

Fw: Please vote All Flavors, All Products, All Stores, NO Exemptions

Rules and Open Government Committee Agendas <rulescommitteeagenda@sanjoseca.gov>

Mon 9/27/2021 8:39 AM

To: Agendadesk <Agendadesk@sanjoseca.gov>

Rules and Open Government Committee Agendas

City of San José | Office of the City Clerk
200 East Santa Clara St. – Tower 14th Fl.
San José, CA 95113-1905
Phone 408.535.1275 | Fax 408.292.6207
rulescommitteeagenda@sanjoseca.gov

From: City Clerk <city.clerk@sanjoseca.gov>

Sent: Monday, September 27, 2021 7:43 AM

To: Rules and Open Government Committee Agendas <rulescommitteeagenda@sanjoseca.gov>

Subject: FW: Please vote All Flavors, All Products, All Stores, NO Exemptions

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

From: American Cancer Society Cancer Action Network [REDACTED] On Behalf Of Rebecca Ten Eyck

Sent: Saturday, September 25, 2021 3:04 PM

To: City Clerk <city.clerk@sanjoseca.gov>

Subject: Please vote All Flavors, All Products, All Stores, NO Exemptions

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Sep 25, 2021

City Clerk Toni Taber

Dear City Clerk Taber,

As a resident of San Jose, and your constituent, I urge you to pass a comprehensive flavored tobacco ordinance that ends the sale of ALL flavored tobacco products with no exemptions and a smoke-free multi-unit housing ordinance that defines housing as two of more units.

The proposed flavored tobacco ordinance, as currently written, leaves loopholes that will allow the tobacco industry to maintain its foothold as they continue to contribute to health disparities in San Jose.

We recognized that these health disparities are caused by complex, interrelated factors including social, economic, cultural, geographic, environmental and health system elements, but there is ample evidence that the tobacco industry's intentional marketing to specific populations, including communities of color, low-income communities, and youth has contributed to these disparities. Additionally, systematic racism has led to worse health outcomes for certain populations, especially Black Americans.

Comprehensive tobacco control policies have been proven to reduce tobacco use in all populations, yet San Jose has not fully benefited from tobacco control policies. Unless you ensure that San Jose residents who experience the greatest burden of tobacco use and its disease and death are also covered by comprehensive tobacco control laws, disparities related to tobacco will persist and potentially widen.

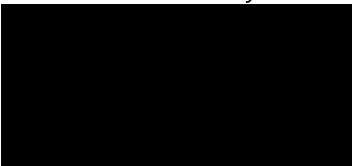
Ending the sale of ALL flavored tobacco products has the potential to aid in health equity. A 2020 study in *Nicotine & Tobacco Research* concluded that use of flavors by adults could be associated with greater nicotine dependence for users of cigarettes, cigars, and e-cigarettes. Among current adults who smoke cigar, those who used flavored products were more likely to be non-Hispanic Black, with a high school diploma only, and younger.

Tobacco is the leading cause of preventable death in our country and is responsible for one third of all cancer deaths. Our kids and communities of color face many challenges, and they should not arrive at adulthood already addicted to or negatively impacted by this deadly product. It is time for San Jose to stand up for health equity!

Please vote to protect the health of San Jose over tobacco industry profits.

Sincerely,

Ms. Rebecca Ten Eyck



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CONNECTING
HUMAN SERVICES
TO COMMUNITY

September 27, 2021

Honorable Sam Liccardo, Mayor
Honorable City Councilmembers
San Jose City Council
200 E. Santa Clara St. San José, CA 95113

Re: 9/28 City Council Meeting, Support for Agenda Item 7.1 September 22, 2021

Honorable Mayor Liccardo and Members of the San Jose City Council,

Conxión To Community is writing to you in support of the draft proposed tobacco retailer licensing law, including the restriction of flavored tobacco products, in the City of San Jose (Agenda Item 7.1). However, we would like to see the changes outlined below. Thank you for considering this important issue. Everyday tobacco companies are using candy-flavored products to hook kids into a dangerous addiction to nicotine. Most young people who have ever used tobacco started with a flavored product. These products often mimic popular candies, drinks, or snacks in both packaging and flavor, making them particularly appealing to youth.

We appreciate that the ordinance, as drafted, ends the sale of menthol cigarettes, which is a critical step in protecting San Jose residents. However, we would like to see San Jose's policy match other strong jurisdictions by restricting the sale of ALL flavored tobacco products in ALL locations, including flavored hookah, premium cigars and loose-leaf tobacco. A recent study found that 80 percent of kids who have ever used tobacco products started with a flavored product and the majority of African American smokers start with menthol flavored products.

Any exemption in this policy will become a "go-to" product for youth in San Jose. San Jose began exploring this policy in 2019. It is time to act now. We cannot afford to wait for state or federal action, San Jose residents want action. San Jose should look to the strong examples of Oakland, San Francisco and Santa Clara County to adopt a comprehensive policy that includes flavored hookah, strong compliance protocol, and language to reduce exposure to tobacco retail and marketing near youth sensitive areas.

This issue is important to Conxión To Community because of the population we serve, who are people of color and youth. We urge Council to adopt the ordinance and close the loopholes. It is time to end the sale ALL flavored tobacco products in San Jose and put public health over tobacco industry profit.

