

KATE SNYDER (MAYOR)
ANNA TREVORROW (1)
VICTORIA L. PELLETIER (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

MARK N. DION (5)
APRIL FOURNIER (A/L)
PIOUS ALI (A/L)
ROBERTO RODRÍGUEZ (A/L)

CITY COUNCIL MEETING - FEBRUARY 7, 2022 AT 5:00 PM

The Portland City Council will hold a City Council Meeting remotely using Zoom. The Honorable Kate Snyder, Mayor, will preside.

To submit written public comment on an agenda item, email publiccomment@portlandmaine.gov. Submissions must be received by 12:00 pm the day of the Council meeting to guarantee their inclusion in the agenda packet. All submissions must include the commenter's name and legal address. To help ensure your comment is submitted for the correct item, please include the order number (see below).

ZOOM INFORMATION:

This meeting will take place remotely using Zoom.

This meeting will be held remotely pursuant to the Remote Meeting Policy adopted by the Portland City Council and as authorized under 1 M.R.S. 403-B because of the existence of an emergency or urgent issue that requires the committee to meet by remote methods. Allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend live, a recording will be available in the [Agenda Center](#) following the meeting.

For public comment, you will need to use the "raise your hand" feature. To raise your hand via the telephone, please hit *9. You will be unmuted by the host when it is time for public comment.

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PLEDGE OF ALLEGIANCE:

ROLL CALL:

ANNOUNCEMENTS:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Approval of the draft January 19, 2022 City Council Meeting Minutes.

PROCLAMATIONS:

Proclamation 13-21/22 Recognizing Black History Month - Sponsored by Kate Snyder, Mayor

LICENSES:

Order 139-21/22 Granting Municipal Officers' Approval of Port City Holdings LLC, dba Portland Lobster Company. Application for Class III & IV FSE with Outdoor Entertainment and Outdoor Dining on Private Property at 184 Commercial Street - Sponsored by Danielle West, Interim City Manager

Application was filed on 1/19/22. New City and State applications. New owner of an existing business.

Five affirmative votes are required for passage after public comment.

Order 140-21/22 Granting Municipal Officers' Approval of Porthole Hospitality LLC, dba The Porthole Restaurant & Pub. Application for Class XI Restaurant/Lounge with Combined Entertainment and Outdoor Dining on Private Property at 20 Custom House Wharf - Sponsored by Danielle West, Interim City Manager

Application was filed on 12/30/21. New City and State applications. New owner of an existing business.

Five affirmative votes are required for passage after public comment.

RESOLUTIONS:

Resolve 7-21/22 Joining the Community Resilience Partnership - Sponsored by the Sustainability and Transportation Committee, Councilor Andrew Zarro, Chair

During its last legislative session, the Maine State Legislature appropriated \$4.5 million dollars to support community resilience projects. To distribute the funds, Governor Mills assigned the Governor's Office of Policy, Innovation, and the Future to create a Community Resilience Partnership to support Maine towns and cities in their efforts to become more resilient in the face of climate change. In order to join the partnership and become eligible for the funds, municipalities must conduct a community resilience self assessment and pass a resolution endorsing participation. City staff presented the community resilience self-assessment to the Sustainability and Transportation Committee on January 12. Committee members as well as members of the public had an opportunity to comment on the assessment and staff recommended short-term actions. Following the discussion, the Committee endorsed a resolution supporting the City's membership in the Community Resilience Partnership.

Five affirmative votes are required for passage after public comment.

UNFINISHED BUSINESS:

Order 89-21/22 Amendment to the Portland City Code Chapter 18 Re: Bedford Park renamed Noyes Park - Sponsored by Danielle West, Interim City Manager

This Order would rename Bedford Park Noyes Park in recognition of the family that originally donated the land to the City to create this park in 1927. This request was made by members of the Noyes family and is supported by City staff.

Staff research determined that the name "Bedford Park" began to be used in the 1950s, but their research did not determine why or how that change was made. Additional information on the history of this property and the research conducted by staff can be found in the accompanying staff memo.

This item must be read on two separate days. It received its first reading on November 1, 2021. On November 15, 2021 the City Council voted (8-0) to postpone this item to the February 7, 2022 City Council Meeting. Public comment was taken on this item on November 15, 2021, so no additional public comment is required. Five affirmative votes are required for passage.

