove menthol cigarettes and flavored little cigars from the marketplace, this process will take years. First, the proposed rule will not be made public until April of 2022. Then, after 60-day public comment period, the tobacco industry will demand more time for comment, that has been granted in the past. Drawing out the comment period to 90 to 120 days. Once the public comment is over, the “rule” is sent to the Office of Management and Budget (OMB), who’s review could take a number of months. Once a final rule is made public and there is more public comment, the industry will sue to stop the process from going forward. And may sue for numerous reasons. **The bottom line is that we can’t wait of the FDA.** Localities, like Pasadena, must take steps to protect the health of their citizens, lives are at stake.

### **Who Are the Racists: The Tobacco Control Advocates or the Tobacco Industry?**

We should note that some groups, spurred on and funded by the tobacco industry, have been spreading falsehoods, stating that restricting 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. All ordinances adopted around the country would **prohibit the sale** of flavored products, it would **not prohibit the possession** of these products. The facts are that the adoption of menthol restrictions will not lead to police having any greater interaction with any youth; it won’t be illegal to possess these products, just retailers cannot sale them. Indeed, when these ordinances were passed in Oakland and San Francisco, the Police Chiefs stood with us and said there would be no arrest for possession of these products.

These same groups rail about “unintended consequences.” We respond: **Look at the Intended Consequences!** As mentioned before, Black folks die disproportionately from tobacco related diseases of heart disease, lung cancer, and stroke compared to other racial and ethnic groups. (RSG, 2014); menthol cigarettes and flavored little cigars are the agents of that destruction. It is estimated that 45,000 Black folks die each year from tobacco related diseases (RSG, 1998). In this regard, the Council should remove all criminal penalties associated with the purchase, use and possession of all tobacco products. Decriminalize tobacco! Hold retail owners responsible, not clerks, don’t punish kids!

Still other groups funded by the tobacco industry insist that removing menthol cigarettes and flavored little cigars would be taking away “our” cigarette; we’d be discriminatory; racist. This

line of argumentation stands history on its head. As was pointed out earlier, it was and is the tobacco industry that predatorially markets these products in the Black Community. The facts are these: there are more advertisements, more lucrative promotions, and most disturbing is that menthol cigarettes are *cheaper in the Black Community* compared to other communities (Henriksen et al., 2011; Seidenberg et al., 2010). This is how these flavored death sticks became “our” cigarettes, they pushed it down our throats!

### **The AATCLC**

Formed in 2008, the African American Tobacco Control Leadership Council is composed of a cadre of dedicated community activists, academics, public health advocates and researchers. Even though based in California, we are national in our scope and reach. We have partnered with community stakeholders, elected officials, and public health agencies, from Chicago, Boston and Minneapolis to Berkeley and San Francisco. Our work has shaped the national discussion and direction of tobacco control policy, practices, and priorities, especially as they affect the lives of Black Americans, African immigrant populations and ultimately all smokers. The AATCLC has been at the forefront in elevating the regulation of mentholated and other flavored tobacco products on the national tobacco control agenda, including testifying at the FDA hearings in 2010 and 2011 when the agency was first considering the removal of menthol cigarettes from the marketplace. In November of 2019 we testified on Capitol Hill in support of HR 2339 (The Pallone Bill), this bill would prohibit the manufacturing and sale of menthol and all flavored tobacco products throughout the United States. This Bill was passed in the House of Representatives in February of 2020 but went nowhere in the Senate. In June of 2020 the AATCLC along with its partner Action on Smoking and Health (ASH) filed a lawsuit against the FDA for dragging their feet by leaving menthol on the marketplace with overwhelming scientific evidence showing that it should be removed immediately. Subsequently and importantly the American Medical Association (AMA) and the National Medical Association (NMA) have joined the lawsuit as plaintiffs.

### **Call to Action!**

Now is 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 Pasadena residents in the forefront of their thoughts, not the interests and profits of the tobacco industry, the 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 say: **No Selling of Menthol Cigarettes and All Other Flavored Tobacco Products, including Flavored E-Juices and Flavored Hookah in Pasadena!** Say “No” to the continued predatory marketing of menthol flavored tobacco products to our youth and say “Yes” to the health and welfare of our kids, who are the most vulnerable. In fact, say “Yes” to the protection for **all** residents of Pasadena.

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

# Consequences of a match made in hell: the harm caused by menthol smoking to the African American population over 1980–2018

David Mendez, Thuy T T Le

► Additional supplemental material is published online only. To view, please visit the journal online (<http://dx.doi.org/10.1136/tobaccocontrol-2021-056748>).

Health Management and Policy, University of Michigan, Ann Arbor, Michigan, USA

## Correspondence to

Dr Thuy T T Le, Department of Health Management and Policy, University of Michigan School of Public Health, Ann Arbor 48109, MI, USA; [thuyttle@umich.edu](mailto:thuyttle@umich.edu)

Received 28 April 2021

Accepted 16 August 2021

## ABSTRACT

**Background** For many years, national surveys have shown a consistently disproportionately high prevalence of menthol smokers among African Americans compared with the general population. However, to our knowledge, no prior study has quantified the harm that menthol smoking has caused on that population. In this work, we estimate the public health harm that menthol cigarettes have caused to the African American community over the last four decades.

**Methods** Using National Health Interview Survey data, we employed a well-established simulation model to reproduce the observed smoking trajectory over 1980–2018 in the African American population. Then, we repeat the experiment, removing the effects of menthol on the smoking initiation and cessation rates over that period, obtaining a new hypothetical smoking trajectory. Finally, we compared both scenarios to calculate the public health harm attributable to menthol cigarettes over 1980–2018.

**Results** Our results show that menthol cigarettes were responsible for 1.5 million new smokers, 157 000 smoking-related premature deaths and 1.5 million life-years lost among African Americans over 1980–2018. While African Americans constitute 12% of the total US population, these figures represent, respectively, a staggering 15%, 41% and 50% of the total menthol-related harm.

**Discussion** Our results show that menthol cigarettes disproportionately harmed African Americans significantly over the last 38 years and are responsible for exacerbating health disparities among that population. Removing menthol cigarettes from the market would benefit the overall US population but, particularly, the African American community.

avoided if menthol cigarettes were banned from the market; and while other studies<sup>3–9</sup> have addressed the historical causes that have made menthol the preferred choice of cigarette products among African Americans, to our knowledge, no prior study has quantified the health harm that menthol smoking has already inflicted on that population.

Following a recent study<sup>10</sup> that calculated the health damage caused by menthol smoking on the entire US population over 1980–2018, the current work estimates the share of such harm borne by the African American community, and its disproportion compared with the total menthol toll in the USA. Our results may be helpful to the Food and Drug Administration as they continue evaluating the benefit of a menthol ban.

## METHODS

We used the same simulation model and calibration process as in the Le-Mendez article<sup>10</sup> with parameters specific to the African American population. The model formulation, definition of model parameters and how some parameters were calculated were thoroughly described in Le-Mendez's work.<sup>10</sup> The African American-specific parameters were taken from several data sources described below and summarised in online supplemental table A1.

For our initial year (1980), we obtained the African American population by single year of age from the Centers for Disease Control and Prevention.<sup>11</sup> For subsequent years, we got the African American birth cohorts from 1981 through 2018 from the National Vital Statistics Reports.<sup>12–13</sup> The overall age-specific death rates for the African American population, updated every 5 years, were extracted from the 1980–2018 US Life Tables.<sup>14</sup> We used relative risks of mortality specific to the African American population, derived from Cancer Prevention Study II (CPS-II data; Relative risks for African American current and former smokers were derived from CPS-II data and provided by Dr Michael Thun from the American Cancer Society for the 2011 Tobacco Products Scientific Advisory Committee (TPSAC) Menthol Report. Available in online supplemental table A5) to calculate the death rates by age for never, current and former smokers following the same procedure described in Le-Mendez's article.<sup>10</sup> Smoking prevalence for current and former smokers and the proportion of menthol use among smokers in 1980 were estimated using NHIS data. We calculated the overall smoking cessation rates for African Americans by adjusting the general population's overall smoking cessation rates presented in Le-Mendez's work<sup>10</sup> with the ratio of cessation

## BACKGROUND

For over 60 years, tobacco companies have targeted menthol cigarettes to the African American community through aggressive marketing and promotion.<sup>1–3</sup> It is well known that a disproportionately high number of African Americans smoke menthol cigarettes. According to the 2018 National Survey on Drug Use and Health, 85% of African American smokers used menthol versus 39% of those in the general population. This is not a recent phenomenon. In 1980, for example, menthol prevalence among African American smokers was 66% vs 33% among the general population, according to the National Health Interview Survey (NHIS).

Several articles<sup>4</sup> have addressed the prospective harm to the black community that could be



► <http://dx.doi.org/10.1136/tobaccocontrol-2021-056988>

Check for updates

© Author(s) (or their employer(s)) 2021. No commercial re-use. See rights and permissions. Published by BMJ.

**To cite:** Mendez D, Le TTT. *Tob Control* Epub ahead of print: [please include Day Month Year]. doi:10.1136/tobaccocontrol-2021-056748

rates between the African American and general populations (0.66) reported in ref 15. Then, using the menthol cessation multiplier for African Americans estimated by Mills *et al*<sup>16</sup> (0.47, 95% CI 0.24 to 0.91) and the proportion of menthol smokers among current African American smokers, we applied the same process used in ref 10 to compute the cessation rates for African American non-menthol and menthol smokers. The specific formulation and cessation values for 1980 are shown in the Supplement to ref 10 and online supplemental tables A2 and A3.

The annual adult smoking initiation rates for African Americans were computed by taking the average NHIS smoking prevalence among 18–24 year-olds, consistent with ref 10. The switching rates between menthol and non-menthol smokers were calculated as in the 2011 menthol report<sup>17</sup> (2.29% switching to menthol and 1.08% to non-menthol cigarettes). An extensive sensitivity analysis (see online supplemental table A4) showed that these parameters exert little influence on the results. The ratio of yields from experimenter to smoker<sup>18 19</sup> and menthol mortality multiplier for the African American population remains as in the Le-Mendez work,<sup>10</sup> following their same arguments.