Thank you for your strength and commitment to protecting the health of all San Jose residents.

Sincerely,

Rose Amador LeBeau
President/C.E.O.

Fw: Support for Item 7.1 on 9/28/21 Council Agenda

City Clerk <city.clerk@sanjoseca.gov>

Mon 9/27/2021 1:06 PM

To: Agendadesk <Agendadesk@sanjoseca.gov>

Office of the City Clerk | City of San José

200 E. Santa Clara St., Tower 14th Floor

San Jose, CA 95113

Main: 408-535-1260

Fax: 408-292-6207

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From: Michele Lew [REDACTED]
Sent: Monday, September 27, 2021 1:00 PM
To: City Clerk <city.clerk@sanjoseca.gov>
Subject: Support for Item 7.1 on 9/28/21 Council Agenda

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September 24, 2021

Honorable Sam Liccardo and Members of the City Council
 City of San José
 200 E. Santa Clara Street
 San Jose, CA 95113

Re: Item 7.1 on the 9/28/21 City Council Agenda

Dear Mayor Liccardo and City Council Members:

The Health Trust supports item 7.1 on the 9/28/21 City Council Agenda, the restriction of flavored tobacco items. As a nonprofit operating foundation focused on building health equity in Silicon Valley, we believe that children’s access to tobacco continues to be a public health concern that demands attention.

Whilst The Health Trust appreciates that the ordinance, as drafted, ends the sale of menthol cigarettes, which is a critical step in protecting San Jose residents, we would like to see San Jose’s policy match other strong jurisdictions by restricting the sale of ALL flavored tobacco products in ALL locations, including flavored hookah, premium cigars and loose-leaf tobacco. A recent study found that 80 percent

of kids who have ever used tobacco products started with a flavored product and that the majority of African-American smokers start with menthol flavored products.

The Health Trust humbly requests that the San Jose City Council mimic the strong examples of Oakland, San Francisco and Santa Clara County to adopt a comprehensive policy that includes flavored hookah, strong compliance protocol, and language to reduce exposure to tobacco retail and marketing near youth sensitive areas.

We welcome continued collaboration on both this and future initiatives to address tobacco in our community. Please do not hesitate to contact us if we might be of assistance.

Sincerely,

Michele Lew Victoria Ramirez
Chief Executive Officer Director of Policy and Communications



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NATO

September 27, 2021

Mayor Sam Liccardo
Members of the San Jose City Council
City of San Jose
200 E. Santa Clara St.
San Jose, CA 95113

RE: Proposed Flavored Tobacco Products Ban

Dear Mayor Liccardo 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 San Jose retail stores, I am writing to submit our comments and concerns regarding tobacco retailer ordinance amendments that 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. The amendments also restrict the location of retailers. On behalf of San Jose retailers, we ask that you not adopt these ordinance amendments 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

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 the California Healthy Kids Survey for San Clara County, only 6% of county high school students had ever smoked one cigarette and only 2% said they had smoked one cigarette in the past 30 days; only 2% had ever used smokeless tobacco and 0% had used it in the past 30 days. As to nicotine vapor products, only 7% of high schoolers had used them in the past 30 days at all, and only 1% said they were regular users. The “epidemic” of vapor product use has not materialized in Santa Clara County. (Contrast this with the Survey’s finding that 7% of high schoolers were current “binge drinkers” and 7% were current marijuana users.) This 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.

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 San Jose and its retailers.

FDA to Ban Menthol Cigarettes and Flavored Cigars: The City of San Jose 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 regulation that would ban some of the same products that would be prohibited under the proposed ordinance.

FDA Actions on Electronic Cigarettes and Nicotine Vapor Products: Moreover, the FDA and Congress have taken significant actions that have resulted in the removal of a substantial number of flavored electronic nicotine delivery system (ENDS) products from the market and curbed youth accessibility via the Internet. 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 FDA has announced that the agency has denied marketing approval for more than 6 million electronic cigarette and nicotine vapor products, which means the products must be removed from the market.

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.

NATO and its San Jose 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. Why would the San Jose City Council want to harm the City's responsible retailers and force their customers to other cities or to illicit markets?

Grandfathering Provision Does Not Permit Parents to Leave Businesses to Their Own Children: The ordinance prohibits new tobacco retailers within 1000 feet of some "sensitive uses" and 500 feet of one another. These limits are arbitrary, and unsupported by any finding of the Council. A grandfathering provision allows for existing businesses to continue and to be sold in an "arm's length transaction." However, the provision does not allow for a parent to leave their business to their children, or even for a parent to sell the business to their children or another relative. This is not a sensible restriction on the grandfathering provision.

We urge the San Jose City Council not to move forward with these ordinance amendments. Thank you for your consideration.