Written Public Comment on Order 89-21/22

Order 137-21/22 Approving and Appropriating a Federal Aviation Administration Airport Improvement Program Federal Fiscal Year 2022 Entitlement and Discretionary Grant - Sponsored by Danielle P. West, Interim City Manager

The Federal Aviation Administration issues grants to fund eligible safety and capacity projects at airports nationwide through the Airport Improvement Program (AIP). This program is funded through federal taxes on commercial air fares and on aviation fuel. The amount of entitlement funding allocated to each airport is based on the annual number of enplaned commercial passengers the airport handled in the prior calendar year. Due to the pandemic, the FAA is allowing entitlement funds to be based on 2019 passenger enplanements since for most airports, including the Jetport, 2019 passenger enplanements were significantly higher than 2020. For federal fiscal year 2022, the Portland International Jetport will be allocated AIP entitlement funding totaling \$4.15 million based upon 1,088,728 enplaned passengers in calendar year 2019. In addition to entitlement funding, the Jetport is also seeking AIP discretionary funding of \$8.24 million in federal fiscal year 2022. The full AIP grant of \$12.39 million combined with \$1.38 million in matching funds split equally between the Jetport and the state of Maine will fund the total \$13.77 million cost to rehabilitate the Jetport's primary runway 11/29.

This item must be read on two separate days. It received its first reading on January 19, 2022. Five affirmative votes are required for passage after public comment.

Order 138-21/22 Amendment to Portland City Code Chapter 17 Re: Sale of Flavored Tobacco Products Prohibited - Sponsored by the Health & Human Services and Public Safety Committee, Councilor Tae Chong, Chair

The Health & Human Services and Public Safety Committee met on November 9, 2021 and voted 3 - 0 to recommend passage to the full Council.

The amendment would define and ban the sale of flavored tobacco and nicotine products, including natural, synthetic, and menthol tobacco products, with the ban enforced by the City's Public Health Director.

The Health & Human Services Committee also voted that the amendment should be effective June 1, 2022 to be consistent with one approved by the Bangor City Council. Bangor, Maine is the first municipality in the state of Maine to adopt a full flavor ban ordinance. Additionally, this will give ample time for the Portland Public Health's Tobacco Prevention Team to develop and disseminate a retailer campaign and other educational resources.

This item must be read on two separate days. It received its first reading on January 19, 2022. Five affirmative votes are required for passage after public comment.

Written Public Comment on Order 138-21/22

ORDERS:

Order 141-21/22 Extending the Face Covering Mandate to March 7, 2022 - Sponsored by Mayor Kate Snyder

By Order 131-21/22, on January 3, 2022, the City Council adopted a face covering mandate that was effective on January 10, 2022. The masking requirement was aimed at slowing the spread of Covid-19.

Section 17-143 of the ordinance anticipates that the Council will regularly revisit the masking requirement and review continued need for it every 30 days. Approval of the order attached to this item would be based on a determination that the face covering ordinance should remain in effect and, on that basis, would extend the mandate to March 7, 2022, when the City Council meets and would be subject to review once again.

Five affirmative votes are required for passage after public comment.

Written Public Comment on Order 141-21/22

Order 142-21/22 Approving a Three-Year Agreement with Cumulous Global for Google Workspace - Sponsored by Danielle P. West, Interim City Manager

The City of Portland has been working with Cumulous Cloud (dba Google Workspace) for several years, and the latest contract expired in December 2021. The vendor has given the City until February 28, 2022 to approve a new contract. Services provided in this contract include Gmail, Google Drive, Google calendar, Google Meet, and more.

This is a three-year agreement (calendar years 2022, 2023, and 2024) with a total cost of \$421,000. Funding to satisfy this contract will be requested in budgets for fiscal years

2023, 2024, and 2025. This agreement does not contain a termination for convenience option as required by Chapter 2 of the City Code, and must therefore be approved by the City Council.

This item must be read on two separate days. Staff is requesting that the second reading be waived, which requires seven affirmative votes. If the second reading is waived, five affirmative votes are required for passage after public comment.

Order 143-21/22 Approving the Collective Bargaining Agreement with the American Federation of State, County and Municipal Employees (AFSCME) Local 481-07 Supervisors - Sponsored by Danielle West, Interim City Manager

City staff has reached a tentative three (3) year agreement with AFSCME Supervisors representing approximately 38 supervisors and foremen. The tentative agreement is within guidance received from Council on July 27, 2021.