As in ref 10, we first used NHIS smoking prevalence data over 1980–2018 (when the NHIS survey was conducted) to calibrate the model. Then, we used the calibrated model to replicate African Americans' smoking prevalence trajectory during 1980–2018. Finally, to quantify the harmful effect of menthol use on the African American population, we repeated the previous step to generate an alternative smoking trajectory for African Americans during the same period, eliminating the effect of menthol since 1980. We achieved this by adjusting the smoking initiation and cessation rates to eliminate the effect of menthol on those parameters (see the Appendices to the 2011 TPSAC Menthol Report<sup>17</sup> and the Le-Mendez paper<sup>10</sup>). Finally, we compared our results from both scenarios (with and without menthol cigarettes) to calculate the impact of menthol on smoking prevalence, life-years lost and smoking-related premature deaths. Additionally, we compared our results with those for the general population reported in Le-Mendez's work<sup>10</sup> and calculated the disproportionate harm inflicted on the African American population due to menthol.

## RESULTS

The simulated smoking prevalence for African Americans closely captures the NHIS reported smoking prevalence over 1980–2018 with pseudo- $R^2=0.95$  (pseudo- $R^2=1-[\text{Errors Sum of Squares}]/[\text{Total Sum of Squares}]$ ) (see online supplemental figure A1 and A2). Table 1 shows the harm attributable to menthol cigarettes for the general population (from Le-Mendez's work<sup>10</sup>), the African American population and the hypothetical low-menthol African American population. A complete sensitivity analysis on the values in table 1 is presented in online supplemental table A4.

The values in the first three columns of the table are self-explanatory; the numbers within parentheses show the percentages that those values represent, relative to those for the general population. The last column shows the average proportion

(over 1980–2018) of the corresponding population referred to on each row, relative to the entire US population. For example, the table shows that, among African Americans, menthol was responsible for 1.5 million extra smokers, 157 000 smoking-related premature deaths and 1.5 million excess life-years lost during 1980–2018, representing 15%, 41% and 50% of the total menthol toll, respectively. However, during the same period, African Americans constituted only around 12% of the overall US population.

The last row of the table shows a hypothetical African American population that exhibits the same menthol smoking-related parameters as the general population. We simulated this scenario by setting the values of menthol-affected parameters for the African American population to those of the general population. In this hypothetical group, the estimated menthol smoking excess initiation, premature deaths and life-years lost would have represented 13%, 16% and 21% of the overall menthol harm, respectively; much more in agreement with the proportional (relative to the entire US) size of this population (12%). It is worth noting, though, that the menthol death toll in the low-menthol population is still above its proportional share. This is due to the mortality rates among African American smokers, which are higher than in the general population.

## DISCUSSION

Since the 1960s, the tobacco industry has targeted the African American community for the consumption of menthol cigarettes through aggressive marketing, including intense advertising and price discounts. Simultaneously, the industry supported numerous African American organisations to gain the trust of the African American community. Several publications<sup>3 9</sup> describe the marketing efforts by the tobacco industry to establish a special connection between menthol cigarettes and the African American community. In a fascinating article entitled 'The African Americanization of menthol cigarette use in the United States',<sup>3</sup> Gardiner recounts the long history of, and explains the facts behind, the relationship between African Americans and menthol cigarettes, and how those products became an integral part of the African American culture. In essence, the identification of African American smokers with menthol has been purposely orchestrated by the tobacco industry following their goal of maximising their profits.

Unfortunately, this marketing strategy turned out to be a huge success for the tobacco industry, but deadly for the black community. Besides creating a brand with which African Americans could identify and call their own, the industry exposed this population to a substance that amplifies the damaging effects of cigarette smoking. Menthol intensifies this harm by increasing the chances that individuals transition from experimentation to regular smoking,<sup>18 19</sup> and by increasing dependency, which leads to delayed cessation.<sup>16</sup> These effects increase the number of smokers and the amount of time they remain smoking.

**Table 1** Excess smoking initiation, smoking-related deaths and life-years lost due to menthol cigarettes over 1980–2018 for the adult general, African American and hypothetical low-menthol African American population

	Cumulative excess smoking initiators (%)	Cumulative excess deaths (%)	Cumulative excess life-years lost (%)	Average percentage of population (%)
General population	10 137 808 (100)	377 528 (100)	2 951 533 (100)	100
African American population	1 508 913 (15)	156 471 (41)	1 476 198 (50)	12
Hypothetical low-menthol African American population	1 286 848 (13)	61 132 (16)	606 840 (21)	12

The negative impact of menthol cigarettes on the public's health is significant, as Le and Mendez described in ref 10. For African American smokers, though, the harm wrought by menthol smoking is much higher than that for the rest of the population. Despite having a similar overall smoking prevalence as the general population,<sup>20</sup> it is well known that African Americans suffer, proportionally or disproportionately, more serious smoking-attributable health consequences.<sup>21</sup> Main probable causes for this phenomenon are the high overall mortality rates due to economic and social conditions and the high prevalence of menthol among African American smokers, which causes them to be more addicted and quit less. In fact, our results show that menthol was responsible for 157 000 smoking-related deaths among African Americans during 1980–2018, over two and a half times their proportional share of menthol deaths compared with the general population. And, what is even more depressing, 50% of all the life-years lost to menthol smoking during 1980–2018 occurred among African Americans. Additionally, our results (shown in online supplemental figure A1) also indicate that, without menthol, smoking prevalence among African Americans in 2018 would have been 8.3%, instead of the NHIS reported 14.9% (a 44% reduction). We note that our results may be considered conservative, since we do not take into account the future harm that menthol smoking over 1980–2018 will cause to the African American population.

Considering that cigarette smoking is the number one cause of preventable deaths in the USA, menthol in cigarettes is an important factor in creating and exacerbating health disparities in this country. Removing menthol cigarettes from the market will save thousands of African American lives per year and help reduce health disparities at a time when inequalities among minority and socioeconomically disadvantaged groups are increasingly salient.

#### What this paper adds

- ▶ Menthol cigarettes have been disproportionately used among African Americans.
- ▶ Menthol cigarettes exacerbate health inequalities for the African American community.
- ▶ Removing menthol can have the double effects of saving lives and reducing inequalities.

**Acknowledgements** The authors would like to thank the University of Michigan Data Analysis and Dissemination Core led by Dr. Jihyouon Jeon for providing us some data for this work.

**Contributors** DM and TTTL conceptualised the project. TTTL calibrated the model and conducted all the analysis. DM supervised the work. Both authors contributed to the writing of the manuscript.

**Funding** The research reported in this publication was supported by the National Cancer Institute of the National Institutes of Health and Food and Drug Administration Centre for Tobacco Products (award number U54CA229974).

**Competing interests** None declared.

**Patient consent for publication** Not required.

**Provenance and peer review** Not commissioned; externally peer reviewed.

#### ORCID iD

Thuy T T Le <http://orcid.org/0000-0002-3106-4045>

#### REFERENCES

- 1 Food and Drug Administration. *Preliminary scientific evaluation of the possible public health effects of menthol versus nonmenthol cigarettes*. Food and Drug Administration, 2013.
- 2 Davis RM, Gilpin EA, Loken B. *The role of the media in promoting and reducing tobacco use*. USA, 2008.
- 3 Gardiner PS. The African Americanization of menthol cigarette use in the United States. *Nicotine Tob Res* 2004;6 Suppl 1:55–65.
- 4 Levy DT, Pearson JL, Villanti AC, et al. Modeling the future effects of a menthol ban on smoking prevalence and smoking-attributable deaths in the United States. *Am J Public Health* 2011;101:1236–40.
- 5 Anderson SJ. Marketing of menthol cigarettes and consumer perceptions: a review of tobacco industry documents. *Tob Control* 2011;20 Suppl 2:ii20–8.
- 6 Sutton CD, Robinson RG. The marketing of menthol cigarettes in the United States: populations, messages, and channels. *Nicotine Tob Res* 2004;6 Suppl 1:83–91.
- 7 Delnevo CD, Ganz O, Goodwin RD. *Banning menthol cigarettes: a social justice issue long overdue*. Oxford University Press US, 2020.
- 8 Cadham CJ, Sanchez-Romero LM, Fleischer NL, et al. The actual and anticipated effects of a menthol cigarette ban: a scoping review. *BMC Public Health* 2020;20:1–17.
- 9 Robert N. *Proctor, golden holocaust: origins of the cigarette catastrophe and the case for abolition*, 2012.
- 10 Le TTT, Mendez D. An estimation of the harm of menthol cigarettes in the United States from 1980 to 2018. *Tob Control* 2021. doi:10.1136/tobaccocontrol-2020-056256. [Epub ahead of print: 25 Feb 2021].
- 11 Population by age groups, race, and sex for 1960–97. centers for disease control and prevention.
- 12 Martin JA, Hamilton BE, Osterman M. *Births: final data for 2015*, 2017.
- 13 ed. Martin J, Hamilton B, Osterman M. Births: final data for 2018. In: *National vital statistics reports*. Services DoHaH, 2019.
- 14 Arias E, Xu J. *United States life tables: 2017*, 2019.
- 15 Babb S, Malarcher A, Schauer G, et al. Quitting Smoking Among Adults - United States, 2000–2015. *MMWR Morb Mortal Wkly Rep* 2017;65:1457–64.
- 16 Mills SD, Hao Y, Ribisl KM, et al. The relationship between menthol cigarette use, smoking cessation, and relapse: findings from waves 1 to 4 of the population assessment of tobacco and health study. *Nicotine Tob Res* 2021;23:966–75.
- 17 Mendez D. Results from a Population Dynamics Model of the Consequences of Menthol Cigarettes for Smoking Prevalence and Disease Risks. Appendix A, 2011. Available: <http://www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/TobaccoProductsScientificAdvisoryCommittee/UCM247689.pdf>
- 18 Nonnemaker J, Hersey J, Homsy G, et al. Initiation with menthol cigarettes and youth smoking uptake. *Addiction* 2013;108:171–8.
- 19 Nonnemaker J, Feirman SP, MacMoneghe A, et al. Examining the role of menthol cigarettes in progression to established smoking among youth. *Addict Behav* 2019;98:106045.
- 20 Corneliussen ME, Wang TW, Jamal A, et al. Tobacco Product Use Among Adults - United States, 2019. *MMWR Morb Mortal Wkly Rep* 2020;69:1736–42.
- 21 U.S. Department of Health and Human Services. *Tobacco use among U.S. racial/ethnic minority groups—African Americans, American Indians and Alaska natives, Asian Americans and Pacific Islanders, and Hispanics: a report of the surgeon General*. Atlanta: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, Office on Smoking and Health, 1998, 1998.