Sincerely,

Thomas A. Briant

NATO Executive Director

9/28 City Council, Support for agenda item 7.1

Maimona Afzal Berta



Mon 9/27/2021 3:07 PM

To: city.clerk@sanjose.gov <city.clerk@sanjose.gov>; Liccardo, Sam <sam.liccardo@sanjoseca.gov>; Jones, Chappie <Chappie.Jones@sanjoseca.gov>; Jimenez, Sergio <sergio.jimenez@sanjoseca.gov>; Peralez, Raul <Raul.Peralez@sanjoseca.gov>; Cohen, David <David.Cohen@sanjoseca.gov>; Carrasco, Magdalena <Magdalena.Carrasco@sanjoseca.gov>; Davis, Dev <dev.davis@sanjoseca.gov>; Esparza, Maya <Maya.Esparza@sanjoseca.gov>; Arenas, Sylvia <sylvia.arenas@sanjoseca.gov>; Foley, Pam <Pam.Foley@sanjoseca.gov>; Mahan, Matt <Matt.Mahan@sanjoseca.gov>

Cc: Agendadesk <Agendadesk@sanjoseca.gov>; Juan Cruz



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Dear Honorable San Jose City Councilmembers and Mayor Liccardo,

Please see the attached letter and resolution in support for agenda item 7.1 submitted on behalf of the Franklin-McKinley Board of Education.

On June 25, 2019, the Franklin-McKinley Board of Education took action to unanimously approve Resolution No. 2019-23: A RESOLUTION IN SUPPORT OF LOCAL GOVERNMENT ACTION TO PREVENT AND REDUCE YOUTH TOBACCO USE THROUGH TOBACCO SALES RESTRICTIONS, INCLUDING SALES OF FLAVORED TOBACCO PRODUCTS & REDUCING DENSITY OF TOBACCO STORES.

On September 14, 2021, the Franklin-McKinley Board of Education took action to approve the attached letter in support of agenda item 7.1.

Thank you for your consideration.

Best Wishes,

Maimona Afzal Berta

Pronouns: She, Her, Hers

President, Board of Education
Franklin-McKinley School District



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PREPARING ALL CHILDREN AS GLOBAL LEARNERS

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FRANKLIN-MCKINLEY SCHOOL DISTRICT

Resolution No. 2019-23

A RESOLUTION IN SUPPORT OF LOCAL GOVERNMENT ACTION TO PREVENT AND REDUCE YOUTH TOBACCO USE THROUGH TOBACCO SALES RESTRICTIONS, INCLUDING SALES OF FLAVORED TOBACCO PRODUCTS & REDUCING DENSITY OF TOBACCO STORES

WHEREAS, the Franklin-McKinley School District, the Santa Clara County Public Health Department and the Tobacco Free Coalition of Santa Clara County have aligned beliefs that communities need to work to ensure that the conditions in which youth learn and live, support optimal health and equitable achievement at the highest levels; and

WHEREAS, smoking is the leading preventable cause of death and disease. Within Santa Clara County, direct health care costs and indirect costs (such as lost productivity) due to smoking, accounts for costs of \$700 million dollars annually within the County;¹ and

WHEREAS, its customers succumb to tobacco-related illness and death, the tobacco industry continually adapts to changing regulatory and market environments, innovating around electronic smoking devices and flavored tobacco products to create a new, younger generation of customers; and

WHEREAS, the Tobacco Industry targets young people and vulnerable communities with the marketing of tobacco products that mask the harsh taste of tobacco with flavors highly appealing to youth and with advertising designed to attract young people; and

WHEREAS, in Santa Clara County, more than 1 in 10 (approximately 10.9%)² youth use tobacco products, including electronic smoking devices, and almost 40% of youth who smoke; stated that they acquired their cigarettes from a store;³ and

WHEREAS, from 2017 to 2018, current e-cigarette use by high school students increased 78 percent, from 11.7 to 20.8 percent, accounting for a troubling 3.05 million American high school students using e-cigarettes in 2018. In addition, the proportion of current e-cigarette users in high school who reported use on 20 days or more in the past 30-day period increased from 20 percent to 27.7 percent between 2017 and 2018;⁴ and

WHEREAS, there are more than 1200 stores that sell tobacco products in Santa Clara County and more than a quarter (26.8%) are located within 2 blocks of a school;⁵ and

¹ Max et al., University of California, San Francisco, Institute for Health & Aging, School of Nursing, The Cost of Smoking in California, 2009, available at: <http://www.trdrp.org/files/cost-smoking-ca-final-report.pdf>.

² California Student Tobacco Survey, 2016

³ California Healthy Kids Survey, 2008-9.

⁴ Cullen KA, Ambrose BK, Gentzke AS, Apelberg BJ, Jamal A, King BA. Notes from the Field: Increase in use of electronic cigarettes and any tobacco product among middle and high school students — United States, 2011–2018. MMWR Morbid Mortal Wkly Rep. 2018;67(45).

⁵ California Board of Equalization, 2017

WHEREAS, the tobacco industry purposely markets flavored (including menthol) tobacco products to lure the youth, which is evident by the fact that 80% of youth who ever used a tobacco product, started with a flavored product;⁶ and

WHEREAS, flavors in tobacco products are problematic, as they can be very appealing to youth, and are frequently listed as one of the top three reasons this population uses e-cigarettes. Additionally, kids whose first tobacco product was flavored are more likely to become current tobacco users than those whose first product was tobacco-flavored; and

WHEREAS, tobacco use rates are affected by where tobacco retailers are located and how concentrated, or dense, they are in a given area. Increased availability of tobacco products is associated with increases in both youth and adult smoking rates,^{7,8} even when other neighborhood factors like racial composition and socioeconomic status are taken into consideration.⁹ In particular, studies have consistently shown that children are more likely to smoke when they live or go to school in neighborhoods with a high density of tobacco retailers,^{10,11,12,13} and

WHEREAS, local jurisdictions in California have the authority to enact regulations on the sale of tobacco products through local tobacco retail licensing in an effort to decrease availability and use of tobacco products by youth, including restrictions on the sale of flavored tobacco products (including electronic smoking devices and menthol cigarettes), establishing maximum thresholds of tobacco retailer densities, establishing distance requirements near schools and other youth-sensitive areas; and

WHEREAS, an increased awareness about the public health impact of flavored tobacco products, including electronic smoking devices and menthol cigarettes, is imperative to close loopholes in existing law, the Franklin-McKinley School District finds it is in the best interests of the health, safety and welfare of youth and vulnerable populations of Santa Clara County and San Jose.

