



**CITY OF MARTINEZ**

**CITY COUNCIL AGENDA  
September 7, 2011**

**TO:** City Council  
**FROM:** Mayor Rob Schroder  
**PREPARED BY:** Mercy Cabral, Deputy City Clerk  
**SUBJECT:** Banning Menthol in Cigarettes and Flavoring in Other Tobacco Products  
**DATE:** August 29, 2011

**RECOMMENDATION:**

Consider a resolution of support for the Food and Drug Administration banning menthol in cigarettes and flavoring in other tobacco products.

**BACKGROUND:**

The Food and Drug Administration (FDA) has the authority to issue product standards to promote public health, which can include eliminating or reducing certain ingredients in tobacco products. The FDA prohibits cigarettes from having candy, fruit and spice as their characterizing flavors because these flavors make tobacco products especially appealing to youth, and can lead to a lifetime of tobacco addiction. Menthol is exempted from this ban. In cigarettes, menthol is the only additive that is actively marketed to consumers and virtually all cigarettes contain menthol to make cigarettes more palatable.

The FDA asked the Tobacco Products Scientific Advisory Committee (TPSAC) to study the issue of menthol in tobacco and make recommendations. The Committee's recommendations to the FDA state that, "Removal of menthol cigarettes from the marketplace would benefit public health in the United States." The FDA is currently taking public comment on recommendations to remedy those impacts and is expected to issue a ruling in the coming year.

The Martinez City Council is committed to the health and well-being of its residents and is particularly concerned about preventing tobacco use among youth.

**FISCAL IMPACT:**

None.

**ACTION:**

Motion to adopt a resolution supporting the Food and Drug Administration banning menthol in cigarettes and flavoring in other tobacco products.

Attachments: Resolution and Fact Sheet

RESOLUTION NO. -11

RESOLUTION OF SUPPORT FOR FOOD AND DRUG ADMINISTRATION (FDA)  
BANNING MENTHOL IN CIGARETTES AND FLAVORING  
IN OTHER TOBACCO PRODUCTS

**WHEREAS**, mentholated and flavored tobacco products are shown to be "starter" products for youth who begin using tobacco; and

**WHEREAS**, youth who experiment with menthol cigarettes are at far greater risk of becoming regular smokers than those who experiment with non-menthol cigarettes; and

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

**WHEREAS**, the tobacco industry has a well-documented history of developing and marketing mentholated brands to racial and ethnic minorities and youth; and

**WHEREAS**, in cigarettes, menthol is the only additive that is actively marketed to consumers and virtually all cigarettes contain menthol to make cigarettes more palatable; and

**WHEREAS**, the Tobacco Industry has targeted African Americans with mentholated products and as a result nearly 83% of African American smokers smoke menthol cigarettes, compared with 24% of White smokers; and

**WHEREAS**, 71% of Lesbian, Gay, Bisexual, Transgender, Queer and Questioning (LGBTQ) smokers, particularly youth, smoke menthol cigarettes; and

**WHEREAS**, the availability of menthol cigarettes reduces cessation success, particularly among African Americans; and

**WHEREAS**, the Food and Drug Administration (FDA) has the authority to issue product standards to promote public health, which can include eliminating or reducing certain ingredients; and

**WHEREAS**, the FDA prohibits cigarettes from having candy, fruit and spice as their characterizing flavors because these flavors make tobacco products especially appealing to youth, and can lead to a lifetime of tobacco addiction; and

**WHEREAS**, menthol was exempted from this ban on candy, fruit and spice as characterizing flavors in cigarettes; and

**WHEREAS**, other tobacco products (smokeless, little cigars, hookah tobacco, dissolvable tobacco products) are exempted from this ban on candy, fruit and spice as characterizing flavors; and

**WHEREAS**, the Tobacco Products Scientific Advisory Committee (TPSAC) recommendations to the FDA state that, "Removal of menthol cigarettes from the marketplace would benefit public health in the United States;" and

**WHEREAS**, the American Cancer Society Cancer Action Network, American Heart Association, American Lung Association, American Public Health Association and American Academy of Pediatrics support a ban on menthol in tobacco products; and

**WHEREAS**, a ban on menthol could prevent as much as 600,000 smoking-related premature deaths by 2050, a third of those from the African-American community; and

**WHEREAS**, the City of Martinez is committed to the health and wellbeing of its residents and is particularly concerned about preventing tobacco use among youth.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Martinez hereby supports the U.S. Food and Drug Administration's exercise of its authority to ban the use of menthol in cigarettes and flavorings in other tobacco products in the United States.

