October 30, 2018

Marin County Board of Supervisors
3501 Civic Center Drive
San Rafael, CA 94903

SUBJECT: Request to conduct the first reading of the proposed ordinance adding Chapter 5.75 of the Marin County Code prohibiting the sale or offer for sale of flavored tobacco products and amending all existing Marin County Code Sections that define “Tobacco Product”

Dear Supervisors:

RECOMMENDATIONS:
1. Request clerk to conduct first reading by title only of the proposed ordinance adding Chapter 5.75 of the Marin County Code prohibiting the sale or offer for sale of flavored tobacco products and amending all existing Marin County Code Sections that define “Tobacco Product”.

2. Schedule merit hearing for November 6, 2018 at 10:30 a.m.

SUMMARY: Tobacco use remains the leading cause of preventable death in the United States, killing more than 480,000 people each year.\(^1\) It causes or contributes to many forms of cancer, as well as heart and respiratory diseases, among other health disorders.\(^2\) Tobacco use remains a public health crisis of the first order, in terms of the human suffering and loss of life it causes, the financial costs it imposes on society and the burdens it places on our health care system.

Each day, about 2,500 children in the United States try their first cigarette; and another 400 children under 18 years of age become new regular, daily smokers.\(^3\) 81% of youth who have ever used a tobacco product report that the first tobacco product they used was flavored.\(^4\) Flavored tobacco products promote youth initiation of tobacco use and help young occasional smokers to become daily smokers by reducing or masking the natural harshness and taste of tobacco smoke and thereby increasing the appeal of tobacco products.\(^5\)

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5. Carpenter CM, Wayne GF, Pauly JL, Koh HK, Connolly GN. New cigarette brands with flavors that
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 tobacco products with lower levels of nicotine and progress to products with higher levels of nicotine.\(^6\) It is therefore unsurprising that young people are much more likely to use menthol-, candy- and fruit-flavored tobacco products than adults, including not just cigarettes but also cigars, cigarillos, and hookah tobacco.\(^7\) Data from the National Youth Tobacco Survey indicate that more than two-fifths of U.S. middle school and high school smokers report using flavored little cigars or flavored cigarettes.\(^8\) In U.S. Centers for Disease Control and Prevention has reported a more than 800% increase in electronic cigarette use among middle school and high school students between 2011 and 2015.\(^9\)

Nicotine solutions, which are consumed via electronic smoking devices such as electronic cigarettes are sold in thousands of flavors that appeal to youth, such as cotton candy and bubble gum.\(^10\)

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Tobacco is not safe in any form, in any amount, or at any age, for the user and for those exposed to it. Policies to protect the community from the harmful health, environmental and societal effects of tobacco should include protections for all its members, and not leave anyone behind. A recent study showed that use of electronic cigarettes doubled the risk of heart attacks.\(^\text{11}\)

Should your Board adopt the proposed Ordinance at the upcoming merit hearing, the sale or offer for sale, by any person or Tobacco Retailer of any Flavored Tobacco Product would be prohibited and the definition of “Tobacco Products” would be clarified and include electronic devices. If adopted, the Ordinance would be effective December 6, 2018, but its provisions would not become enforceable until July 1, 2019 for any person or Tobacco Retailer that is not a Tobacco Store, or January 1, 2020 for any Tobacco Store already lawfully operating.

**COMMUNITY BENEFITS:** Youth and young adults use flavored tobacco and vaping products more than any other age groups. Decreases in youth smoking initiation rates and youth smoking rates overall are very likely effects of this policy, given that flavor tobacco plays a significant role in influencing tobacco use or experimentation among youth. Flavored products are often the first tobacco products youth and young adults use. By decreasing access to these products, younger members of the community will benefit from not being exposed to the addictive effects of nicotine and the harmful chemicals in these products. A ban on the sale of menthol tobacco products has the potential to address further inequities in health and social outcomes for vulnerable youth, low socio-economic status populations, and diverse communities who have historically been the target of marketing of these products by industry.

The merit hearing to consider this proposed ordinance will be held on November 6, 2018 at 10:30 a.m.

**FISCAL IMPACT:** There is no fiscal impact associated with this proposed action.

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\text{REVIEWED BY:} & \text{County Administrator} & \text{[ X ]} \\
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\text{Department of Finance} & \text{[ ]} & \text{[X]} \\
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\text{County Counsel} & \text{[ X ]} & \text{[ ]} \\
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\text{Human Resources} & \text{[ ]} & \text{[X]} \\
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N/A

Sincerely,

Grant Nash Colfax, MD
Director

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