# What more evidence is needed? Remove menthol cigarettes from the marketplace—now

Valerie Yerger<sup>1,2</sup>

Tobacco remains the leading cause of preventable death and disease in the USA and many other countries. However, among all racial and ethnic groups in the USA, African Americans bear the greatest burden from tobacco-related morbidity and mortality.<sup>1</sup> Every year, 45 000 African Americans prematurely and unnecessarily die from tobacco-caused diseases. An estimated 85% of them smoked menthol cigarettes.<sup>2</sup>

Menthol's sensory properties reinforce smoking, increase uptake of nicotine and toxic smoke components, and discourage cessation. Menthol's cooling, anaesthetic and analgesic effects ease initiation among new smokers by masking the harshness and irritation of tobacco smoke, reducing pain sensations in the mouth and throat, and enabling deeper inhalation that facilitates greater exposure to nicotine.<sup>3</sup>

On 3 March 2009, Representative Henry Waxman and 124 congressional cosponsors introduced H.R. 1256—the 'Family Smoking Prevention and Tobacco Control Act'.<sup>4</sup> Representative Waxman's Committee Report expressed concerns about the disproportionate use of menthol cigarettes among African Americans, the targeted marketing of menthol cigarettes in black communities, and the higher rates of lung cancer among African American smokers compared with non-African American smokers, urging the Secretary of Health and Human Services to move quickly to address the unique public health issues posed by menthol cigarettes. Yet, although most other characterising flavours in cigarettes were prohibited in 2009 under the final version of the Family Smoking Prevention and Tobacco Control Act, menthol was inexplicably excluded.<sup>5</sup> It has been estimated that hundreds of thousands of African Americans and other menthol smokers are destined to die

prematurely if the exemption of menthol is allowed to continue.<sup>6</sup>

The disproportionate toll of menthol cigarettes among African Americans compared with the general population is a social injustice. The black community has long been subjected to the predatory marketing of mentholated tobacco products, particularly in lower income areas, where there are not only more advertisements, but more promotions and cheaper prices for menthol cigarettes when compared with more affluent neighbourhoods.<sup>7</sup> Tobacco companies also heavily rely on their cooptation of community leaders to defuse tobacco control efforts.<sup>8</sup> Black-led organisations with financial ties to the tobacco industry have played a critical role in disseminating misinformation throughout the black community. Such misinformation, for example, includes the idea that local policies prohibiting the sale of mentholated tobacco products are racist and will increase the criminalisation of individuals who possess or smoke them, exploiting legitimate concerns about racist policing to defend the tobacco industry's targeted predation on the black community.<sup>9 10</sup>

Authors Mendez and Le, in their article 'Consequences of a match made in hell: the harm caused by menthol smoking to the African American population over 1980–2018',<sup>11</sup> show why none of us can remain silent and complicit. This paper should serve as a kick upside the head for those who are in a position to remove these deadly products from the marketplace. Until this paper, no prior study has fully quantified the health harm inflicted on African Americans by menthol cigarettes. Yet, for at least three decades, African American tobacco control activists have been out there resisting the pervasive presence of the tobacco industry and their deadly products in black communities,<sup>12–15</sup> including filing a lawsuit to get the Center for Tobacco Products of the US Food and Drug Administration (FDA) to act on menthol.<sup>16</sup> Now the evidence is irrefutable: menthol cigarettes are killing our people at a rate unmatched by any other assaults on our community.

Though constituting only 12% of the total US population, African Americans bear an alarming amount of the

total menthol-related harm: 41% of the smoking-related premature deaths and 50% of the life-years lost. This analysis demonstrates the contribution of menthol cigarettes toward the annihilation of a people already under siege by a racist society and its myriad of inequities, governmental policies and political domination.<sup>17 18</sup> Institutionalised racism, its long historical impact, and the associated, yet unresolved, intergenerational trauma experienced by black people in America have made them vulnerable to the clever marketing and predatory dumping of mentholated tobacco products in their communities.

For decades, the tobacco industry has exploited social and economic inequities to foster the uptake and use of menthol cigarettes, and create brand loyalty among African Americans. Tobacco companies strategically targeted menthol cigarettes to low-income African Americans, blanketing inner city communities with marketing, free samples, and music promotions,<sup>19</sup> and thereby contributing to the tobacco-related health disparities observed today, as Mendez and Le have now confirmed. We can no longer ignore the intersecting, overlapping and distinctive systems of oppression that shape 'being black in America' and how menthol cigarettes contribute to sustained and widening health disparities.<sup>20</sup>

This paper is compelling on its own merit; however, read in tandem with the authors' previous paper,<sup>21</sup> one can fully appreciate the significant role menthol cigarettes have played in addicting millions of young people to nicotine and in the deaths of thousands due to tobacco. As the authors emphasise, mentholated cigarettes have a 'significant detrimental impact on the public's health and could continue to pose a substantial health risk.'

More than a decade after the FDA was given authority to regulate tobacco products, long after other flavours favoured by white children were banned from most tobacco products, and long after the first of several scientific reports found menthol cigarettes to pose a public health risk above that seen with non-menthol cigarettes,<sup>22–24</sup> the FDA still has not acted. The black community has been abandoned at the federal level, leaving activists to seek local and state policy changes. So, the question for me is: Given the mountains of evidence, will anything push the federal government to consider social justice and act on its commitment to finally ban menthol cigarettes and all flavoured cigars?<sup>25 26</sup>

The recent highly publicised killings of black men and women, including George Floyd, Ahmaud Arbery, Breonna Taylor and many others, brought to the forefront

<sup>1</sup>Social and Behavioral Sciences, University of California San Francisco, San Francisco, California, USA

<sup>2</sup>African American Tobacco Control Leadership Council, San Francisco, California, USA

Correspondence to Dr Valerie Yerger, Social and Behavioral Sciences, University of California San Francisco, San Francisco, California 94143-0612, USA; Valerie.Yerger@ucsf.edu

of our nation's conscience how pervasively racism permeates everyday life. Whether one is on the receiving or perpetuating end of racist behaviours or if one benefits from or is negatively impacted by racist policies, we all recently watched how quickly the world mobilised to support the Black Lives Matter movement. Are we in a moment to leverage this movement?

If menthol cigarettes are allowed to stay in the marketplace, the lives of African Americans and others remain at increased risk. Conversely, removing these terrible products will benefit not only the black community but also other racial and ethnic groups, the lesbian, gay, bisexual and transgender community, youth and those with behavioural health issues, since these groups also disproportionately smoke mentholated cigarettes over non-mentholated cigarettes.<sup>27-30</sup> I ask that others stand with us to repair a wrong done to the black community, as we stand with you. There is simply no ethically acceptable reason to allow the tobacco industry to continue using a flavouring that makes it easier to start smoking and harder to quit. Whether we work at the federal, state or local level, we are empowered in our collective work to protect our communities from our number one killer, a corporate industry of federally adjudicated racketeers.<sup>31</sup> This paper provides us with added ammunition to get that vital work done. It is long past time for the FDA to get inoculated against whatever the hell is keeping it from getting these deadly products out of the marketplace.

**Contributors** As the sole author, VY, I made substantial contributions to the conception and design of the work. I drafted the work and revised it critically for important intellectual content. As the sole author, I provided final approval of the version published and am accountable for all aspects of the work in ensuring that questions related to the accuracy or integrity of the work are appropriately investigated and resolved.

**Funding** The authors have not declared a specific grant for this research from any funding agency in the public, commercial or not-for-profit sectors.

**Competing interests** None declared.

**Patient consent for publication** Not applicable.

**Provenance and peer review** Commissioned; internally peer reviewed.

© Author(s) (or their employer(s)) 2021. No commercial re-use. See rights and permissions. Published by BMJ.



**To cite** Yerger V. *Tob Control* Epub ahead of print: [please include Day Month Year]. doi:10.1136/tobaccocontrol-2021-056988