NOW, THEREFORE BE IT RESOLVED THAT THE FRANKLIN-MCKINLEY SCHOOL DISTRICT supports and encourages action by local cities, under their regulatory authority, to restrict the sale of tobacco products in order to prevent youth access and use, including prohibiting the sale of flavored tobacco products and reducing the concentration and density of tobacco stores, particularly near schools and other youth sensitive areas.

⁶ Ambrose, B.K., et al., Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014. JAMA, 2015.

⁷ Lipperman-Kreda S, Grube JW, Friend KB, Mair C. Tobacco outlet density, retailer cigarette sales without ID checks and enforcement of underage tobacco laws: Associations with youths' cigarette smoking and beliefs. *Addiction*. 2016; 111(3).

⁸ Chuang YC, Cubbin C, Ahn D, Winkleby MA. Effects of neighbourhood socioeconomic status and convenience store concentration on individual level smoking. *J Epidemiol Community Health*. 2005; 59(7): 568-73.

⁹ Novak SP, Reardon SF, Raudenbush SW, Buka SL. Retail tobacco outlet density and youth cigarette smoking: A propensity-modeling approach. *Am J Public Health*. 2006; 96(4): 670-76.

¹⁰ Henriksen L, Feighery EC, Schleicher NC, Cowling DW, Kline RS, Fortmann SP. Is adolescent smoking related to the density and proximity of tobacco outlets and retail cigarette advertising near schools? *Prev Med*. 2008; 47(2): 210-4.

¹¹ Leatherdale ST, Strath JM. Tobacco retailer density surrounding schools and cigarette access behaviors among underage smoking students. *Ann Behav, Med*. 2007; 33(1): 105-11.

¹² West JH, Blumberg EJ, Kelley NJ, et al. Does proximity to retailers influence alcohol and tobacco use among Latino adolescents? *J Immigr Minor Health*. 2010; 12(5): 626-33.

¹³ Chan WC, Leatherdale ST. Tobacco retailer density surrounding schools and youth smoking behaviour: a multi-level analysis. *Tob Induc Dis*. 2011; 9(1):9.

NOW, THEREFORE BE IT RESOLVED that the governing Board of the Franklin-McKinley School District in Support of Local Government Action to Prevent and Reduce Youth Tobacco Use Through Tobacco Sales Restrictions, Including Sales of Flavored Tobacco Products & Reducing Density of Tobacco Stores.

PASSED AND ADOPTED by the Board of Education of the Franklin-McKinley School District at a meeting held on June 25, 2019 by the following vote:


AYES: 5

NOES: 0

ABSENT: 0

ABSTAIN: 0

I, Juan Cruz, Secretary of the Board, hereby certify the foregoing is a full, true, and correct copy of a resolution adopted by the Board at a regular meeting thereof, held at its regular place of meeting on the date shown above and by the vote above stated, which resolution is on file in the office of the said Board.



Secretary of the Board of Education
Franklin-McKinley School District



Franklin-McKinley School District

PREPARING ALL CHILDREN AS GLOBAL LEARNERS

June 14, 2021

The Honorable Sam Liccardo
San Jose City Council
200 E. Santa Clara St.
San Jose, CA 95113

Re.: Ending the sale of flavored tobacco in San Jose

Dear Mayor Liccardo and Members of the San Jose City Council:

On behalf of the Franklin-McKinley School District and the Board of Education, please accept this letter expressing our support for a comprehensive policy to end the sale of menthol and all flavored tobacco products without exemption, which will help protect youth from the harms of these addictive and deadly products. Franklin-McKinley back on January 25, 2019 passed Resolution 2019-23 in support of local government action to prevent and reduce youth tobacco use through tobacco sales restriction, including sales of flavored tobacco products & reducing density of tobacco stores. In addition, the district has partnered with the Santa Clara County Office of Education to implement Tobacco Use Prevention Education (TUPE) programs targeting our middle school students.

We are in the midst of a youth tobacco use epidemic of unparalleled proportions. Tobacco companies have pushed candy-flavored products into the youth market, quietly hooking kids into a dangerous addiction to nicotine. Recent events have highlighted these dangers. Being a current or former cigarette smoker increases your risk of severe illness from COVID-19. Smoking increases the risk for respiratory infections, weakens the immune system and is a major cause of a number of chronic health conditions, including chronic obstructive pulmonary disease, heart disease and diabetes. In addition, there is growing evidence that vaping can also harm lung health.