The parties have tentatively agreed to a three (3) year contract with general wage increases as follows:

2% effective retroactive to July 4, 2021

2.5% effective July 3, 2022

3% effective July 2, 2023

In addition, the City has agreed to implement a longevity step at sixteen plus (16+) years upon Council vote of approval of the new contract and a twenty plus (20+) year step effective July 3, 2022. The City will also implement Earned Paid Leave in accordance with 26 M.R.S. Sec 637.

Other economic items include:

- Adding Juneteenth as a recognized holiday and changing Columbus Day to Indigenous People's Day
- Adding \$.10 per hour increase to shift differentials
- Increase to standby pay
- Adding Fleet Services supervisors & foreman to the uniform rental agreement

The contract term is July 2, 2021 through June 30, 2024. The total direct cost of the general wage increase and other economic impacts is approximately \$370,000.00. Other language changes which do not have a financial impact have also been agreed to. The Supervisors members have ratified the three (3) year agreement.

This item must be read on two separate days. This is its first reading.

AMENDMENTS:

Order 144-21/22 Amendment to the Portland City Code Chapter 17 Re; Change to Date of Review of Mask Mandate - Sponsored by Mayor Kate Snyder

This amendment to the face covering mandate in effect now in Portland would shift the timing for City Council review of the ordinance to better coincide with the City Council's meeting schedule. It changes the review period to occur at the first Council meeting of

every month until such time as the ordinance is repealed.

This item must be read on two separate days. Because this change will not impact members of the public and relates only to the Council's own process and scheduling, Staff is requesting that the second reading be waived, which requires seven affirmative votes. Five affirmative votes are required for passage after public comment.

Order 145-21/22 Amendment to the Portland City Code Chapter 33 Re: Hazard Pay in Effect during Mask Mandate - Sponsored by Councilor Victoria Pelletier

This amendment to the Portland City Code would institute a "Hazard Pay" of 1.5 times the City's minimum wage for work performed when the City of Portland's Public Face Covering Mandate (Portland City Code Chapter 17, Article XII) is in effect. This amendment would be retroactive to February 7, 2022.

This item must be read on two separate days. This is its first reading.

Written Public Comment on Order 145-21/22

6:00 P.M. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS:

ZOOM INFORMATION:

This meeting will take place remotely using Zoom.

Virtual meetings are allowed using emergency legislation approved by LD 2167; 1 M.R.S. §403A, that authorizes cities and towns to conduct meetings online. Allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend live, a recording will be uploaded to portlandmaine.gov/livestream the next day.

For public comment, you will need to use the "raise your hand" feature. To raise your hand via the telephone, please hit *9. You will be unmuted by the host when it is time for public comment.

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253 215 8782 or +1 346 248 7799**

Webinar ID: 818 1393 6988

Passcode: 112769

International numbers available: <https://us02web.zoom.us/j/81813936988>

PLEDGE OF ALLEGIANCE:

ROLL CALL:

Mayor Snyder called the meeting to order at 5:00 PM (All Councilors Present).

ANNOUNCEMENTS:

Councilor Chong thanked Ryan Beaulieu of UniFirst for responding to our call for help with masks.

Councilor Pelletier announced that she will be looking to get Hazard Pay back on the City Council Agenda and to schedule a workshop.

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Approval of the draft January 3, 2022 City Council Meeting Minutes

Motion was made by Councilor Ali and seconded by Councilor Chong for approval of the January 3, 2022 City Council meeting minutes. Passage 9-0.

LICENSES:

Order 133-21/22 Granting Municipal Officers' Approval of Mack Bar Inc, dba Blackstone's. Application for Class A Lounge with Indoor Entertainment at 6 Pine Street - Sponsored by Danielle West, Interim City Manager

Motion was made by Councilor Fournier and seconded by Councilor Chong for passage. Passage 9-0.

Order 134-21/22 Granting Municipal Officers' Approval of HTLV Portland TRS LLC, dba The Press Hotel. Application for Class IA Inn (41+ rooms) with Indoor Entertainment at 119 Exchange Street - Sponsored by Danielle West, Interim City Manager

Motion was made by Councilor Chong and seconded by Councilor Zarro for passage. Passage 9-0.