\* \* \* \* \*

**I HEREBY CERTIFY** that the foregoing is a true and correct copy of a resolution duly adopted by the City Council of the City of Martinez at a Regular Meeting of said Council held on the 7<sup>th</sup> day of September, 2011, by the following vote:

AYES:

NOES:

ABSENT:

RICHARD G. HERNANDEZ, CITY CLERK  
CITY OF MARTINEZ



# FACT SHEET

## Flavored Tobacco Products



Flavored tobacco products have become increasingly common in the United States. These products, containing flavors like vanilla, orange, chocolate, cherry and coffee, are especially attractive to youth. They are widely considered to be “starter” products, establishing smoking habits that can lead to a lifetime of addiction. Like all tobacco products, flavored tobacco products have serious health risks and are not considered safe by the FDA.

### Youth Data

- In 2004, 22.8% of 17-year-old smokers reported using flavored cigarettes over the past month, as compared to 6.7% of smokers over the age of 25.<sup>1</sup>
- A poll conducted in March 2008 found that one in five youngsters between the ages of 12 and 17 had seen flavored tobacco products or ads, while only one in 10 adults reported having seen them.<sup>2</sup>
- According to one study of youth smokers between the ages of 13 and 18, 52% of smokers who had heard of flavored cigarettes reported interest in trying them, and nearly 60% thought that flavored cigarettes would taste better than regular cigarettes.<sup>3</sup>
- Studies of youth expectations around other flavored tobacco products like bidis and hookahs have found that young smokers report choosing flavored products over cigarettes because they “taste better” and are perceived to be “safer.”<sup>4,5</sup>

### Tobacco Company Marketing

- Industry documents have previously revealed clear patterns of designing flavored cigarettes to target youth.
- Advisors to one company developed concepts for a “youth cigarette,” including cola and apple flavors, and a “sweet flavor cigarette,” stating, “It’s a well-known fact that teenagers like sweet products. Honey might be considered.”<sup>6</sup>
- A memo from another company instructed workers to “make a cigarette which is obviously youth oriented. This could involve cigarette name, blend, flavor and marketing technique.... for example, a flavor which would be candy-like but give the satisfaction of a cigarette.”<sup>7</sup>
- Other internal documents describe sweetened products as “...for younger people, beginner cigarette smokers, teenagers . . . when you feel like a light smoke, want to be reminded of bubblegum.”<sup>8</sup>

# FACT SHEET

## Flavored Tobacco Products

### Health Effects

- All tobacco products, including flavored products, are addictive and carry serious health risks.
- An estimated 443,000 Americans die prematurely each year due to smoking and exposure to second-hand smoke.<sup>9</sup>
- More deaths are caused each year by tobacco use than by all deaths from human immunodeficiency virus (HIV), illegal drug use, alcohol use, motor vehicle injuries, suicides and murders combined.<sup>10</sup>
- Cigarette smoking causes many types of cancer, as well as heart disease and chronic lung diseases like emphysema. Smokeless tobacco products cause gum disease and cancers of the mouth.<sup>11,12</sup>

Under the Family Smoking Prevention and Tobacco Control Act, the sale of cigarettes containing certain characterizing flavors other than menthol will be illegal as of September 22, 2009. The Food and Drug Administration (FDA) is currently examining options for regulating both menthol cigarettes and flavored tobacco products other than cigarettes.

<sup>1</sup> Klein SM, Giovino GA, Barker DC, Tworek C, Cummings KM, O'Connor RJ. Use of flavored cigarettes among older adolescent and adult smokers: United States, 2004-2005. *Nicotine Tob Res.* 2008;10(7):1209-14.

<sup>2</sup> National telephone survey of teens aged 12 to 17 and adults conducted by International Communications Research (ICR), March 2008.

<sup>3</sup> American Legacy Foundation, First Look Report 17: Cigarette Preferences Among Youth--Results from the 2006 Legacy Media Tracking Online (LMTO), June 5, 2007, [http://americanlegacy.org/PDFPublications/fl\\_17.pdf](http://americanlegacy.org/PDFPublications/fl_17.pdf).

<sup>4</sup> Centers for Disease Control and Prevention, 1999. Bidi use among urban youth – Massachusetts, March-April. *Morbidity and Mortality Weekly Report* 48, 796-799.

<sup>5</sup> Primack BA, Sidani J, Agarwal AA, Shadel WG, Donny EC, Eissenberg TE. Prevalence of and associations with waterpipe tobacco smoking among U.S. university students. *Ann Behav Med* 2008 Aug;36(1):81-6.