More than 5.3 million youth were current e-cigarette users in 2019, with the overwhelming majority of youth citing use of popular fruit and menthol or mint flavors. Locally, 1 in 3 Santa Clara County teens have tried e-cigarettes and 1 in 8 are currently using them. 82 percent of Santa Clara County teens who have ever used tobacco started with a flavored product. Eight in ten of the 600+ San Jose tobacco retailers sell fruit or sweet flavored tobacco products, and nearly a quarter of surveyed San Jose tobacco retailers sold tobacco to an underage person.


These products often mimic popular candies, drinks, or snacks in both packaging and flavor, making them particularly appealing to youth. A variety of flavored tobacco products like cotton candy, bubble gum, and mango are widely available on retail shelves. 72 percent of youth tobacco users have used a flavored tobacco product in the past month and at least two-thirds of youth tobacco users report using tobacco products "because they come in flavors I like."

Virtually every major jurisdiction in the Bay Area has already ended the sale of flavored tobacco without exemptions. This includes the cities of Alameda, Albany, Berkeley, Burlingame, Cupertino, Dublin, East Palo Alto, Fremont, Half Moon Bay, Hayward, Lafayette, Livermore, Menlo Park, Morgan Hill, Oakland, Palo Alto, Pleasanton, Portola Valley, Richmond, San Carlos, San Mateo, San Pablo, Santa Cruz, Sunnyvale, Watsonville and the Counties of Alameda, Contra Costa, San Mateo, Santa Clara and Santa Cruz and the City and County of San Francisco.

With the surges in youth nicotine usage and associated public health risks, San Jose needs to take swift action. While the governor recently signed SB793 to end the sale of most flavored tobacco products, the tobacco companies spent more than \$20 million in a pandemic to place the law on hold until the next statewide general election. It is up to San Jose to take local action to protect the community now and address the urgent issue of youth tobacco use.

For these reasons, the Franklin-McKinley School District is proud to support a comprehensive policy that ends the sale of all flavored tobacco products without exemption.

Sincerely,


Maimona Afzal Berta
Board President

Board of Education

Maimona Afzal Berta Rudy Rodriguez Manuel Martinez George Sanchez Thanh Tran

**Breathe California
of the Bay Area,
Golden Gate, and
Central Coast**

1469 Park Avenue
San Jose, CA 95126
Phone: (408) 998-5865
Toll-Free: 1-877-3-BREATHE
Fax: (408) 998-0578
www.lungsrus.org
info@lungsrus.org

Tax ID#: 94-1156307

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September 27, 2021

The Honorables Mayor Sam Liccardo, Vice Mayor Chappie Jones, and Councilmembers Sylvia Arenas, Magdalena Carrasco, David Cohen, Dev Davis, Lan Diep, Maya Esparza, Pam Foley, Sergio Jimenez, and Raul Perales
San Jose City Council
200 E. Santa Clara St.
San José, CA 95113

Via e-mail: gina.espejo@sanjoseca.gov; city.clerk@sanjoseca.gov;
agendadesk@sanjoseca.gov

RE: Amendment to Chapter 6.87, Tobacco Retail License of Title 6, Business Licenses and Regulations

Dear Mayor and Councilmembers:

Breathe California, founded in San Jose in 1911, is dedicated to preventing initiation to tobacco use. We applaud the ordinance amendment to be heard as Item 7.1 on Tuesday's agenda and especially thank those who drafted a proposal for improvements to the draft. It will go a long way towards preventing youth tobacco use, preventing addiction, and saving lives.

However, even with those fine points, the ordinance has a fatal flaw. The paragraph that follows **6.87.300.E.5** and applies to **Section 6.87.300.E.3 and 4** of the ordinance will prevent any meaningful reduction of youth exposure to tobacco marketing and products near their schools for the foreseeable future. It allows all those current tobacco retailers near schools, who were *exempted* from the new rule on proximity and allowed to continue to sell tobacco near schools *with no expiration date*, to pass this exemption to a buyer of their business who can FURTHER sell tobacco products near schools for as long as they are in business, *with no expiration date*. In effect, it may be decades until there is any reduction in the number of tobacco retailers near schools. The last paragraph in Section 14 reads:

However, any exemption granted to a Tobacco Retailer pursuant to paragraphs 3 and 4 shall also apply to the sale to another individual, through an Arm's Length Transaction, of a tobacco retail business operating lawfully on the effective date of the ordinance codified in this article. The new owner of such business is required to apply for and obtain a new Tobacco Retailer's license.

There is ample research to show that increased tobacco retailer proximity to schools/youth sensitive areas and density are correlated with increased adolescent lifetime smoking, past 12-month smoking, past 30-day smoking, and susceptibility to smoking (J Sch Nurs. 2017 Feb;33(1):18-29). Socioeconomic and racial/ethnic disparities in tobacco retailer density have also been confirmed, with more retailers found in areas with lower income and greater proportions of African American residents (Nicotine & Tobacco Research, 2017, 239–244,8/26/2016)

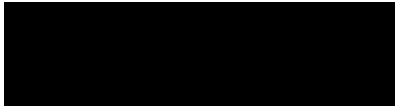
Currently, 41.8% of public schools are within 1,000 feet of a tobacco retailer; 20.9% are within 500 feet. This is a matter of urgency, especially in our disadvantaged communities. If the Council is serious about protecting children from tobacco with this ordinance, and about ending disparities in health for populations of color, it is vital to remove this section.