COMMUNICATIONS:

COM 12-21/22 Homelessness and Emergency Shelter Update by Kristen Dow, Health & Human Services Director

As a communication this item requires no public comment or formal Council action.

UNFINISHED BUSINESS:

Order 88-21/22 Amendment to Portland City Code Chapter 15 Re: Emergency Shelter License Requirements - Sponsored by the Health & Human Services and Public Safety Committee, Tae Chong, Chair

Motion was made by Councilor Trevorrow and seconded by Councilor Ali to postpone Order 88 to the June 6, 2022 City Council meeting. Passage 9-0.

Written Public Comment on Order 88-21/22

Order 132-21/22 Amendment of Portland City Code Chapter 14 Re: Eastern Waterfront Port Zone Marina Food Service - Sponsored by the Planning Board, Brandon Mazer, Chair

Motion was made by Councilor Ali and seconded by Councilor Chong for passage. Motion fails 4-5 (Fournier, Rodriguez, Zarro, Trevorrow, Pelletier).

Motion was made by Councilor Zarro and seconded by Councilor Rodriguez to postpone Order 132 indefinitely. Passage 5-4 (Dion, Ali, Chong, Snyder).

Written Public Comment on Order 132-21/22

ORDERS:

Order 135-21/22 Adopting the 2022 Cumberland County Hazard Mitigation Plan - Sponsored by Danielle P. West, Interim City Manager

Motion was made by Councilor Fournier and seconded by Councilor Zarro for passage. Passage 9-0.

Order 136-21/22 Accepting the 2021 Annual Land Bank Report - Sponsored by Danielle P. West, Interim City Manager

Motion was made by Councilor Chong and seconded by Councilor Fournier for passage. Passage 9-0.

Order 137-21/22 Approving and Appropriating a Federal Aviation Administration Airport Improvement Program Federal Fiscal Year 2022 Entitlement and Discretionary Grant - Sponsored by Danielle P. West, Interim City Manager

This is its first reading.

AMENDMENTS:

Order 138-21/22 Amendment to Portland City Code Chapter 17 Re: Sale of Flavored Tobacco Products Prohibited - Sponsored by the Health & Human Services and Public Safety Committee, Councilor Tae Chong, Chair

This is its first reading.

Motion was made by Mayor Snyder and seconded by Councilor Ali to adjourn. Passage 9-0 at 8:36 PM.

A TRUE RECORD

Katherine L. Jones, City Clerk

Written Public Comment on Order 138-21/22

6:00 P.M. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS:

**CITY OF PORTLAND
IN THE CITY COUNCIL**

PROCLAMATION RECOGNIZING BLACK HISTORY MONTH 2022

WHEREAS, African people were involuntarily brought to the shores of what is now the continental United States as early as 1526; and

WHEREAS, peoples brought forcibly to the United States of America from Sub-Saharan Africa and their descendents were enslaved by law until the Emancipation Proclamation of 1862, and subsequently faced the injustices of lynch mobs, Jim Crow-era segregation laws, and the denial of their fundamental human rights; and

WHEREAS, the descendants of enslaved Africans in the United States of America are known as Black Americans or African Americans; and

WHEREAS, Black Americans have come out from the adversity of their past to make significant contributions to American life and society; and

WHEREAS, the month of February is officially celebrated as Black History Month, which dates back to 1926 when Dr. Carter G. Woodson conceived of setting aside a special week in February to recognize the heritage and achievements of Black Americans; and

WHEREAS, countless Black Americans throughout the City's history contributed to making Portland the welcoming place it is today; and

NOW, THEREFORE, BE IT RESOLVED, that I, Kate Snyder, Mayor of the City of Portland, Maine and members of the City Council do hereby:

- 1) recognize the significance of Black History Month as a time to acknowledge and celebrate the contributions of Black Americans in our nation's history and encourage the continued annual celebration of Black History Month to provide opportunities for all Portland's residents to learn, examine, and better understand how history has shaped this nation; and
- 2) recognize the ways in which the City of Portland's ethnic and racial diversity enriches and strengthens our community; and
- 3) encourage all centers of education in the City of Portland to include in their year-round educational curriculum the history and contributions of Black Americans in Portland, the United States, and around the world.