► <http://dx.doi.org/10.1136/tobaccocontrol-2021-056748>

*Tob Control* 2021;0:1-2.  
doi:10.1136/tobaccocontrol-2021-056988

**ORCID iD**

Valerie Yerger <http://orcid.org/0000-0003-2469-402X>

**REFERENCES**

- Centers for Disease Control and Prevention, Tobacco use among U.S. racial/ ethnic minority groups. *A report of the surgeon General*. Washington, DC, 1998. [https://www.cdc.gov/tobacco/data\\_statistics/sgr/1998/complete\\_report/](https://www.cdc.gov/tobacco/data_statistics/sgr/1998/complete_report/)
- Villanti AC, Mowery PD, Delnevo CD, et al. Changes in the prevalence and correlates of menthol cigarette use in the USA, 2004-2014. *Tob Control* 2016;25:ii14-20.
- Kreslake JM, Wayne GF, Alpert HR, et al. Tobacco industry control of menthol in cigarettes and targeting of adolescents and young adults. *Am J Public Health* 2008;98:1685-92.
- Family Smoking Prevention and Tobacco Control Act P.L. 111e31, 2009. Available: <https://www.govinfo.gov/content/pkg/PLAW-111publ31/pdf/PLAW-111publ31.pdf>
- Family Smoking Prevention and Tobacco Control Act 21, 2009. Available: <https://www.fda.gov/tobacco-products/rules-regulations-and-guidance/family-smoking-prevention-and-tobacco-control-act-overview#:~:text=To%20protect%20the%20public%20and,%20marketing%20of%20tobacco%20products.> [Accessed 22 Jun 2009].
- Levy DT, Pearson JL, Villanti AC, et al. Modeling the future effects of a menthol ban on smoking prevalence and smoking-attributable deaths in the United States. *Am J Public Health* 2011;101:1236-40.
- Henriksen L, Schleicher NC, Dauphinee AL, et al. Targeted advertising, promotion, and price for menthol cigarettes in California high school neighborhoods. *Nicotine Tob Res* 2012;14:116-21.
- Yerger VB, Malone RE. African American leadership groups: smoking with the enemy. *Tob Control* 2002;11:336-45.
- Tulloss KW. Community leaders come together against racism and discrimination protesting senate bill 793. Available: <https://asentinel.net/community-leaders-come-together-against-racism-and-discrimination-protesting-senate-bill-793.html> [Accessed 20 Aug 2020].
- Brown SM. Conference expresses opposition to proposed Maryland menthol ban. *Washington Informer Newspaper*. Available: <https://www.washingtoninformer.com/baltimore-black-baptist-ministers-conference-expresses-opposition-to-proposed-maryland-menthol-ban/> [Accessed 11 Feb 2021].
- Mendez D, TT Le. Consequences of a match made in hell: the harm caused by menthol smoking to the African American population over 1980-2018. *Tob Control* 2021. doi:10.1136/tobaccocontrol-2021-056748
- African American Tobacco Control Leadership Council. *What's menthol got to do with it? Everything! (Still): the plight of African Americans and mentholated tobacco products*. Washington, D.C: International Press Briefing, National Press Club, 2019. <https://youtu.be/7wt9Lbn8nmk>
- Sixtooth the Poet. What menthol cigarettes have taken from me. San Francisco Bayview national black newspaper. Available: <https://sfbayview.com/2020/04/what-menthol-cigarettes-have-taken-from-me/> [Accessed 05 Apr 2020].
- RJ Reynolds new "uptown" targets Blacks, 1990. Advocacy Institute. Available: <https://www.industrydocuments.ucsf.edu/docs/mkvw0005> [Accessed 04 Sep 2021].

- Sutton CD, Robinson RG. The marketing of menthol cigarettes in the United States: populations, messages, and channels. *Nicotine Tob Res* 2004;6 Suppl 1:83-91.
- African American Tobacco Control Leadership Council v. US Department of Health and Human Services, Case No. 4:20-cv-4012-KAW (N.D. Cal.), 2021. Available: <https://www.publichealthlawcenter.org/sites/default/files/AATCLC-v-FDA-De%27s-Second-Motion-to-Dismiss.pdf>
- Alexander M. *The new Jim Crow: mass incarceration in the age of colorblindness*. New York, NY: The New Press, 2012.
- Dawes D. *The political determinants of health*. Baltimore, MD: Johns Hopkins University, 2020.
- Yerger VB, Przewoznik J, Malone RE. Racialized geography, corporate activity, and health disparities: tobacco industry targeting of inner cities. *J Health Care Poor Underserved* 2007;18:10-38.
- Kong AY, Golden SD, Berger MT. An intersectional approach to the menthol cigarette problem: what's race(ism) got to do with it? *Crit Public Health* 2019;29:616-23.
- Le TT, Mendez D. An estimation of the harm of menthol cigarettes in the United States from 1980 to 2018. *Tob Control* 2021. doi:10.1136/tobaccocontrol-2020-056256. [Epub ahead of print: 25 Feb 2021].
- Tobacco Products Scientific Advisory Committee, US Food and Drug Administration. Menthol cigarettes and public health: review of the scientific evidence and recommendations, 2011. Available: <https://wayback.archive-it.org/7993/20170405201731/https://www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/TobaccoProductsScientificAdvisoryCommittee/UCM269697.pdf> [Accessed 04 Sep 2021].
- US Food and Drug Administration. *Preliminary scientific evaluation of the possible public health effects of menthol versus nonmenthol cigarettes*. Silver Spring, MD: Center for Tobacco Products, Food and Drug Administration, 2013.
- Tobacco Control Legal Consortium et al. Citizen Petition to the US Food and Drug Administration, Prohibit menthol as a characterizing flavor in cigarettes, 2013. Available: <https://www.publichealthlawcenter.org/sites/default/files/resources/tclcfdcitizenpetition-menthol-2013.pdf>
- FDA commits to evidence-based actions aimed at saving lives and preventing future generations of smokers, 2021. Available: <https://www.fda.gov/news-events/press-announcements/fda-commits-evidence-based-actions-aimed-saving-lives-and-preventing-future-generations-smokers> [Accessed 29 Apr 2021].
- Statement by HHS Secretary Xavier Becerra on FDA tobacco actions on menthol cigarettes and flavored cigars, 2021. Available: <https://www.hhs.gov/about/news/2021/04/29/statement-hhs-secretary-xavier-becerra-fda-tobacco-actions-menthol-cigarettes-flavored-cigars.html> [Accessed 29 Apr 2021].
- Mukherjea A, Wackowski OA, Lee YO, et al. Asian American, Native Hawaiian and Pacific Islander tobacco use patterns. *Am J Health Behav* 2014;38:362-9.
- Delnevo CD, Villanti AC, Giovino GA. Trends in menthol and non-menthol cigarette consumption in the U.S.A.: 2000-2011. *Tob Control* 2014;23:e154-5.
- Fallin A, Goodin AJ, King BA. Menthol cigarette smoking among lesbian, gay, bisexual, and transgender adults. *Am J Prev Med* 2015;48:93-7.
- Young-Wolff KC, Hickman NJ, Kim R, et al. Correlates and prevalence of menthol cigarette use among adults with serious mental illness. *Nicotine Tob Res* 2015;17:285-91.
- Eubanks SY, Glantz SA. *Bad acts: the racketeering case against the tobacco industry*. Washington, DC: American Public Health Association, 2013.

## Martinez, Ruben

---

**From:** Annie Tegen <[redacted]>  
**Sent:** Monday, October 25, 2021 11:34 AM  
**To:** PublicComment-AutoResponse  
**Subject:** Support for comprehensive ordinance to end the sale of flavored tobacco (Tobacco-Free Kids)  
**Attachments:** Letter of support\_Flavored tobacco Pasadena 10.12.21.pdf

**CAUTION:** This email was delivered from the Internet. Do not click links or open attachments unless you **know** the content is safe. Report phish using the Phish Alert Button. [Learn more...](#)

Dear Mayor Gordo and Pasadena City Council Members,

**Attached, please find a letter to support the passage of the ordinance to end the sale of flavored tobacco in Pasadena.**

The tobacco industry has deceptively delayed enactment of the current statewide law until it can be approved by voters over a year from now. We cannot wait until November 2022 to end the sale of flavored tobacco in Pasadena. Thank you for protecting Pasadena kids!

Sincerely,  
Annie

Annie Tegen, MPH  
Campaign for Tobacco-Free Kids // Tobacco-Free Kids Action Fund  
Advocacy Director, Western U.S.

10/25/2021  
Item 11



1400 EYE STREET, N.W. • SUITE 1200 • WASHINGTON, DC 20005  
PHONE (202) 296-5469 • FAX (202) 296-5427

---

Dear Mayor Gordo and City of Pasadena Councilmembers,

You play an extremely vital role in protecting Pasadena's kids from tobacco addiction. **We commend Pasadena 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.

The Campaign for Tobacco-Free Kids is the nation's largest non-profit, non-governmental advocacy organization 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. We are pleased to submit this letter in support of a **comprehensive** ban on the sale of flavored tobacco products in the City of Pasadena to reduce tobacco use, particularly among youth. The tobacco industry has manipulated enactment of the current statewide law to delay the law until it can be approved by voters over a year from now. We cannot wait until November 2022 to end the sale of flavored tobacco in Pasadena.

While California has made great strides in reducing tobacco use, tobacco use remains the number one preventable cause of premature death and disease in Pasadena and the nation, killing 480,000 Americans annually. **As you discuss policy options, we stand with dozens of other national health organizations to urge you to end the sale of *all* flavored tobacco products including *candy-flavored e-cigarettes, sweet-flavored cigarillos, menthol cigarettes, and hookah products.***

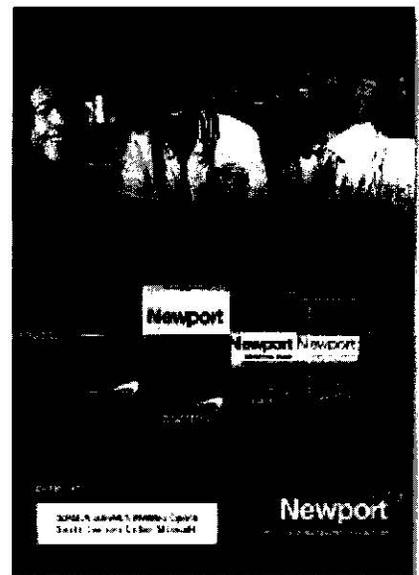
**Prohibiting the sale of all flavored tobacco products in all tobacco retailers is a critical step that will help protect children living in Pasadena from the unrelenting efforts by the tobacco industry to hook them to a deadly addiction.** Flavored tobacco products are designed to alter the taste and reduce the harshness of tobacco products so they are more appealing and easy for beginners, who are almost always kids. These products are pervasive and are marketed and sold in a variety of kid-friendly flavors. With their colorful packaging and sweet flavors, flavored tobacco products are often hard to distinguish from the candy displays near which they are

frequently placed in retail outlets. In California, nine out of ten high school tobacco users report using flavored products.<sup>1</sup>

### **Menthol Cigarettes Increase Smoking Among Youth**

No other flavored product contributes more to the death and disease caused by tobacco use than menthol cigarettes. We applaud your decision not to exempt menthol cigarettes from your ordinance. Menthol delivers a pleasant minty taste and imparts a cooling and soothing sensation. These characteristics successfully mask the harshness of tobacco, making it easier for beginner smokers and kids to tolerate smoking. The FDA's Tobacco Product Scientific Advisory Committee (TPSAC) has reported that:

- Menthol cigarettes increase the number of children who experiment with cigarettes and the number of children who become regular smokers, increasing overall youth smoking.
- Young people who initiate using menthol cigarettes are more likely to become addicted and become long-term daily smokers.
- The availability of menthol cigarettes reduces smoking cessation in some populations, especially among Black Americans, and increases the overall prevalence of smoking among Black Americans.
- Menthol cigarettes are marketed disproportionately to younger smokers and are disproportionately marketed per capita to Black Americans.