The Council may have been trying to protect current small businesses when they inserted the exemption for them, but why should they also protect future, unknown businesses at the expense of our children? (AND why leave the exemptions open-ended rather than specifying an end date for exemptions?)

There are many ways to fix this section and still provide allowances for the businesses: 1) insert a deadline by which the exemption expires and the merchant can no longer sell tobacco near schools (Even allowing five years more to sell tobacco would be better than the decades that they may stay in business.); 2) decrease the distance from schools to 500 feet, which would at least cover almost half of them now. 3) But for now, removing the most offensive paragraph that allows for transfer of exemptions is a start.

Please contact me directly if I may be of further service in this matter.

Sincerely,



Margo Sidener, MS, CHES
Chief Executive Officer

[Type here]



The Honorable Sam Liccardo, Mayor
San Jose City Council
200 E. Santa Clara St.
San José, CA 95113

September 28, 2021

Re: Flavored Tobacco Products

Dear Mayor Liccardo and Members of the San Jose City Council:

The Campaign for Tobacco-Free Kids & the Tobacco-Free Kids Action Fund are pleased to submit this letter in support of your efforts in the City of San Jose to reduce tobacco use, particularly among youth. 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. 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.

While California has made great strides in reducing tobacco use, tobacco use remains the number one preventable cause of premature death and disease in San Jose 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, and menthol cigarettes.***

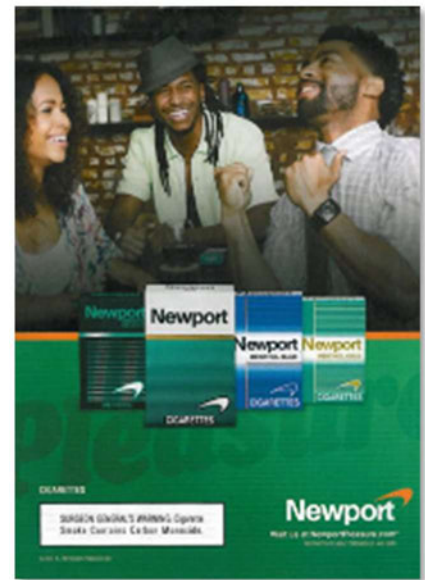
Prohibiting the sale of all flavored tobacco products in all tobacco retailers is a critical step that will help protect children living in San Jose from the unrelenting efforts by the tobacco industry to hook them to a deadly addiction. Flavored tobacco products are designed to alter the taste and reduce 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.**¹

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.”² A decade later—in April 2021—the FDA announced its intention to pursue rulemaking to prohibit menthol cigarettes and flavored cigars. However, until any FDA action is finalized, states and cities should continue their growing efforts to end the sale of menthol cigarettes and other flavored tobacco products. It will take time for the FDA to finalize and implement the necessary regulations to prohibit menthol cigarettes and flavored cigars, and tobacco industry lawsuits could cause more delays. States and cities have an obligation to protect the health of their citizens and must act now to stop tobacco companies from targeting kids, Black Americans and other groups with menthol cigarettes and other flavored products. We can’t afford more delay in taking action to protect kids and save lives.

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.³ Menthol cigarettes comprised 37 percent of the market in 2019.⁴

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.”⁵ 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.⁶



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.⁷ The number of unique cigar flavor names more than doubled from 2008 to 2015, from 108 to 250.⁸ 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.⁹ 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.¹⁰



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.**¹¹ 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.

The 2020 National Youth Tobacco Survey shows that among high school students, e-cigarette use declined to 19.6% in 2020, after increasing by an alarming 135 percent from 2017 to 2019 (from 11.7% to 27.5%).¹² While the significant decline in youth users since 2019 is a sign of progress, youth e-cigarette use remains a public health crisis. 3.6 million kids still use e-cigarettes – the same number as when the U.S. Surgeon General called youth e-cigarette use an “epidemic.”¹³

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%).¹⁴

Almost all e-cigarettes contain nicotine, a highly addictive drug. Young people are especially vulnerable to nicotine addiction.¹⁵ The Surgeon General has concluded that, “The use of products containing nicotine in any form among youth, including in e-cigarettes, is unsafe.”¹⁶ 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.

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.”¹⁷ More recent research confirms this finding.¹⁸ Therefore, it is critical for any policy restricting sales of flavored tobacco products to include e-cigarettes.

In January 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 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. Among high school e-cigarette users, use of disposable e-cigarettes increased by 1,000% from 2019 to 2020, and in 2020, 37% of high school users of flavored e-cigarettes reported using menthol products.¹⁹ E-cigarette market share data from California confirm these trends:

- From February 2020 to June 2021, disposable e-cigarette sales in California increased by 51.9%. Disposable products are sleek, easily concealed, pre-charged, cheap (some for less than \$5) and can even have higher nicotine concentrations than JUUL. They are widely sold in kid-friendly flavors like fruit and candy.
- From February 2020 to June 2021, menthol-flavored e-cigarette sales in California increased by 43.1% (from 226.4 thousand to 324.0 thousand units) and menthol-flavored cartridge sales increased by 44%.