Signed and sealed this 7th day of February, 2022



**Kate Snyder, Mayor
City of Portland**

MEMORANDUM
City Council Agenda Item

FROM:

DATE: January 18, 2022

SUBJECT: Order 139-21/22 Granting Municipal Officers' Approval of Port City Holdings LLC, dba Portland Lobster Company. Application for Class III & IV FSE with Outdoor Entertainment and Outdoor Dining on Private Property at 184 Commercial Street - Sponsored by Danielle West, Interim City Manager

SPONSOR: The Mayor, City Manager, City Clerk, Corporation Counsel, the Planning Board, or up to three (3) members of the Council shall sponsor any orders or other items. If sponsored by a Council Committee, please include the date the committee met and the results of the vote.

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No If action cannot be taken at a later date, please explain why

PRESENTATION: Please list the presenter(s), type, and length of presentation

I. SUMMARY

II. AGENDA DESCRIPTION

Application was filed on 1/19/22. New City and State applications. New owner of an existing business.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

Background information that will not appear in the Agenda Description

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

Please indicate whether or not there is a financial impact. Please note that per Council Rule 12, this form must have "a separate fiscal impact statement memo attached if the impact of the item is \$50,000 or more in a given fiscal year. This memo shall include details and information describing the fiscal impact including, but not limited to, projected costs, revenues or savings over a three (3) year period and/or any potential impacts on the City tax levy."

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Portland Lobster Co

Prepared by:

Date: 01/18/2022

KATE SNYDER (MAYOR)
ANNA TREVORROW (1)
VICTORIA L. PELLETIER (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

**CITY OF
PORTLAND**
IN THE CITY COUNCIL

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
ROBERTO RODRÍGUEZ (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

**Port City Holdings LLC, dba Portland Lobster Company. Application for Class III & IV
FSE with Outdoor Entertainment and Outdoor Dining on Private Property at 184
Commercial Street**

MEMORANDUM
City Council Agenda Item

FROM:

DATE: January 18, 2022

SUBJECT: Order 140-21/22 Granting Municipal Officers' Approval of Porthole Hospitality LLC, dba The Porthole Restaurant & Pub. Application for Class XI Restaurant/Lounge with Combined Entertainment and Outdoor Dining on Private Property at 20 Custom House Wharf - Sponsored by Danielle West, Interim City Manager

SPONSOR: The Mayor, City Manager, City Clerk, Corporation Counsel, the Planning Board, or up to three (3) members of the Council shall sponsor any orders or other items. If sponsored by a Council Committee, please include the date the committee met and the results of the vote.

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No If action cannot be taken at a later date, please explain why

PRESENTATION: Please list the presenter(s), type, and length of presentation

I. SUMMARY

II. AGENDA DESCRIPTION

Application was filed on 12/30/21. New City and State applications. New owner of an existing business.

Five affirmative votes are required for passage after public comment.

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Background information that will not appear in the Agenda Description

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V. FINANCIAL IMPACT

Please indicate whether or not there is a financial impact. Please note that per Council Rule 12, this form must have "a separate fiscal impact statement memo attached if the impact of the item is \$50,000 or more in a given fiscal year. This memo shall include details and information describing the fiscal impact including, but not limited to, projected costs, revenues or savings over a three (3) year period and/or any potential impacts on the City tax levy."

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Porthole Restaurant

Prepared by:

Date: 01/18/2022

KATE SNYDER (MAYOR)
ANNA TREVORROW (1)
VICTORIA L. PELLETIER (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

**CITY OF
PORTLAND**
IN THE CITY COUNCIL

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PIOUS ALI (A/L)
ROBERTO RODRÍGUEZ (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

**Porthole Hospitality LLC, dba The Porthole Restaurant & Pub. Application for Class XI
Restaurant/Lounge with Combined Entertainment and Outdoor Dining on Private
Property at 20 Custom House Wharf**

MEMORANDUM
City Council Agenda Item

FROM: Troy Moon, Sustainability Coordinator

DATE: January 18, 2022

SUBJECT: Resolve 7-21/22 Joining the Community Resilience Partnership - Sponsored by the Sustainability and Transportation Committee, Councilor Andrew Zarro, Chair

SPONSOR: The Sustainability and Transportation Committee, Councilor Andrew Zarro, Chair.
(January 12, 2022 / 3-0)

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading 2/7/2022

Final Action 2/7/2022

Can action be taken at a later date: Yes Action could be taken during the 2nd meeting in February and staff would still have time to submit a grant application.