After a thorough review of the evidence, TPSAC concluded that “Removal of menthol cigarettes from the marketplace would benefit public health in the United States.”<sup>2</sup>

### **Flavored Tobacco Products Are Pervasive**

A 2009 federal law, the Family Smoking Prevention and Tobacco Control Act, prohibited the sale of cigarettes with characterizing flavors other than menthol or tobacco, including candy and fruit flavors. While overall cigarette sales have been declining since the 2009 law, the proportion of smokers using *menthol* cigarettes (the only remaining flavored cigarette) has been increasing.<sup>3</sup> Menthol cigarettes comprised 37 percent of the market in 2019.<sup>4</sup>

The Tobacco Control Act's prohibition on characterizing flavors did not apply to other tobacco products, and as a result, tobacco companies have significantly stepped up the introduction and

marketing of flavored non-cigarette tobacco products. In fact, the overall market for flavored tobacco products is actually growing. In recent years, there has been an explosion of sweet-flavored tobacco products, especially e-cigarettes and cigars. These products are available in a wide assortment of flavors – like mango, blue razz, pink punch and mint for e-cigarettes and chocolate, watermelon, and cherry dynamite for cigars. Tobacco companies are making and marketing deadly and addictive products that look and taste like a new line of flavors from a Ben and Jerry’s ice cream store.

Flavors are not just a critical part of the product design, but are a key marketing ploy for the industry. The 2016 Surgeon General Report on e-cigarettes concluded, “E-cigarettes are marketed by promoting flavors and using a wide variety of media channels and approaches that have been used in the past for marketing conventional tobacco products to youth and young adults.”<sup>5</sup> The 2019 National Youth Tobacco Survey found that 69.3% of middle and high school students—over 18.2 million youth—had been exposed to e-cigarette advertisements from at least one source.<sup>6</sup>



Sales of cigars (i.e., large cigars, cigarillos, and small cigars) have more than doubled between 2000 and 2019, and much of the growth is attributable to smaller types of cigars, many of which are flavored and inexpensive.<sup>7</sup> The number of unique cigar flavor names more than doubled from 2008 to 2015, from 108 to 250.<sup>8</sup> The top five most popular cigar brands among 12- to 17-year olds who have used cigars – Black & Mild, Swisher Sweets, White Owl, Backwoods, and Dutch Masters – all come in flavor varieties.<sup>9</sup> These products are often sold singly or can be priced as low as 3 or 4 for 99 cents, making them even more appealing to price-sensitive youth. Note that cigar smoke is composed of the same toxic and carcinogenic constituents found in cigarette smoke.<sup>10</sup>



Although tobacco companies claim to be responding to adult tobacco users’ demand for variety, it’s clear that flavored tobacco products play a key role in enticing new users, particularly kids, to a lifetime of addiction. This growing market of flavored tobacco products is undermining progress in reducing youth tobacco use.

### Flavored Tobacco Products Are Popular Among Youth

These sweet products have fueled the popularity of e-cigarettes and cigars among youth. A government study found that **eight out of ten of kids who have ever used tobacco products started with a flavored product.**<sup>11</sup> Across all tobacco products, the data is clear: flavored

tobacco products are overwhelmingly used by youth as a starter product, and preference for flavors declines with age.

According to the 2021 National Youth Tobacco Survey, during the midst of the Covid-19 pandemic, 2 million youth, including 11.3% of US high schoolers and 2.8% of middle schoolers, were current e-cigarette users. While the data are not comparable to previous survey years due to methodology changes\*, just prior to the pandemic in 2020, 19.6% of US high schoolers reported current e-cigarette use, about the same level as in 2018 when the Surgeon General first declared e-cigarette use an epidemic.”<sup>12</sup> Youth e-cigarette use remains a serious public health concern.

In California, 8.2% of high school students report using e-cigarettes. The California Student Tobacco Survey found that an increasing proportion of these youth are using flavored products (96.2% in 2019-2020, up from 86.4% in 2017-2018). Among California high school e-cigarette users, the most commonly used flavor types are fruit (63.9%), mint or menthol (14.7%) and candy or sweet (13%).<sup>13</sup>

Almost all e-cigarettes contain nicotine, a highly addictive drug. Young people are especially vulnerable to nicotine addiction.<sup>14</sup> The Surgeon General has concluded that, “The use of products containing nicotine in any form among youth, including in e-cigarettes, is unsafe.”<sup>15</sup> The manufacturer of JUUL, a popular e-cigarette among youth, claims that each JUUL pod contains as much nicotine as a pack of twenty cigarettes. Since the introduction of Juul, many youth are now using products that effectively deliver massive doses of nicotine and it is clear that large numbers of teen e-cigarette users are struggling with nicotine addiction. **In California, nearly a quarter (24.3%) of high school e-cigarette users are vaping on a frequent basis (20 or more days per month).**<sup>16</sup>

Youth e-cigarette users are also at risk of smoking cigarettes. A 2018 report from the National Academies of Science, Engineering & Medicine found that “There is substantial evidence that e-cigarette use increases risk of ever using combustible tobacco cigarettes among youth and young adults.”<sup>17</sup> More recent research confirms this finding.<sup>18</sup> Therefore, it is critical for any policy restricting sales of flavored tobacco products to include e-cigarettes.

In February 2020, the FDA restricted some flavors in cartridge-based e-cigarettes, but exempted all menthol-flavored e-cigarettes and left flavored e-liquids and disposable e-cigarettes widely

---

\* 2021 data is not comparable to previous years due to a methodology change. Whereas previous surveys were conducted entirely in-school, the 2021 survey included both in-school and at-home responses; students who completed surveys in school reported higher e-cigarette use. Pandemic-related factors such as reduced access to e-cigarettes due to fewer peer interactions may have impacted youth e-cigarette use in 2021.

available in every imaginable flavor. New data show that the market share of these products has grown substantially and that youth quickly migrated to the flavored products that were exempt from the FDA's policy. In 2021, 55.8% of US high school e-cigarette users reported using disposable e-cigarettes and 30% of users of flavored e-cigarettes reported using menthol e-cigarettes.<sup>19</sup>

While the FDA recently announced that it had denied marketing applications for certain flavored e-cigarettes, many of the flavored products most popular among kids, like Juul and Puff Bar, are still on the market. Every day these products remain on the market, our kids remain in jeopardy. Because of the delays and gaps in the FDA's actions, it is critical that states and cities step up their efforts to eliminate ALL flavored e-cigarettes, as well as other flavored tobacco products. The evidence is also clear that as long as any flavored e-cigarettes – including menthol-flavored products – are on the market, kids will shift to them and we will not end this public health crisis. Pasadena must close the gaps left by the FDA and protect our kids from these dangerous and addictive products.

**As the only flavored cigarette left on the market, it's also no surprise that menthol cigarettes are popular among youth.** Menthol cools and numbs the throat, reducing the harshness of cigarette smoke, thereby making menthol cigarettes more appealing to youth who are initiating smoking. About half of youth smokers use menthol cigarettes.<sup>20</sup> As noted previously, young people who initiate using menthol cigarettes are more likely to become addicted and become long-term daily smokers.<sup>21</sup>

**Tobacco companies have a long history of targeting and marketing flavored tobacco products to Black Americas and youth.** Tobacco industry marketing, often targeted at minority communities, has been instrumental in increasing the use of menthol products and in the disproportionate use of menthol products by minority groups and youth. TPSAC concluded that menthol cigarettes are marketed disproportionately to younger smokers and Black Americans.<sup>22</sup> Dating back to the 1950s, the tobacco industry has targeted these communities with marketing for menthol cigarettes through sponsorship of community and music events, targeted magazine advertising, youthful imagery, and marketing in the retail environment. This targeting continues today: in 2018, California tobacco retailers in neighborhoods with the highest proportions of Black residents were more likely to advertise menthol cigarettes and charged an estimated 25 cents less for Newport cigarettes, compared with stores in neighborhoods with the lowest proportion of Black residents.<sup>23</sup> Nationwide, as a result of this targeting, 85% of Black smokers smoke menthol cigarettes, compared to 29% of White smokers.<sup>24</sup>

**Menthol cigarettes are a major reason why Black Americans suffer disproportionately from tobacco use.** The tobacco industry's "investment" in the African American community has had a

destructive impact. In 2013, the FDA released a report finding that menthol cigarettes lead to increased smoking initiation among youth and young adults, greater addiction, and decreased success in quitting smoking.<sup>25</sup> Tobacco use is the number one cause of preventable death among Black Americans, claiming 45,000 Black lives every year.<sup>26</sup> Tobacco use is a major contributor to three of the leading causes of death among Black Americans - heart disease, cancer and stroke.<sup>27</sup> The higher rates of some tobacco-caused diseases among Black Americans result, in part, from their greater use of menthol cigarettes, which are associated with reduced cessation.<sup>28</sup> A recently released study found that among the Black community, 157,000 smoking-related premature deaths and 1.5 million excess life-years between the years 1980 and 2018 can be attributed to menthol cigarettes.<sup>29</sup>

**Advancing tobacco retail policies has *not* led to an uptick in arrests related to possession of cigarettes.** The ordinance would prohibit the sale of flavored tobacco products, not prohibit the possession of these products. Adoption of the proposed ordinance will not lead to police having any greater interaction with youth. Cities across California with similar policies such as Compton, Oakland, Beverly Hills, and Sacramento have passed and implemented these ordinances without incidents.

**The scientific evidence leaves no doubt that menthol cigarettes and other flavored tobacco products increase the number of people, particularly kids, who try the product, become addicted and die a premature death as a result.** Prohibiting the sale of menthol cigarettes and other flavored tobacco products is an important step toward protecting our children from the tobacco industry's aggressive efforts to hook children to a deadly, addictive product.

This issue is about protecting our kids and vulnerable populations. By prohibiting the sale of all flavored tobacco products, Pasadena would join over **100 cities and counties** in California, including at least fifteen within LA County, that have already enacted restrictions on the sale of flavored tobacco products. In addition, the California legislature passed a bill to prohibit the sale of flavored tobacco products. The bill passed with extremely strong support and was signed into law immediately. However, the tobacco industry is now effectively delaying implementation by referring it to the ballot for voter approval in November 2022. **While the industry forces us to wait for that vote to occur, local youth in Pasadena continue to have access to these deadly and addictive products. For this reason, we cannot wait to act.**

**Thank you for considering a strong and comprehensive policy without exemptions. This ordinance will save lives in Pasadena.**

Sincerely,



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

---

<sup>1</sup> Zhu S-H, Braden K, Zhuang Y-L, Gamst A, Cole AG, Wolfson T, Li S. (2021). Results of the Statewide 2019-20 California Student Tobacco Survey. San Diego, California: Center for Research and Intervention in Tobacco Control (CRITC), University of California San Diego.

