



Honorable Members of Long Beach City Council
411 West Ocean Blvd, 11th Floor
Long Beach, California 90802

September 30, 2019

Dear Council Members,

The Campaign for Tobacco-Free Kids is pleased to submit this letter in support of efforts in the City of Long Beach 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. We commend Long Beach 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. While California has made great strides in reducing tobacco use, tobacco use remains the number one preventable cause of premature death and disease in Long Beach and the nation, killing 480,000 Americans annually.

Prohibiting the sale of flavored tobacco products, including menthol cigarettes, in all tobacco retailers is a critical step that will help protect children living in Long Beach 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. **Nationally**, eight out of ten of current youth tobacco users have used a flavored tobacco product in the past month.¹

Menthol is the Most Popular Tobacco Flavor Among Youth

Most insidious among the flavors preferred by youth, are mint and menthol. We applaud your decision not to exempt this particular flavor 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, especially among African-Americans, and increases the overall prevalence of smoking among African Americans.
- Menthol cigarettes are marketed disproportionately to younger smokers and are disproportionately marketed per capita to African 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

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 36 percent of the market in 2017.⁴

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 gummy bear, cotton candy, peanut butter cup, cookies ‘n cream and pop rocks for e-cigarettes and chocolate, watermelon, lemonade 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. (See Appendix for examples).

As of 2017, researchers had identified more than 15,500 unique e-cigarette flavors available online.⁵ 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.”⁶ The 2016 National Youth Tobacco Survey found that 78.2 percent of middle and high school students—20.5 million youth—had been exposed to e-cigarette advertisements from at least one source, an increase from 68.9 percent in 2014.⁷

Sales of flavored cigars, meanwhile, have increased by nearly 50 percent since 2008, and flavored cigars made up more than half (52.1%) of the U.S. cigar market in 2015. 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 in Auburn.

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 81 percent of kids who have ever used tobacco products started with a flavored product. 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.

Recently released data from the 2019 National Youth Tobacco Survey shows that the youth e-cigarette epidemic continues to grow--27.5% of high school students are current e-cigarette users, a 135% increase from just two years ago.¹¹ Just like with cigarettes, menthol e-cigarette are popular among youth. 63.9% of high school e-cigarette users use menthol or mint flavored e-cigarettes, which are about as popular as fruit-flavored products.¹² Another national survey found that 97% of current youth e-cigarette users have used a flavored e-cigarette in the past month.¹³ Moreover, youth cite flavors as a major reason for their current use of non-cigarette tobacco products, with 70.3% say they use e-cigarettes "because they come in flavors I like."¹⁴

The Surgeon General has concluded that, "The use of products containing nicotine in any form among youth, including in e-cigarettes, is unsafe."¹⁵ The manufacturer of JUUL, the most popular e-cigarette, claims that each JUULpod contains as much nicotine as a pack of twenty cigarettes. Youth use of e-cigarettes also increases the risk for trying more dangerous combustible products. 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."¹⁶ Therefore, it is critical for any policy restricting sales of flavored tobacco products to include e-cigarettes.

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. More than half of youth smokers use menthol cigarettes, including seven out of ten African American youth smokers.¹⁷ The popularity of menthol flavored cigarettes is also evidenced by brand preference among youth. According to data from the National Survey on Drug Use and Health, one in five smokers ages 12-17 prefers Newport cigarettes, a heavily marketed menthol cigarette brand. Preference for Newport is even higher among African-American youth smokers (69.1 percent) because of targeted marketing by the tobacco industry.¹⁸ As noted previously, young people who initiate using menthol cigarettes are more likely to become addicted and become long-term daily smokers.¹⁹

Tobacco companies have a long history of targeting and marketing flavored tobacco products to African Americans 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 African Americans.²⁰ 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: neighborhoods with predominantly African American residents have more tobacco retailers and Newport cigarettes are priced cheaper in those neighborhoods.²¹ As a result of this targeting, 85 percent of African American smokers smoke menthol cigarettes, compared to 29 percent of white smokers.²²