<sup>6</sup> Marketing Innovations, "Youth Cigarette - New Concepts," Memo to Brown & Williamson, September 1972, Bates No. 170042014.

<sup>7</sup> R.J. Reynolds Inter-office Memorandum, May 9, 1974, Bates No. 511244297-4298.

<sup>8</sup> Report from R.M. Manko Assoc. to Lorillard Tobacco Co. (Aug. 1978), available at <http://tobaccodocuments.org/lor/85093450-3480.html?pattern=85093450-3480#images>.

<sup>9</sup> Centers for Disease Control and Prevention. Annual Smoking—Attributable Mortality, Years of Potential Life Lost, and Productivity Losses—United States, 2000-2004. *Morbidity and Mortality Weekly Report.* 2008;57(45):1226-1228.

<sup>10</sup> Centers for Disease Control and Prevention. Tobacco-Related Mortality, available at [http://www.cdc.gov/tobacco/data\\_statistics/fact\\_sheets/health\\_effects/tobacco\\_related\\_mortality/index.htm](http://www.cdc.gov/tobacco/data_statistics/fact_sheets/health_effects/tobacco_related_mortality/index.htm).

<sup>11</sup> U.S. Department of Health and Human Services. Reducing the Health Consequences of Smoking—25 Years of Progress: A Report of the Surgeon General. Atlanta, GA: U.S. Department of Health and Human Services, CDC; 1989.

<sup>12</sup> U.S. Department of Health and Human Services. The Health Consequences of Using Smokeless Tobacco: A Report of the Advisory Committee to the Surgeon General, 1986. Bethesda, MD: U.S. Department of Health and Human Services, Public Health Service; 1986.



# Menthol Fact Sheet

## Overview/Definition

- Menthol is an ingredient found in most cigarettes. Some cigarettes use menthol in greater quantities as a flavoring additive, and market and advertise those brands as “menthol”.<sup>1</sup> Menthol was the first major additive to cigarettes back in the 1920s and 1930s, becoming widespread in the 1950s and 1960s.<sup>2</sup>
- A chemical compound extracted from the peppermint plant, menthol is thought to help mask the harshness of cigarette smoke due to its characteristic cooling effects on the mouth and throat.<sup>2,3</sup>

## Prevalence

- National survey data showed that in 2006, 43.8% of current smokers aged 12-17 years reported using menthol cigarettes, compared to 35.6% of smokers aged 18 to 24 years and 30.6% of smokers older than 35 years.<sup>4</sup>
- Menthol products accounted for approximately one-fifth of the United States cigarette market in 2006.<sup>5</sup>
- Despite a 22% decline in overall packs sold, menthol cigarette sales remained stable from 2000 to 2005 in the United States.<sup>4</sup>

## Industry Targeting and Manipulation

- The tobacco industry has a well-documented history of developing and marketing mentholated brands to racial and ethnic minorities and youth. The court’s findings in *United States v. Philip Morris* illustrate that tobacco companies:
  - Marketed menthol cigarettes as healthier as part of their “health reassurance” campaigns;
  - Used menthol cigarettes as “starter products” directed at youth; and
  - Actively pursued the development of a significant market for menthol in minority communities, particularly African-Americans.<sup>6</sup>

### **African American Menthol Use**

- Of current smokers who are black, approximately 80% smoke menthol cigarettes.<sup>7</sup>
- Evidence from tobacco industry documents also shows that tobacco companies have specifically targeted African Americans with menthol cigarette advertising.<sup>8</sup> An analysis of cigarette ads appearing in magazines targeted to Black and Hispanic consumers found that, between 1998 and 2002, the magazine *Ebony* was 9.8 times more likely than *People* magazine to contain ads for menthol cigarettes. The Spanish language version of *People* magazine was 2.6 times more likely to contain ads for menthol cigarettes than the English language version.<sup>9</sup>
- Because African American smokers have lower cessation rates than other smokers, some researchers have theorized that menthol may make it harder to quit smoking. Evidence remains inconclusive.