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, 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. San Jose 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.²⁰ As noted previously, young people who initiate using menthol cigarettes are more likely to become addicted and become long-term daily smokers.²¹

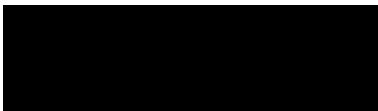
Tobacco companies have a long history of targeting and marketing flavored tobacco products to Black Americas and youth. Tobacco industry marketing, often targeted at minority communities, has been instrumental in increasing the use of menthol products and in the disproportionate use of menthol products by minority groups and youth. TPSAC concluded that menthol cigarettes are marketed disproportionately to younger smokers and Black Americans.²² 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.²³ Nationwide, as a result of this targeting, 85% of Black smokers smoke menthol cigarettes, compared to 29% of White smokers.²⁴

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.²⁵ Tobacco use is the number one cause of preventable death among Black Americans, claiming 45,000 Black lives every year.²⁶ Tobacco use is a major contributor to three of the leading causes of death among Black Americans - heart disease, cancer and stroke.²⁷ 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.²⁸ A study released just this month 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.²⁹

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 flavored tobacco products, San Jose would join over 100 cities and counties in California that are already similar restrictions in place. **Thank you for considering this policy. It will save lives.**

Sincerely,



Lindsey Freitas, MPA
Regional Advocacy Director
Campaign for Tobacco-Free Kids



Appendix

A1: Examples of Flavored Tobacco Products



A2: Examples of Menthol Marketing

Source: TrinketsandTrash.org, CounterTobacco.Org



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- ¹ 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.
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<http://www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/TobaccoProductsScientificAdvisoryCommittee/UCM269697.pdf>.
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- ¹⁴ 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.
- ¹⁵ HHS, *E-Cigarette Use Among Youth and Young Adults. A Report of the Surgeon General*.
- ¹⁶ HHS, *E-Cigarette Use Among Youth and Young Adults. A Report of the Surgeon General*.
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- ²² TPSAC, *Menthol Cigarettes and Public Health: Review of the Scientific Evidence and Recommendations*, July 21, 2011.
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Adrienne Keel
LGBTQ Programs, Caminar
950 West Julian Street San Jose, CA 95126
(408)343-7942

September 27, 2021

RE: 9/28/21 Item 7.1, Flavored tobacco and e-cigarette sales

Dear Mayor Liccardo and San Jose City Council:

I am the Director of the LGBTQ Youth Space and the LGBTQ Wellness program for Family & Children Services a Division of Caminar for Mental Health. The LGBTQ Youth Space is a drop-in center and counseling program in San Jose for lesbian, gay, bisexual, transgender, queer and questioning youth. LGBTQ Wellness conducts mental health advocacy, peer support and training services on behalf of our communities across Santa Clara County.

Tobacco use is the number one cause of preventable death for Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ) people in the United States.ⁱ Discrimination for our gender identities and sexual orientations is linked to earlier and more severe tobacco use among LGBTQ youth and adults.^{ii,iii,iv,v} Policies that reduce the appeal and accessibility of tobacco can break this pattern of addiction that disproportionately burdens our communities.

Over 100 cities and counties in California have passed policies restricting the sale of flavored tobacco.^{vi} In the Bay Area alone, over 40 give no special treatment to hookah or menthol cigarettes, including your neighbors in Cupertino, Los Gatos, Palo Alto, Los Altos, and unincorporated Santa Clara County. 91.6 percent of California high school tobacco product users prefer flavors.^{vii}

While the tobacco industry has most notoriously used menthol cigarettes to target Black youth and adults, LGBTQ people also disproportionately use menthols. 54 percent of lesbian smokers and 50 percent of bisexual female smokers prefer menthol cigarettes, versus 39 percent of smokers overall.^{viii} In California, 77.3 percent of transgender or gender-diverse high school smokers reported a menthol preference, versus 49.4 percent of all high school smokers.⁷

Exempting flavored hookah from comprehensive action on flavored tobacco is often based on the argument that it is a cultural product endemic to South and West Asia. However, traditional hookah is “pure tobacco” without flavoring that “was harsh and not appealing to young people,” according to Ayman Abdel Nour, a Syrian American and Middle East affairs researcher.^{ix} In contrast, flavored forms of hookah emerged in the 1990s and resemble classic tobacco industry targeting. 82.5 percent of high school hookah smokers in California reported using a flavored product, with 48.4 percent using fruit or candy flavors most often.⁷ LGBTQ high schoolers in California are about 4 times more likely to report using hookah than their non-LGBTQ peers.



Even before the U.S. Surgeon General declared a “vaping epidemic” in late 2018, models predicted that 80 youth would start using tobacco via e-cigarettes and go on to become daily smokers for every 1 adult who used e-cigarettes to quit using nicotine.^x More recent research finds that youth who used newer products are 3 times more likely to try little cigars, 7 times more likely to try cigarettes, and 8 times more likely to become regular smokers after 18 months versus their peers who did not try e-cigarettes.^{xi} More recent products are often formulated with nicotine benzoate salts, which mask the harshness of nicotine and allow for use of higher concentrations.

We hope you will use the information given above to improve health and quality of life for LGBTQ youth and adults in San Jose.

Thank you for your time and consideration.