Use of menthol cigarettes leads to a disproportionate health burden for African Americans. 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.²³ Lung cancer is the second most common cancer in both African American men and women, but it kills more African Americans than any other type of cancer.²⁴ Decreased cessation success due to the popularity of menthol cigarettes among African Americans likely contributes to this mortality disparity.²⁵ TPSAC estimated that by 2020, 4,700 excess deaths in the African American community will be attributable to menthol cigarettes, and over 460,000 African Americans will have started smoking because of menthol in cigarettes.

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.

Please consider a ban without any adult-only retail exemptions. These exemptions leave a loophole for youth to access flavored products, and create unnecessary enforcement headaches. Most other cities that are passing ordinances to end the sale of flavored tobacco products, are not including "adult-only" exemptions. Some cities that passed these ordinances early on, are learning this the hard way. For example, the Oakland ordinance included an exemption for adult only tobacco shops. As a result, some merchants, such as food markets, are investing large sums of money to build in-store adult-only structures, or rooms with separate entrances, which they aim to operate independently of the primary store.

In the past several years, dozens of California cities have ended the sale of flavored tobacco without exemptions for tobacco retailers, cigar or hookah bars, including: Alameda, Albany, Berkeley, Beverly Hills, Corte Madera, Half Moon Bay, Hayward, Lafayette, Larkspur, Livermore, Marin County, Portola Valley, Richmond, Sacramento, San Anselmo, San Carlos, San Francisco, San Leandro, San Pablo, San Rafael, San Mateo County, Santa Cruz, Sausalito, Yolo County.

To combat the significant increase in vaping among high school students from 2017 to 2018, the FDA announced its intention to limit sales of flavored tobacco products, excluding menthol, to age-restricted locations, such as tobacco and vape shops. **"However, the 2017 California tobacco purchase survey reported that tobacco and vape shops had the highest rate of underage sales compared with other types of tobacco retailers,"** April Roeseler, BSN, MSPH, from the California Tobacco Control Program, California Department of Public Health, Sacramento, and colleagues wrote in a research letter published in JAMA Pediatrics. "We investigated whether

disparate violations persisted in 2018 and whether the FDA’s intention to limit the sale of flavored tobacco products to age-restricted locations is adequate.”

This issue is about common sense and protecting our kids and vulnerable populations. By prohibiting the sale of all flavored tobacco products in all tobacco retail outlets, Long Beach would join over forty cities and counties in California that are already taking action to *end* the sale of flavored tobacco products. **Thank you for considering a strong and comprehensive policy without exemptions. It will save lives.**

Sincerely,

A handwritten signature in black ink that reads "Annie Tegen". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Annie Tegen, MPH
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Campaign for Tobacco-Free Kids
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Appendix