<sup>2</sup> Tobacco Products Scientific Advisory Committee (TPSAC), *Menthol Cigarettes and Public Health: Review of the Scientific Evidence and Recommendations*, July 21, 2011

<http://www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/TobaccoProductsScientificAdvisoryCommittee/UCM269697.pdf>.

<sup>3</sup> Villanti, A., et al., "Changes in the prevalence and correlates of menthol cigarette use in the USA, 2004–2014," *Tobacco Control*, 25(Suppl 2):ii14-ii20, 2016.

<sup>4</sup> U.S. Federal Trade Commission (FTC), *Cigarette Report for 2019, 2021*,

[https://www.ftc.gov/system/files/documents/reports/federal-trade-commission-cigarette-report-2019-smokeless-tobacco-report-2019/cigarette\\_report\\_for\\_2019.pdf](https://www.ftc.gov/system/files/documents/reports/federal-trade-commission-cigarette-report-2019-smokeless-tobacco-report-2019/cigarette_report_for_2019.pdf) [data for top 5 manufacturers only].

<sup>5</sup> HHS, *E-Cigarette Use Among Youth and Young Adults. A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2016.

<sup>6</sup> Wang, TW, et al., "Tobacco Product Use and Associated Factors Among Middle and High School Students—United States, 2019," *MMWR*, 68(12): December 6, 2019, <https://www.cdc.gov/mmwr/volumes/68/ss/pdfs/ss6812a1-H.pdf>.

<sup>7</sup> U.S. Alcohol and Tobacco Tax and Trade Bureau (TTB), Tobacco Statistics.

<sup>8</sup> Delnevo, CD, et al., "Changes in the mass-merchandise cigar market since the Tobacco Control Act," *Tobacco Regulatory Science*, 3(2 Suppl 1): S8-S16, 2017.

<sup>9</sup> SAMHSA's public online data analysis system (PDAS). National Survey on Drug Use and Health, 2015,

[https://pdas.samhsa.gov/#/survey/NSDUH-2015-DS0001/crosstab/?row=CGR30BR2&column=CATAG2&weight=ANALWT\\_C&results\\_received=true](https://pdas.samhsa.gov/#/survey/NSDUH-2015-DS0001/crosstab/?row=CGR30BR2&column=CATAG2&weight=ANALWT_C&results_received=true).

<sup>10</sup> National Cancer Institute (NCI), *Cigars: Health Effects and Trends. Smoking and Tobacco Control Monograph No. 9*, 1998, [http://cancercontrol.cancer.gov/Brp/tcrb/monographs/9/m9\\_complete.pdf](http://cancercontrol.cancer.gov/Brp/tcrb/monographs/9/m9_complete.pdf). Chang, CM, et al., "Systematic review of cigar smoking and all cause and smoking related mortality," *BMC Public Health*, 2015.

<sup>11</sup> Ambrose, BK, et al., "Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014," *Journal of the American Medical Association*, published online October 26, 2015.

<sup>12</sup> Office of the Surgeon General, "Surgeon General's Advisory on E-Cigarette Use Among Youth," December 18, 2018, <https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf>.

<sup>13</sup> Zhu S-H, Braden K, Zhuang Y-L, Gamst A, Cole AG, Wolfson T, Li S. (2021). Results of the Statewide 2019-20 California Student Tobacco Survey. San Diego, California: Center for Research and Intervention in Tobacco Control (CRITC), University of California San Diego.

<sup>14</sup> HHS, *E-Cigarette Use Among Youth and Young Adults. A Report of the Surgeon General*.

<sup>15</sup> HHS, *E-Cigarette Use Among Youth and Young Adults. A Report of the Surgeon General*.

<sup>16</sup> Zhu S-H, Braden K, Zhuang Y-L, Gamst A, Cole AG, Wolfson T, Li S. (2021). Results of the Statewide 2019-20 California Student Tobacco Survey. San Diego, California: Center for Research and Intervention in Tobacco Control (CRITC), University of California San Diego.

<sup>17</sup> National Academies of Sciences, Engineering, and Medicine (NASEM), *Public Health Consequences of E-Cigarettes*, 2018, <http://nationalacademies.org/hmd/Reports/2018/public-health-consequences-of-e-cigarettes.aspx>.

<sup>18</sup> Berry, KM, et al., "Association of Electronic Cigarette Use with Subsequent Initiation of Tobacco Cigarettes in US Youths," *JAMA Network Open*, 2(2), published online February 1, 2019; Pierce, JP, et al., "Use of E-Cigarettes and Other Tobacco Products and Progression to Daily Cigarette Smoking," *Pediatrics*, 147(2), published online January 11, 2021.

- 
- <sup>19</sup> Park-Lee, E, et al., "E-Cigarette Use Among Middle and High School Students—National Youth Tobacco Survey, 2021," *MMWR*, 70(39): 1387-1389, October 1, 2021, <https://www.cdc.gov/mmwr/volumes/70/wr/pdfs/mm7039a4-H.pdf>.
- <sup>20</sup> Wang, TW, et al., "Tobacco Product Use and Associated Factors Among Middle and High School Students—United States, 2019," *MMWR* 68(12), December 6, 2019, <https://www.cdc.gov/mmwr/volumes/68/ss/pdfs/ss6812a1-H.pdf>.
- <sup>21</sup> TPSAC, *Menthol Cigarettes and Public Health: Review of the Scientific Evidence and Recommendations*, July 21, 2011.
- <sup>22</sup> TPSAC, *Menthol Cigarettes and Public Health: Review of the Scientific Evidence and Recommendations*, July 21, 2011.
- <sup>23</sup> Henriksen, L, et al., "Menthol cigarettes in black neighbourhoods: still cheaper after all these years," *Tobacco Control*, published online August 12, 2021.
- <sup>24</sup> Delnevo, CD, et al., "Banning Menthol Cigarettes: A Social Justice Issue Long Overdue," *Nicotine & Tobacco Research*, 22(10): 1673-1675, 2020.
- <sup>25</sup> FDA, *Preliminary Scientific Evaluation of the Possible Public Health Effects of Menthol versus Nonmenthol Cigarettes*, 2013.
- <sup>26</sup> American Cancer Society, "Cancer Facts & Figures for African Americans, 2016-2018," 2016, <http://www.cancer.org/acs/groups/content/@editorial/documents/document/acspc-047403.pdf>. American Heart Association, "African Americans and Cardiovascular Diseases: Statistical Fact Sheet, 2012 Update," [http://www.heart.org/idc/groups/heart-public/@wcm/@sop/@smd/documents/downloadable/ucm\\_319568.pdf](http://www.heart.org/idc/groups/heart-public/@wcm/@sop/@smd/documents/downloadable/ucm_319568.pdf). HHS, "Tobacco Use Among US Racial/Ethnic Minority Groups—African Americans, American Indians and Alaskan Natives, Asian Americans and Pacific Islanders, and Hispanics: A Report of the Surgeon General," 1998, [http://www.cdc.gov/tobacco/data\\_statistics/sgr/1998/complete\\_report/pdfs/complete\\_report.pdf](http://www.cdc.gov/tobacco/data_statistics/sgr/1998/complete_report/pdfs/complete_report.pdf)
- <sup>27</sup> HHS, "Tobacco Use Among US Racial/Ethnic Minority Groups—African Americans, American Indians and Alaskan Natives, Asian Americans and Pacific Islanders, and Hispanics: A Report of the Surgeon General," 1998; CDC, National Vital Statistics Report, Vol. 68, No. 9. Table 10, 2019 [https://www.cdc.gov/nchs/data/nvsr/nvsr68/nvsr68\\_09-508.pdf](https://www.cdc.gov/nchs/data/nvsr/nvsr68/nvsr68_09-508.pdf).
- <sup>28</sup> HHS, "Tobacco Use Among US Racial/Ethnic Minority Groups—African Americans, American Indians and Alaskan Natives, Asian Americans and Pacific Islanders, and Hispanics: A Report of the Surgeon General," 1998; HHS, *Reducing the Health Consequences of Smoking: 25 Years of Progress: A Report of the Surgeon General*, 2014. See also Alexander, LA, et al., "Why we must continue to investigate menthol's role in the African American smoking paradox," *Nicotine & Tobacco Research*, 18(S1): S91-S101, 2016.
- <sup>29</sup> Mendez, D and Lee, TT, "Consequences of a match made in hell: the harm caused by menthol smoking to the African American population over 1980-2018," *Tobacco Control*, published online September 16, 2021.

## Martinez, Ruben

---

**From:** Ashley Carrasco >  
**Sent:** Monday, October 25, 2021 12:24 PM  
**To:** PublicComment-AutoResponse  
**Subject:** Public Comment for October 25th City Council Meeting

CAUTION: This email was delivered from the Internet. Do not click links or open attachments unless you know the content is safe. Report phish using the Phish Alert Button. Learn more...<[https://mydoit.cityofpasadena.net/sp?id=kb\\_article\\_view&sysparm\\_article=KB0010263](https://mydoit.cityofpasadena.net/sp?id=kb_article_view&sysparm_article=KB0010263)>.

-----

### Item #11

I would like begin by thanking council for their time today, since freshman year, I've urged City Council to ban flavored E Cigarette products. I am currently a junior and now more than ever, the sales of such products should not be permitted especially when there is a rise in teenage depression, anxiety, etc. it is not news that teenagers use substances as unhealthy ways to cope with such struggles. The generation of youth within the city and all around are under the impressions of adults, as their actions directly mold our very future. Once again, I urge the Council members to not let the flavors E-Cigarette product in the City.