PRESENTATION: Troy Moon, Sustainability Director, will be present to answer any questions.

I. SUMMARY

The proclamation allows the City of Portland to join the State of Maine's Community Resilience Partnership which will allow the City to apply for grant funds to support community resilience projects.

II. AGENDA DESCRIPTION

During its last legislative session, the Maine State Legislature appropriated \$4.5 million dollars to support community resilience projects. To distribute the funds, Governor Mills assigned the Governor's Office of Policy, Innovation, and the Future to create a Community Resilience Partnership to support Maine towns and cities in their efforts to become more resilient in the face of climate change. In order to join the partnership and become eligible for the funds, municipalities must conduct a community resilience self assessment and pass a resolution endorsing participation. City staff presented the community resilience self-assessment to the Sustainability and Transportation Committee on January 12. Committee members as well as members of the public had an opportunity to comment on the assessment and staff recommended short-term actions. Following the discussion, the Committee endorsed a resolution supporting the City's membership in the Community Resilience Partnership.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

Joining the Community Resilience Partnership advances the Council's climate goals by allowing the City to receive grant funds from the Governor's Office of Policy, Innovation, and the Future for community resilience projects.

V. FINANCIAL IMPACT

Joining the Climate Resilience Partnership will allow the City to apply for grants of up to \$50,000 to support resilience projects.

VI. STAFF ANALYSIS AND BACKGROUND

VII. RECOMMENDATION

Staff recommends passage.

VIII. LIST ATTACHMENTS

1. Resolve Joining Community Resilience Partnership 2.7.2022

Prepared by:

Troy Moon, Sustainability Coordinator

Date: 01/18/2022

KATE SNYDER (MAYOR)
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**CITY OF PORTLAND
IN THE CITY COUNCIL**

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ROBERTO RODRÍGUEZ (A/L)

RESOLUTION JOINING THE COMMUNITY RESILIENCE PARTNERSHIP

WHEREAS, the City of Portland has completed the Community Resilience Partnership’s Community Resilience Self-Assessment and List of Community Actions, and held a community workshop, held as part of the Sustainability and Transportation Committee meeting on January 12, 2022, which prioritized the following action areas:

- Electrification of homes and businesses;
- Electrification of transportation;
- Revising the land use code to support goals established by One Climate Future and Plan 2030;
- Implementing Climate Resilience Overlay Zones described in One Climate Future; and
- Supporting the Portland Fish Exchange as the State’s largest landing location for ground fish; and

WHEREAS, the City of Portland experiences coastal flooding, intense rainstorms, high heat emergencies, and other natural hazards, and it seeks to better prepare for future conditions; and

WHEREAS, planning for community and infrastructure resilience will protect people, preserve businesses and the local economy, and reduce the impact and costs of natural disasters; and

WHEREAS, investing in energy efficiency and weatherization improvements is proven to lower municipal electricity expenses and make buildings more comfortable for employees and visitors; and

WHEREAS, the Gulf of Maine is warming 99% faster than other oceans around the world, and ocean acidification and warming ocean temperatures pose a serious economic and cultural risk to Maine maritime industries, heritage, and tourism; and

WHEREAS, shifting seasonal temperature and precipitation patterns threaten local natural ecosystems, economic activity such as fishing, tourism and seasonal recreation, and public health due to increased incidence of heat-related illness and tick-borne illnesses such as Lyme disease; and

WHEREAS, the City of Portland has demonstrated leadership in reducing energy use and greenhouse gas emissions, and increasing the resilience of people, infrastructure, and businesses; and

WHEREAS, the City of Portland's climate action plan, *One Climate Future*, seeks to put Portland on a trajectory to decrease greenhouse gas emissions 80% by 2050, and

WHEREAS, in November 2019 the City of Portland declared a Climate Emergency and directed staff to create plans to prioritize actions to dramatically reduce emissions by 2030;

NOW, THEREFORE, BE IT RESOLVED, the City of Portland commits to participating in the Community Resilience Partnership, which supports community leadership in reducing greenhouse gas emissions and increasing resilience to extreme weather and climate change impacts; and

BE IT FURTHER RESOLVED, the City of Portland designates the Sustainability Director to coordinate planning, implementation, and monitoring of energy and resilience projects and to be the primary point of contact to the Community Resilience Partnership.