A1: Examples of Flavored Tobacco Products



A2: Examples of Menthol Marketing



Source: TrinketsandTrash.org, CounterTobacco.Org

- ¹ 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.
- ² 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>
- ³ 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.
- ⁴ U.S. Federal Trade Commission (FTC), *Cigarette Report for 2017*, 2019, https://www.ftc.gov/system/files/documents/reports/federal-trade-commission-cigarette-report-2017-federal-trade-commission-smokeless-tobacco-report/ftc_cigarette_report_2017.pdf [data for top 5 manufacturers only].
- ⁵ Zhu, S-H, et al., "Evolution of Electronic Cigarette Brands from 2013-2014 to 2016-2017: Analysis of Brand Websites," *Journal of Medical Internet Research*, 20(3), published online March 12, 2018.
- ⁶ 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.
- ⁷ Marynak, K., et al., "Exposure to Electronic Cigarette Advertising Among Middle and High School Students—United States, 2014-2016," *MMWR* 67(10): 294-299, March 16, 2018, <https://www.cdc.gov/mmwr/volumes/67/wr/pdfs/mm6710a3-H.pdf>.
- ⁸ 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.
- ⁹ 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.
- ¹⁰ 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. Chang, CM, et al., "Systematic review of cigar smoking and all cause and smoking related mortality," *BMC Public Health*, 2015.
- ¹¹ FDA, "Trump Administration Combating Epidemic of Youth E-Cigarette Use with Plan to Clear Market of Unauthorized, Non-Tobacco-Flavored E-Cigarette Products," September 11, 2019, https://www.fda.gov/news-events/press-announcements/trump-administration-combating-epidemic-youth-e-cigarette-use-plan-clear-market-unauthorized-non?utm_source=CTPEblast&utm_medium=email&utm_term=stratout&utm_content=pressrelease&utm_campaign=ctp-vaping.
- ¹² FDA, "Trump Administration Combating Epidemic of Youth E-Cigarette Use with Plan to Clear Market of Unauthorized, Non-Tobacco-Flavored E-Cigarette Products," September 11, 2019, https://www.fda.gov/news-events/press-announcements/trump-administration-combating-epidemic-youth-e-cigarette-use-plan-clear-market-unauthorized-non?utm_source=CTPEblast&utm_medium=email&utm_term=stratout&utm_content=pressrelease&utm_campaign=ctp-vaping.
- ¹³ FDA, "Modifications to Compliance Policy for Certain Deemed Products: Guidance for Industry, Draft Guidance," March 13, 2019, <https://www.fda.gov/downloads/TobaccoProducts/Labeling/RulesRegulationsGuidance/UCM633281.pdf>.
- ¹⁴ FDA, "Modifications to Compliance Policy for Certain Deemed Products: Guidance for Industry, Draft Guidance," March 13, 2019, <https://www.fda.gov/downloads/TobaccoProducts/Labeling/RulesRegulationsGuidance/UCM633281.pdf>.
- ¹⁵ HHS, *E-Cigarette Use Among Youth and Young Adults. A Report of the Surgeon General*.
- ¹⁶ 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>.
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- ¹⁸ FDA, *Preliminary Scientific Evaluation of the Possible Public Health Effects of Menthol versus Nonmenthol Cigarettes*, 2013, <http://www.fda.gov/downloads/ScienceResearch/SpecialTopics/PeerReviewofScientificInformationandAssessments/UCM361598.pdf>.
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- ²⁰ TPSAC, *Menthol Cigarettes and Public Health: Review of the Scientific Evidence and Recommendations*, July 21, 2011.
- ²¹ See e.g.,: Rodriguez, D, et al., "Predictors of tobacco outlet density nationwide: a geographic analysis," *Tobacco Control* 22(5):349-55, 2013. Lee, JG, et al., "Inequalities in tobacco outlet density by race, ethnicity and socioeconomic status, 2012, USA: results from the ASPIRE Study," *Journal of Epidemiology and Community Health* 71(5):487-492, 2017. Henriksen, L, et al., "Targeted Advertising, Promotion, and Price for Menthol Cigarettes in California High School Neighborhoods," *Nicotine & Tobacco Research* 14(1):116-21, 2012. Moreland-Russell, S, et al., "Disparities and Menthol Marketing: Additional Evidence in Support of Point of Sale Policies," *International Journal of Environmental Research and Public Health*, 10: 4571-4583, 2013.
- ²² Villanti, A., et al., "Changes in the prevalence and correlates of menthol cigarette use in the USA, 2004–2014," *Tobacco Control*, published online October 20, 2016.
- ²³ FDA, *Preliminary Scientific Evaluation of the Possible Public Health Effects of Menthol versus Nonmenthol Cigarettes*, 2013.

²⁴ 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>.

²⁵ Alexander, LA, et al., “Why we must continue to investigate menthol’s role in the African American smoking paradox,” *Nicotine & Tobacco Research* 18 (Suppl 1):S91-S101, 2016.