Estrella B - Pasadena Resident & PUSD Student

10/25/2021  
Item 11



RECEIVED  
2021 OCT 25 PM 1:03  
CITY CLERK  
CITY OF PASADENA

BreatheSoCal.org

5858 Wilshire Blvd., Suite 300  
Los Angeles, CA 90036  
P: (323) 935-8050  
F: (323) 935-1873

October 12, 2021

The Honorable Pasadena City Council  
Pasadena City Hall  
100 N. Garfield Ave.  
Pasadena, CA 91101

Dear Members of the Pasadena City Council,

Breathe Southern California urges you to pass and help ensure the implementation of an ordinance that ends the sale of flavored tobacco in the City of Pasadena without any exemptions, including menthol and hookah, as soon as possible. Breathe Southern California is a 501(c)(3) nonprofit organization that promotes clean air and healthy lungs through research, education, advocacy, and technology. For over 50 years, we have been a leader in lung health improvement efforts in California.

Tobacco products, including flavored products, contain nicotine, which is a highly addictive chemical that can cause long-term damage to the adolescent brain. Per the American Cancer Society Cancer Action Network, tobacco use causes nearly a third of all cancer deaths in California. According to the Center for Disease Control and Prevention, in a typical hour-long period of hookah smoking, users may inhale 100–200 times the amount of smoke they would inhale from a single cigarette and are exposed to 1.7 times more nicotine than the typical cigarette.

Furthermore, it is important for the City of Pasadena to be a leader on the flavored tobacco issue considering the negative public health impacts. As representatives of the largest city in the San Gabriel Valley, you have the unique opportunity to set a strong tone for the entire region regarding this important public health matter. We urge you to act as soon as possible and to not delay action on strong, comprehensive flavored tobacco policies.

The time is now to stand up to Big Tobacco. Should you have any questions or comments regarding this letter, please contact me at [RDhillon@breathesocal.org](mailto:RDhillon@breathesocal.org) or at (323) 935-8050 x233. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Raj Dhillon".

Raj Dhillon  
Senior Manager, Advocacy & Public Policy

10/25/2021  
Item 11

Breathe Easier.™

## Martinez, Ruben

---

**From:** Richard McDonald <  
**Sent:** Monday, October 25, 2021 11:35 AM  
**To:** PublicComment-AutoResponse  
**Cc:** Jomsky, Mark; Douglas Smurr; Charles Berwanger; Aaron Allan  
**Subject:** Agenda Item 12 Tonight

**CAUTION:** This email was delivered from the Internet. Do not click links or open attachments unless you *know* the content is safe. Report phish using the Phish Alert Button. [Learn more...](#)

Please provide this email to the Mayor and City Council for Item 12 on tonight's Agenda. Thank you.

Dear Mayor Gordo and Honorable Councilmembers:

Integral Associates Dena, LLC, dba Essence, joins in any comments or letters submitted by any other persons in opposition to the proposed code amendments set-forth in Item 12 of the Agenda for your meeting tonight. We further repeat and incorporate by reference herein all of the letters, emails and other documents submitted in November 2019, April 2020, May 2021, July 2021, and August 2021 on the proposed amendments. In short, Integral's position on any such amendments remains the same. The City Council can amend the ordinance "to fine tune the regulations" to better implement the "purpose of chapter". That does not mean a whole sale revision that is contrary to what residents were told when they approved it. Further, the City Council cannot adopt the proposed CEQA exemptions for the proposed ordinance under state law, and a fair argument has been made about the significant environmental impacts from over-concentrating such uses. Accordingly, the City must keep the one per district and/or 1,000 foot separation requirements to protect residential neighborhoods and avoid that concentration. Thank you.

Richard A. McDonald, Esq.

Law Office of Richard A. McDonald

Of Counsel, Carlson & Nicholas, LLP

Pasadena, CA 91101

Office Telephone:

Cell Telephone:

Email:

Website:

**10/25/2021**  
**Item 12**

## Martinez, Ruben

---

**From:** Ashley Carrasco J>  
**Sent:** Monday, October 25, 2021 1:16 PM  
**To:** PublicComment-AutoResponse  
**Subject:** Public Comment for October 25th City Council Meeting

CAUTION: This email was delivered from the Internet. Do not click links or open attachments unless you know the content is safe. Report phish using the Phish Alert Button. Learn more...<[https://mydoit.cityofpasadena.net/sp?id=kb\\_article\\_view&sysparm\\_article=KB0010263](https://mydoit.cityofpasadena.net/sp?id=kb_article_view&sysparm_article=KB0010263)>.

-----

### Item 11

Hi, My name is Nayelie Ortiz, I am a resident of District 1. I go to Pasadena High School. I am here to attempt to convince the City Council to BAN FLAVOR TOBACCO PRODUCTS because of how it's affecting the youth. Many students have been using E-cigarettes at a concerning rate, especially coming out of the pandemic. For many students its easy and accessible and the only coping mechanism they got. Others are using it as a trend to fit in. Stats show that in 2020, 8 out of 10 youth currently use E Cigarettes. Its concerning because I have younger cousins who I don't want to be affected by this trend.

Thank you for your time.

Nayelie O.

10/25/2021  
Item 11

## Martinez, Ruben

---

**From:** Ashley Carrasco <  
**Sent:** Monday, October 25, 2021 1:32 PM  
**To:** PublicComment-AutoResponse  
**Subject:** Public Comment for October 25th City Council Meeting

CAUTION: This email was delivered from the Internet. Do not click links or open attachments unless you know the content is safe. Report phish using the Phish Alert Button. Learn more...<[https://mydoit.cityofpasadena.net/sp?id=kb\\_article\\_view&sysparm\\_article=KB0010263](https://mydoit.cityofpasadena.net/sp?id=kb_article_view&sysparm_article=KB0010263)>.

-----

### Item 11

My name is Ashley Fong and I am a resident of District 3. I go to Pasadena High School. I want to speak about why we should ban flavored tobacco products because it affect myself and the community. It could be easily accessed by teens, 68% of teen use E cigarettes and it end up affecting their brain and makes them slow in school and start ditching class. Students also sell hits of the vape in exchange for a few dollars. And it makes our schools smell. When you go to the bathroom you can smell it as soon as you walk in. For some students it can be seen as coping mechanism and even though its bad they can't stop. Without knowing they end up hurting their body by what they put in it. Some teens are following the trends they parents display and a lot of parents use menthol because of its flavor and their kids will too.

Ashley F. District 3 resident

10/25/2021  
Item 11

## Martinez, Ruben

---

**From:** Ashley Carrasco  
**Sent:** Monday, October 25, 2021 1:42 PM  
**To:** PublicComment-AutoResponse  
**Subject:** Public Comment for October 25th City Council Meeting

CAUTION: This email was delivered from the Internet. Do not click links or open attachments unless you know the content is safe. Report phish using the Phish Alert Button. Learn more...<[https://mydoit.cityofpasadena.net/sp?id=kb\\_article\\_view&sysparm\\_article=KB0010263](https://mydoit.cityofpasadena.net/sp?id=kb_article_view&sysparm_article=KB0010263)>.

-----

Item #11

Esteemed members of the Pasadena City Council, my name is Amelia, and I am a student at Marshall HS. I know quite a few people that use tobacco, whether its e-cigarettes or smokeless flavored tobacco. Flavor tobacco is heavily advertised as something fun, light hearted and not a big deal, which is clearly not the case. Flavor tobacco is sold at gas stations grocery stores for cheap prices. Additionally, flavored tobacco products target teens when advertising.

Thank you,

Amelie H.

## Martinez, Ruben

---

**From:** Ashley Carrasco <  
**Sent:** Monday, October 25, 2021 1:49 PM  
**To:** PublicComment-AutoResponse  
**Subject:** Public Comment for October 25th City Council Meeting

CAUTION: This email was delivered from the Internet. Do not click links or open attachments unless you know the content is safe. Report phish using the Phish Alert Button. Learn more...<[https://mydoit.cityofpasadena.net/sp?id=kb\\_article\\_view&sysparm\\_article=KB0010263](https://mydoit.cityofpasadena.net/sp?id=kb_article_view&sysparm_article=KB0010263)>.

-----

Item #11

Hi my name is Lily an I live in District 3 in Pasadena. I go to Blair HS and I'm in the 9th grade. I noticed a lot of students at my school smoking e cigarettes and vaping weed because they think its safer. It was advertised to them as a better option then regular cigarettes but its become more "trendy" and they are a problem at my school.

Lily E.

## Martinez, Ruben

---

**From:** Ashley Carrasco ·  
**Sent:** Monday, October 25, 2021 2:56 PM  
**To:** PublicComment-AutoResponse  
**Subject:** Public Comment for October 25th City Council Meeting

CAUTION: This email was delivered from the Internet. Do not click links or open attachments unless you know the content is safe. Report phish using the Phish Alert Button. Learn more...<[https://mydoit.cityofpasadena.net/sp?id=kb\\_article\\_view&sysparm\\_article=KB0010263](https://mydoit.cityofpasadena.net/sp?id=kb_article_view&sysparm_article=KB0010263)>.

-----

Item # 11

Hello, My name is Stephanie Barcnas and I'm in 11th grade at Marshall. With the pandemic I haven't really been able to see directly how menthol products have affected my peers. Social Media however, has not been blank. Kids not only consume the product they promote and sell. Seeing students I've known since 6th grade puff and post made me uncomfortable and post. Puff, inhale, post. Combine social media and tobacco and its a direct attack in the youth. The production and advertisement is luring teens. E cigs have been the most commonly used tobacco product amongst youth since 2014. I want a thriving community not an addicted community. People over profits.

Stephanie B.

10/25/2021  
Item 11

## Martinez, Ruben

---

**From:** Wesley Reutimann <wreutimann@pasadena.net>  
**Sent:** Monday, October 25, 2021 3:12 PM  
**To:** PublicComment-AutoResponse  
**Subject:** Public Comment - Agenda Item 11

**CAUTION:** This email was delivered from the Internet. Do not click links or open attachments unless you *know* the content is safe. Report phish using the Phish Alert Button. [Learn more...](#)

Dear Mayor and Council,

As a long-time Pasadena resident and former high school educator, I am all too familiar with the impact of flavored tobacco products on young people. I have watched firsthand how students pick up this deadly addiction while in high school.

