

**HEALTH COMMISSION
RESOLUTION NO. 17-05**

**IN SUPPORT OF PROPOSED BOARD OF SUPERVISORS ORDINANCE PROHIBITING THE SALE
OF MENTHOL AND OTHER FLAVORED TOBACCO PRODUCTS IN SAN FRANCISCO**

WHEREAS, the San Francisco Health Commission adopted a resolution in 2011 asking the US Food and Drug Administration to take action to address menthol cigarettes as a starter product and intentional targeting by the industry of African-American and other communities, leading to devastating health impacts over recent decades; and

WHEREAS, the US Food and Drug Administration has not taken action on the menthol cigarette issue after considerable deliberation; and

WHEREAS, the federal Family Smoking Prevention and Tobacco Control Act (FSPTCA), enacted in 2009, prohibited candy- and fruit-flavored cigarettes,¹ largely because these flavored products were marketed to youth and young adults,² and younger smokers were more likely to have tried these products than older smokers;³ but this legislation omitted menthol cigarettes; and

WHEREAS, the U.S. Surgeon General and Food and Drug Administration⁴ have stated that mentholated and flavored products have been shown to be “starter” products for youth who begin using tobacco⁵ and that these products help establish tobacco habits that can lead to long-term addiction;⁶ and

WHEREAS, the tobacco industry has been manipulating the dose of menthol in cigarettes to ensure the uptake and continued use of tobacco, especially by young people and other vulnerable populations for many years;⁷ and

WHEREAS, tobacco companies have used flavorings such as mint and wintergreen in smokeless tobacco products as part of a “graduation strategy” to encourage new users to start with products with lower levels of nicotine and progress to products with higher levels of nicotine;⁸ and the tobacco industry has a well-documented history of developing and marketing mentholated brands to communities of color and youth;⁹ and

WHEREAS, people aged 12 and above from communities of color are more likely to smoke mentholated cigarettes, as evidenced by the percentage of people who smoke that reported smoking mentholated cigarettes in the last month including:¹⁰

- 82.6% of Black or African Americans who smoke cigarettes;
- 53.2% of Native Hawaiians or Other Pacific Islanders who smoke cigarettes;
- 36.9% of individuals with multiracial backgrounds who smoke cigarettes;
- 32.3% of Hispanic or Latinos who smoke cigarettes;
- 31.2% of Asians who smoke cigarettes;
- 24.8% of American Indian or Alaska Natives who smoke cigarettes; and
- 23.8% of White or Caucasians who smoke cigarettes; and

WHEREAS, between 2004 and 2014 use of non-menthol cigarettes decreased among all populations, but overall use of menthol cigarettes increased among young adults (ages 18-25) and adults (ages 26+);¹¹ and a New York study found that price reduction promotions for menthol cigarettes are disproportionately targeted to youth markets;¹² and

WHEREAS, smoking mentholated cigarettes reduces the likelihood of successfully quitting smoking;¹³ and

WHEREAS, scientific studies on the impact of a national ban of menthol in cigarettes found 36.5% of menthol cigarette users would try to quit smoking if menthol were banned¹⁴ and between 300,000 and 600,000 lives would be saved by 2050;¹⁵ and

WHEREAS, in California, 64 percent of smokers start smoking by age 18, and 96 percent start smoking by age 26.¹⁶ Further, young adults ages 18 to 24 have the highest smoking prevalence of any age group in the state;¹⁷ and,

WHEREAS, since the passage of the FSPTCA in 2009, a new class of flavored products been developed and has replaced prohibited flavored cigarettes, including myriad flavors of e-cigarettes and little cigars, which grow in popularity every year, especially among youth and communities of color; and

WHEREAS, a survey conducted by the San Francisco Unified School District found that in 2015-16, 23% of 11th graders have ever tried an electronic cigarette or vaping device in the last 30 days, an increase from 16% of 11th graders in 2013-14, while cigarette use among 11th graders stayed the same at 11% ever trying a whole cigarette;¹⁸ and