Adrienne Keel
Director of LGBTQ Programs for Caminar

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^v McCabe, S. E., Hughes, T. L., Matthews, A. K., Lee, J., West, B. T., Boyd, C. J., & Arslanian-Engoren, C. (2019). Sexual Orientation Discrimination and Tobacco Use Disparities in the United States. *Nicotine & tobacco research : official journal of the Society for Research on Nicotine and Tobacco*, 21(4), 523–531. <https://doi.org/10.1093/ntr/ntx283>

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Moorpark Office
Gordon N. Chan Community Services Center
2400 Moorpark Ave. Suite #300
San Jose, CA 95128

September 28, 2021

Mayor Sam Liccardo and
Members of the San Jose City Council
200 East Santa Clara Street
San Jose, CA 95113

Subject: Please APPROVE Agenda Item 7.1 – Amending SJ Municipal Code regarding Tobacco Retail Licensing

Dear San Jose City Council,


I hope this finds you well. On behalf of Asian Americans for Community Involvement (AACI), I urge you to support and even strengthen the proposed amendments to the San Jose Municipal code outlined in Agenda Item 7.1 on today's City Council agenda restricting the sale of tobacco products.

We appreciate that the proposed ordinance, as drafted, ends the sale of menthol cigarettes, which is a critical step in protecting San Jose residents. However, we would like to see San Jose's policy match other jurisdictions by restricting the sale of all flavored tobacco products in all locations, including flavored hookah, premium cigars, and loose-leaf tobacco. Any exemption in this policy will likely make products not covered by these restrictions a "go-to" for youth in San Jose. Across the state, more than 100 communities have taken action to end the sale of flavored tobacco products. However, San Jose remains the last large city in Northern California without a comprehensive policy addressing this growing concern.

As a major provider of healthcare and substance use treatment services in San Jose, AACI has seen firsthand the harmful effects of tobacco use on our local communities. Even more concerning, we have also seen how the tobacco industry has been heavily targeting youth in its marketing through its flavored tobacco products. One in eight Santa Clara County teens report having used tobacco products in the past, and a recent study found that 80 percent of youth who have ever used tobacco products began with a flavored product.

AACI applauds San Jose's proud history of enacting policy to reduce the sale and use of cigarettes in our communities. In maintaining that legacy, we now must act just as aggressively to combat the sale and use of flavored tobacco. We urge the City Council to strengthen and enact these commonsense proposals and build a healthier, more resilient San Jose.

Sincerely,


Sarita Kohli
President & CEO

Subject: 9/28 City Council, Support for agenda item 7.1

Angela Lee <[REDACTED]>

Mon 9/27/2021 8:53 PM

To: Mahan, Matt <Matt.Mahan@sanjoseca.gov>; Liccardo, Sam <sam.liccardo@sanjoseca.gov>; Carrasco, Magdalena <Magdalena.Carrasco@sanjoseca.gov>; Jones, Chappie <Chappie.Jones@sanjoseca.gov>; Jimenez, Sergio <sergio.jimenez@sanjoseca.gov>; Davis, Dev <dev.davis@sanjoseca.gov>; Cohen, David <David.Cohen@sanjoseca.gov>; Foley, Pam <Pam.Foley@sanjoseca.gov>; Esparza, Maya <Maya.Esparza@sanjoseca.gov>
Cc: Agendadesk <Agendadesk@sanjoseca.gov>

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Angela Y Lee
[REDACTED]

The Honorable Sam Liccardo and City Councilmembers San Jose City Council
200 E. Santa Clara St.
San José, CA 95113
Re: 9/28 City Council Meeting, Support for Agenda Item 7.1
September 22, 2021

Dear Mayor Liccardo and Members of the San Jose City Council,

I, Angela Y. Lee, is writing to you in support of the draft proposed tobacco retailer licensing law, including the restriction of flavored tobacco products, in the City of San Jose (Agenda Item 7.1). However, we would like to see the changes outlined below.

Thank you for considering this important issue. Everyday tobacco companies are using candy- flavored products to hook kids into a dangerous addiction to nicotine. Most young people who have ever used tobacco started with a flavored product. These products often mimic popular candies, drinks, or snacks in both packaging and flavor, making them particularly appealing to youth.

We appreciate that the ordinance, as drafted, ends the sale of menthol cigarettes, which is a critical step in protecting San Jose residents.

However, we would like to see San Jose's policy match other strong jurisdictions by restricting the sale of ALL flavored tobacco products in ALL locations, including flavored hookah, premium cigars and loose-leaf tobacco. A recent study found that 80 percent of kids who have ever used tobacco products started with a flavored product and the majority of African American smokers start with menthol flavored products.

Any exemption in this policy will become a "go-to" product for youth in San Jose.

San Jose began exploring this policy in 2019. It is time to act now. We cannot afford to wait for state or federal action, San Jose residents want action. San Jose should look to the strong examples of Oakland, San Francisco and Santa Clara County to adopt a comprehensive policy that includes flavored hookah, strong compliance protocol, and language to reduce exposure to tobacco retail and marketing near youth sensitive areas.

This issue is important to our community because as a health care provider, (lung specialist), treating lung disease and lung cancer daily, patients suffering to breath and live is hard broken.

There are more medical literatures supporting the harm of favor tobacco with higher level of nicotine cause irreversible damage to the lung tissue.

As a mother of 2 kids, it is my duty to protect theme out of all harms!!!

We urge Council to adopt the ordinance and close the loopholes. It is time to end the sale ALL flavored tobacco products in San Jose and put public health over tobacco industry profit.

Thank you for your strength and commitment to protecting the health of all San Jose residents.

Sincerely,

Angela Y Lee

Sent from my iPhone

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