The vast majority of tobacco smokers -- an estimated 3 in 4 -- begin smoking before the age of 18, and may struggle for decades to kick this expensive, deadly drug. The tobacco industry is well aware of this fact, recognizes the importance of underage youth to their long-term profitability, and does its utmost to appeal to this demographic with youth-friendly products that mask the harsh taste of tobacco.

Thankfully Pasadena and cities across the state of California have led on evidence-based public policy to reduce public consumption and exposure to tobacco products since the 1980s. Thanks to this legacy of outstanding public health policy, California now has the second lowest smoking rate in the United States, and one of the lowest rates of tobacco consumption in the world. Yet our work is not done.

**Please take another step towards a healthier Pasadena this evening by regulating the sale of flavored tobacco products, which are overwhelmingly favored by and designed for youth and young adults.**

Best regards,

wes reutimann  
Pasadena 91103

10/25/2021  
Item 11

## Martinez, Ruben

---

**From:** Ashley Carrasco ·  
**Sent:** Monday, October 25, 2021 3:16 PM  
**To:** PublicComment-AutoResponse  
**Subject:** Public Comment for October 25th City Council Meeting

CAUTION: This email was delivered from the Internet. Do not click links or open attachments unless you know the content is safe. Report phish using the Phish Alert Button. Learn more...<[https://mydoit.cityofpasadena.net/sp?id=kb\\_article\\_view&sysparm\\_article=KB0010263](https://mydoit.cityofpasadena.net/sp?id=kb_article_view&sysparm_article=KB0010263)>.

-----

### ITEM #11

Hello, my name is Sophia D and I am a student at Blair HS. Thank you for taking the time to consider the opinions of your community members. As a child I saw how tobacco affected my older sister. Seeing this at such a young age really caused a rift in our sisterly relationship. It also caused me to view harmful substances as a coping mechanism, especially growing up in a family susceptible to addiction. She struggled with addiction with different forms of nicotine which included flavored tobacco products like vapes. Other families do not deserve to experience the negative effects of nicotine addiction, and banning flavor tobacco products will prevent vulnerable individuals, especially teens from selling their lives away to addiction.

Sophia D. PUSD Student

10/25/2021  
Item 11

## Martinez, Ruben

---

**From:** Christy Zamani < >  
**Sent:** Monday, October 25, 2021 3:43 PM  
**To:** PublicComment-AutoResponse  
**Subject:** Item 11  
**Attachments:** FDA\_Talking\_Points\_PDF.pdf; City Attorney Report.pdf

**CAUTION:** This email was delivered from the Internet. Do not click links or open attachments unless you *know* the content is safe. Report phish using the Phish Alert Button. [Learn more...](#)

Dear Mayor Gordo and Members of the City Council,

Thank you for taking the leadership to address the impact of flavored tobacco on our youth and communities of color. Attached please find a couple fact sheets that can provide additional information regarding the harms of flavored tobacco nationally and right here in Los Angeles County. I hope you find this information useful.

I anticipate you hearing that hookah should be exempt due to cultural use.

I say no. Music, art, poetry, food, dance are positive cultural elements that we as a city support and stand for- not nicotine products that lead to chronic illnesses, respiratory diseases, and cancer.

As a city it is the responsibility of its community leaders and elected officials to do what is in the best interest of the public health of its residents.

Thank you in advance for your time and support,

Christy

--



**Christy Zamani | Executive Director**

**Pronouns:** She, Her, Hers

**a:** 1 Ave, Pasadena, CA 91101

**c:** ) e:

Day One builds vibrant, healthy cities by advancing public health, empowering youth, and igniting change

**DO Stay Home DO Stay Healthy DO Stay Connected**

10/25/2021

Item 11

## Flavored Tobacco Counter Argument Talking Points

On November 15, 2018, the United States Food and Drug Administration (FDA) announced plans to propose regulations to:

- restrict the sale of flavored electronic cigarettes (e-cigarettes) to age-restricted/adult-only, in-person stores (e.g., tobacco only stores, vape shops);
- ban flavored cigars; and
- ban menthol-flavored cigarettes.

While these proposals represent significant policy actions to protect public health, they do not go far enough in protecting youth, young adults and other vulnerable populations that use these products at disproportionately high rates. There are gaps in the proposal and there will be a significant delay in the implementation as regulations must be promulgated. The issuing of final regulations and the effective implementation dates could take several years. In addition, the FDA final regulations may be weaker than the proposed rules and there could be litigation if the rules are adopted. For example, the FDA has never finalized graphic warning labels on cigarette packs after a legal challenge to passed legislation.

For these reasons, local flavored tobacco policy work is still needed. The following talking points are intended to assist local jurisdictions in answering questions from policymakers or other stakeholders regarding the need to continue adopting strong and comprehensive flavored tobacco policies at the local level.

Argument 1: Local jurisdictions do not need to take any policy action to regulate flavored tobacco products now that the FDA has restricted the sale of these products.

### Responses to Argument 1:

- The FDA's proposed regulations would exempt mint and menthol flavored e-cigarettes and allow some tobacco stores and vape shops to continue selling flavored tobacco products.
- Based on the FDA's previous tobacco product regulations, **it is highly likely that the FDA regulations will take several years to go into effect, leaving vulnerable populations in our communities unprotected and with easy access to flavored tobacco products.**
  - There is currently no timeline for implementation; the FDA still needs to issue the proposed regulations, which will then be followed by a public comment period. After the public comment period ends, it could take years for the FDA to issue final regulations and even longer for it to be effective and enforced.
  - The tobacco industry is likely to challenge the FDA's regulatory process and/or regulations, resulting in further delayed implementation or no regulations.
- The final regulations could look very different from or even weaker than the proposed regulations.
- Despite the FDA's announcement, local policy action is still needed to ensure that sales of all flavored tobacco products, including menthol products, are prohibited and enforced now.
- We shouldn't wait years for the FDA to protect our youth and communities.

Argument 2: Mint and menthol flavors are not enticing to youth and, therefore, do not need to be included in the flavored e-cigarette restrictions.

Responses to Argument 2:

- Mint and menthol flavors are very popular among youth and young adults, and local policies are needed restrict the sale of *all* menthol tobacco products, not just cigarettes.
- In 2018, over half (51.2%) of high school students who currently use e-cigarettes are using menthol- or mint-flavored e-cigarette products! This is a 21% increase from 2017. [1]
- Among youth and young adult JUUL users 18-21 years old, Cool Mint is the most popular flavor. [2]
- After the FDA banned flavored cigarettes in 2009 there was an increase in the number of adolescents who smoked menthol cigarettes, implying a substitution from flavored cigarettes to menthol cigarettes.

Argument 3: The FDA's proposal to limit the sale of flavored e-cigarettes to age restricted/adult-only tobacco stores is sufficient to keep these products out of the hands of young people.

Responses to Argument 3:

- In 2018, more than one-third of tobacco-only smoke and vape shops in California sold tobacco products to young adults. [3]
- Adult-only tobacco stores and vape shops have higher rates of illegal sales to young adults than any other store type, including convenience stores and small markets. [3]
- In 2018, retailers in California illegally sold electronic smoking devices to underage buyers at a higher rate than any other tobacco product. [3]
- The FDA considers an age-restricted location as not allowing entry by persons under age 18. This still allows for potential illegal underage sales in California, where the minimum age of sale for all tobacco products is 21.
- Cities and counties have the authority to adopt stronger policies that completely prohibit the sale of flavored tobacco products, including menthol and e-cigarettes.

Argument 4: Limiting the sale of flavored tobacco products to age-restricted/adult-only tobacco stores will be easily implemented and enforced.

Responses to Argument 4:

- A -convenience store that does not qualify as "age-restricted/adult-only" may try to get around the restrictions so that they are able to sell flavored tobacco products.
- In Oakland, over 40 retailers changed their business models or store layouts in order to qualify as an "age-restricted/adult-only" store and continue to sell flavored tobacco products after a citywide policy was adopted restricting sales of flavored tobacco products and menthol cigarettes to adult-only tobacco stores.

- California state law does not require a minimum age for a person to enter into a tobacco store or vape shop. A policy requiring a minimum age to enter inside a tobacco retailer would have to be adopted voluntarily by the business, which could just as easily rescind the voluntary policy.
- These policies are difficult to enforce: the burden of proof is on the city to determine whether a store meets the qualifications of an adult-only tobacco store and relies on retailers to enforce age requirements.

Argument 5: Local jurisdictions do not have the authority to adopt policies that are stronger than federal law.

Responses to Argument 5:

- The federal Family Smoking Prevention and Tobacco Control Act provided states and local jurisdictions the authority to pass policies that are stronger than federal law to ban or restrict the sale of tobacco products. [4] In other words, local jurisdictions are legally authorized to pass stronger laws.
- As of November 2018, there are 28 city and county policies in California that ban or restrict the sale of flavored tobacco products.
- Three of these jurisdictions (Beverly Hills, San Francisco, and Yolo County) adopted strong policies that completely prohibit the sale of all flavored tobacco products, including menthol cigarettes and e-cigarettes.
- We should act now to protect our youth and communities, rather than waiting years for the FDA to do something. Every day we wait, youth in our communities are getting lured into a lifetime of addiction.
- On November 15, 2018, in response to the FDA's announcement, the Tobacco Education and Research Oversight Committee (TEROC) encouraged all local jurisdictions to sustain momentum in adopting policies that prohibit the sale of all flavored tobacco and menthol products. TEROC will issue an open letter to local jurisdictions applauding local efforts to protect communities from flavored tobacco.

## Citations

1. Cullen, K.A., *Notes from the Field: Use of Electronic Cigarettes and Any Tobacco Product Among Middle and High School Students—United States, 2011–2018*. MMWR. Morbidity and Mortality Weekly Report, 2018. **67**.
2. Truth Initiative, *Popularity of JUUL Flavors Survey 2018*.
3. California Department of Public Health California Tobacco Control Program, *Young Adult Tobacco Purchase Survey*. 2018: Sacramento, CA.
4. Wellington, N., *Focus on Flavors: The Authority of a State or Local Government to Restrict or Prohibit the Sale or Distribution of Flavored Tobacco Products*. 2016, California Department of Public Health, California Tobacco Control Program,; Sacramento, CA.