WHEREAS, the California Attorney General has stated that electronic cigarette companies have targeted minors with fruit-flavored products;¹⁹ and

WHEREAS, adding flavorings to tobacco products such as little cigars, cigarillos, and smokeless tobacco can mask the natural harshness and taste of tobacco, making these products easier to use and increasing their appeal among youth;²⁰ and

WHEREAS, young people are much more likely to use candy- and fruit-flavored tobacco products, including cigars, cigarillos, and hookah tobacco, than adults;²¹ and

WHEREAS, the consumption of flavored tobacco has grown in recent years. From 1995 to 2008, sales of little cigars increased by 316 percent.²² Flavored brands (including youth-appealing types such as apple, cherry, chocolate, grape, peach, strawberry, and vanilla²³) make up nearly four-fifths of the little cigar market share.²⁴

WHEREAS, 70% of tobacco retailers within 1,000 feet of San Francisco schools sell flavored tobacco products (and nearly all sell mentholated cigarettes);²⁵ and

WHEREAS, San Francisco spends over \$380 million a year on tobacco-related costs, including medical expenses, loss of productivity, and secondhand smoke exposure;²⁶ just one measure of the significant human toll of tobacco use in the community.

RESOLVED, that the San Francisco Health Commission resolutely supports the prohibition of menthol and other flavored tobacco product sales in San Francisco with the aim of discouraging youth use and protecting the most vulnerable communities from these products; and

FURTHER RESOLVED, that the San Francisco Health Commission encourages the Board of Supervisors to extend protections to all San Franciscans that were intended in the 2009 Federal law that prohibited most flavored cigarettes with the omission of menthol cigarettes; and

FURTHER RESOLVED, that the San Francisco Health Commission strongly supports local action to protect public health and encourages a long term strategy that protects the health of San Franciscans.

I hereby certify that the San Francisco Health Commission at its meeting of June 6, 2017 date adopted the foregoing resolution.

Mark Morewitz
Health Commission Executive Secretary

¹ 21 U.S.C. § 387g.

² Carpenter CM, Wayne GF, Pauly JL, et al. 2005. "New Cigarette Brands with Flavors that Appeal to Youth: Tobacco Marketing Strategies." *Health Affairs*. 24(6): 1601–1610; Lewis M and Wackowski O. 2006. "Dealing with an Innovative Industry: A Look at Flavored Cigarettes Promoted by Mainstream Brands." *American Journal of Public Health*. 96(2): 244–251; Connolly GN. 2004. "Sweet and Spicy Flavours: New Brands for Minorities and Youth." *Tobacco Control*. 13(3): 211–212; U.S. Department of Health and Human Services. 2012. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 537, www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf.

³ U.S. Department of Health and Human Services. 2012. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 539, www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf.

⁴ Food and Drug Administration. 2011. *Fact Sheet: Flavored Tobacco Products*, www.fda.gov/downloads/TobaccoProducts/ProtectingKidsfromTobacco/FlavoredTobacco/UCM183214.pdf; U.S. Department of Health and Human Services. 2012. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 539, www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf

⁵ Hersey JC, Ng SW, Nonnemaker JM, et al. Are menthol cigarettes a starter product for youth? *Nicotine Tob Res*. 2006;8(3):403-413. doi:10.1080/14622200600670389. Wackowski O, Delnevo CD. Menthol cigarettes and indicators of tobacco dependence among adolescents. *Addict Behav*. 2007;32(9):1964-1969. doi:10.1016/j.addbeh.2006.12.023. U.S. Department of Health and Human Services Office of Disease Prevention and Health Promotion. *Preventing Tobacco Use Among Youth and Young Adults A Report of the Surgeon General*. 2012. <http://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/>.

⁶ U.S. Food and Drug Administration. Flavored Tobacco Product Fact Sheet. 2011. <http://www.fda.gov/syn/html/ucm183198>. U.S. Department of Health and Human Services Office of Disease Prevention and Health Promotion. *Preventing Tobacco Use Among Youth and Young Adults A Report of the Surgeon General*. 2012. <http://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/>.