### **Menthol: A Starter Product for Youth**

- Menthol cigarettes are more common among newer, younger smokers and smokers of menthols have been shown to have significantly higher scores on a scale of nicotine dependence when compared with nonmenthol smokers in the same age group.<sup>10</sup>

- Evidence from tobacco industry documents shows that the industry studied smokers' menthol preferences and manipulated menthol levels, thereby appealing to a variety of smokers, particularly adolescents and young adults.<sup>4</sup> Menthol reduces the harshness of cigarette smoke which may be more appealing to young, inexperienced smokers.<sup>4</sup>
- Studies have found that adolescent menthol smokers are more likely to report symptoms of dependence than non-menthol smokers.<sup>10-12</sup>

## **Menthol and Addiction?**

- Some have theorized, and some research suggests, that menthol may play a role in nicotine addiction and may make it harder to quit smoking, based on lower cessation rates among African American smokers and a higher likelihood of reporting nicotine dependence among adolescent menthol smokers than adolescent non-menthol smokers; however, studies have reached conflicting conclusions.<sup>10-17</sup>
- Some studies found that menthol smoking was associated with lower quit rates or higher relapse rates;<sup>13,14</sup> however, other studies found that smoking menthol cigarettes was not linked to lower quit rates.<sup>15-17</sup>

## **SOURCES**

<sup>1</sup>Wayne GF, Connolly GN. Application, function, and effects of menthol in cigarettes: A survey of tobacco industry documents. *Nicotine & Tobacco Research* 2004;6(Supplement 1):S43-S54.

<sup>2</sup>American Lung Association. From Joe Camel to Kauai Kolada- The Marketing of Candy-Flavored Cigarettes; 2006.

<sup>3</sup>Galeotti N, Di Cesare Mannelli L, Mazzanti G, Bartolini A, Ghelardini C. Menthol: a natural analgesic compound. *Neuroscience Letters* 2002;322(3):145-148.

<sup>4</sup>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 Pub Health* 2008;98(9):1685-1692.

<sup>5</sup>FTC. Federal Trade Commission Cigarette Report for 2006; 2009.

<sup>6</sup>United States v. Philip Morris, 449 F. Supp. 2d 1, 483 (D.D.C. 2006) aff'd, 566 F.3d 1095 (D.C. Cir. 2009); see also id. at 496, 509, 517, 537, 543, 554, 583, 595-96, 598-605, 623, 626-30.].

<sup>7</sup>Substance Abuse and Mental Health Services Administration Office of Applied Studies. The NSDUH Report: Cigarette Use among Blacks: 2005 and 2006. Rockville, MD. 2007.

<sup>8</sup>Gardiner P. The African Americanization of menthol cigarette use in the United States. *Nicotine & Tobacco Research* 2004;6(Supplement 1):S55-65.

<sup>9</sup>Landrine H, Klonoff EA, Fernandez S, Hickman N, Kashima K, Parekh B, et al. Cigarette advertising in Black, Latino and White magazines, 1998-2002: an exploratory investigation. *Ethnic Disparities* 2005;15(1):63-7.

<sup>10</sup>Hersey JC, Ng SW, Nonnemaker JM, Mowery P, Thomas KY, Vilsaint M, et al. Are menthol cigarettes a starter product for youth? *Nicotine & Tobacco Research* 2006;8(3):403-413.

<sup>11</sup>Wackowski O, Delnevo CD. Menthol cigarettes and indicators of tobacco dependence among adolescents. *Addictive Behaviors* 2007;32(9):1964-9.

<sup>12</sup>Collins CC, Moolchan ET. Shorter time to first cigarette of the day in menthol adolescent cigarette smokers. *Addictive Behaviors* 2006;31(8):1460-4.

<sup>13</sup>Okuyemi KS, Faseru B, Sanderson Cox L, Bronars CA, Ahluwalia JS. Relationship between menthol cigarettes and smoking cessation among African American light smokers. *Addiction* 2007;102(12):1976-86.

<sup>14</sup>Murray RP, Connett JE, Skeans MA, Tashkin DP. Menthol cigarettes and health risks in Lung Health Study data. *Nicotine & Tobacco Research* 2007;9(1):101-7.

<sup>15</sup>Fu SS, Okuyemi KS, Partin MR, Ahluwalia JS, Nelson DB, Clothier BA, et al. Menthol cigarettes and smoking cessation during an aided attempt. *Nicotine & Tobacco Research* 2008;10(3):457-62.

<sup>16</sup>Muscat JE, Richie JP, Jr., Stellman SD. Mentholated cigarettes and smoking habits in whites and blacks. *Tobacco Control* 2002;11:368-371.

<sup>17</sup>Hyland A, Garten S, Giovino GA, Cummings KM. Mentholated cigarettes and smoking cessation: findings from COMMIT. Community Intervention Trial for Smoking Cessation. *Tobacco Control* 2002;11(2):135-139.