⁷ Kreslake JM, Wayne GF, Alpert HR, Koh HK, Connolly GN. Tobacco industry control of menthol in cigarettes and targeting of adolescents and young adults. *Am J Public Health*. 2008;98(9):1685-1692. doi:10.2105/AJPH.2007.125542. U.S. Department of Health and Human Services Office of Disease Prevention and Health Promotion. *Preventing Tobacco Use Among Youth and Young Adults A Report of the Surgeon General*. 2012. <http://www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/>.

⁸ U.S. Department of Health and Human Services. 2012. *Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General*. Atlanta: U.S. National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, p. 539, www.surgeongeneral.gov/library/reports/preventing-youth-tobacco-use/full-report.pdf.

⁹ United States v. Philip Morris, 449 F. Supp. 2d 1, 71 (D.D.C. 2006) aff'd, 566 F.3d 1095 (D.C. Cir. 2009). 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(4A):10-38. doi:10.1353/hpu.2007.0120.

¹⁰ Substance Abuse and Mental Health Services Administration. *The NSDUH Report: Use of Menthol Cigarettes*. 2009. <https://perma.cc/4UG9-HUQ2>.

¹¹ Villanti AC, Mowery PD, Delnevo CD, Niaura RS, Abrams DB, Giovino DB. Changes in the prevalence and correlates of menthol cigarette use in the USA, 2004-2014. *Tob Control*. 2016;25:ii14-ii20. doi: 10.1136/tobaccocontrol-2016-053329.

¹² Waddell EN, Sacks R, Farley SM, Johns M. Point-of-Sale Tobacco Marketing to Youth in New York State. *J Adolesc Heal*. 2016;59(3):365-367. doi:10.1016/j.jadohealth.2016.05.013.

¹³ Tobacco Products Scientific Advisory Committee. *Menthol Cigarettes and Public Health: Review of the Scientific Evidence and Recommendations*. 2011.

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- <http://www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/TobaccoProductsScientificAdvisoryCommittee/UCM269697.pdf>. Food and Drug Administration. *Preliminary Scientific Evaluation of the Possible Public Health Effects of Menthol Versus Nonmenthol Cigarettes*. 2013.
www.fda.gov/downloads/ScienceResearch/SpecialTopics/PeerReviewofScientificInformationandAssessments/UCM361598.pdf.
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- ¹⁷ Chapman R. 2012. *State Health Officer's Report on Tobacco Use and Promotion in California*. California Department of Public Health, California Tobacco Control Program, p. 1, www.cdph.ca.gov/Documents/EMBARGOED%20State%20Health%20Officers%20Report%20on%20Tobacco.pdf.
- ¹⁸ San Francisco Unified School District. *California Healthy Kids Survey, 2015-16: Main Report*. San Francisco: WestEd Health & Human Development Program for the California Department of Education; San Francisco Unified School District. *California Healthy Kids Survey, 2013-14: Main Report*. San Francisco: WestEd Health & Human Development Program for the California Department of Education.
- ¹⁹ Press Release, State of California Department of Justice, Office of the Attorney General, Brown Announces Electronic Cigarette Maker's Agreement to Stop Deceptive Marketing and Sales to Minors (Aug. 3, 2010), oag.ca.gov/news/press-releases/brown-announces-electronic-cigarette-makers-agreement-stop-deceptive-marketing.
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- ²¹ King BA, Dube SR, and Tynan MA. 2013. "Flavored Cigar Smoking Among US Adults: Findings from the 2009–2010 National Adult Tobacco Survey." *Nicotine & Tobacco Research*. 15(2): 608–614; Villanti AC, Richardson A, Vallone DM, et al. 2013. "Flavored Tobacco Product Use Among U.S. Young Adults." *American Journal of Preventive Medicine*. 44(4): 388–91.
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