CITY OF PORTLAND
Parks, Recreation & Facilities Department
Ethan Hipple, Director

TO: Mayor Kate Snyder and Members of the City Council
FROM: Ethan Hipple, Director of Parks, Recreation & Facilities
SUBJECT: Proposal to Rename Bedford Park as “Noyes Park”
DATE: 10/22/21

The Council is asked to consider the renaming of Bedford Park as “Noyes Park”. This change requires an amendment of Chapter 18 of City Code, and therefore Council approval.

Our Department has reviewed this proposed name change, which was requested by members of the Noyes family, and we have sought historical context from local historian Herb Adams and City Clerk Katherine Jones. Based on our research, we recommend that this name change be approved.

The parcel currently named Bedford Park is the triangular parcel of land currently bounded by Deering Ave, Bedford St and the discontinued section of Brighton Ave (adjacent to the University of Southern Maine campus).

It was sold to the City for \$7,215.59 in 1927 by the Noyes family. From the 1920s to sometime in the 1950s it was referred to as Noyes Park in various City guides, newspaper articles, and records. Sometime in the 1950s, the parcel became known as Bedford Park and has been named that ever since. Park names are typically approved by City Council and listed in Chapter 18 of City Code.

In the fall of 2021, City staff were approached by Anna and Henri Benoit, descendants of the Noyes family, about renaming Bedford Park as Noyes Park.

Since we were approached by the Noyes family, our Department has conducted the following research:

- Reviewed purchase and sale agreements (attached)
- Reviewed written history of Noyes and Bedford Park provided by local historian and SMCC professor Herb Adams.
- Reviewed Council meeting agendas and minutes from the 1940s and 1950s to learn if there was ever an official renaming of the park, or if it simply happened naturally. After an exhaustive search by City Clerk Katherine Jones, no records were produced that show an official renaming of the park.
- Reviewed Chapter 18 of City Code to find when exactly the name changed. There was no conclusive record of when the name changed. All available Chapter 18 records refer to the parcel as Bedford Park.
- Review by Public Works Archivist George Carhart. George produced two additional City maps from the 1930's showing plans with the parcel named “Noyes Park”
- Review by City Arborist Jeff Tarling (and Departmental Park Historian): The parcel has been referred to as Bedford Park as long as Jeff can remember, and he was unaware of any official name change from Noyes Park to Bedford Park.

Additionally, Historian Herb Adams provided the following background information on the Noyes family (paraphrased):

The Noyes Family are direct descendants of the Deering Family (almost all the current Noyes siblings have the middle name Deering) that gave Deering Oaks to old Portland, and gave their name to the Town of Deering which was absorbed into Portland in 1899. Deering Ave and Deering Streets are named for them as well. They are



CITY OF PORTLAND
Parks, Recreation & Facilities Department
Ethan Hipple, Director

related to the Fessendens of Portland (for his principled abolitionist stand and personal integrity, US Sen. William Pitt Fessenden has an honored place in JFK's "Profiles In Courage"). The Deerings and Fessendens were early and ardent Maine abolitionists.

The Noyes/Deering family also sold the land to UMaine (then UMP) where the modern Luther Bonney Hall stands, the very site of their honored and ancient family mansion, because they wanted the young University to thrive and not leave Portland.

Sincerely,

Ethan Hipple

Director, Parks, Recreation and Facilities Department

212 Canco Rd, Suite A

Portland, Maine 04103

207-808-5400

ehipple@portlandmaine.gov

Order 89-21/22

Motion to postpone to February 7, 2021: 8-0 on 11/15/2021

KATE SNYDER (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 18
Re: BEDFORD PARK RENAMED NOYES PARK**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

- 1. That Section 18-11 of the Portland City Code is hereby amended to read as follows:*

Sec. 18-11. Parks and Public Grounds Dedicated. The following parks and public grounds are hereby subject to the provisions within this Article:

Andrews Square;
Back Cove Park and Trail;
Barrow's Park/Baxter Sundial;
Bayside Park/Stone Street Playground;
Bayside Trail;
Baxter Pines;
Baxter Woods;
~~Bedford~~ Noyes Park;
Bell Buoy Park;
Belmeade Park;
Boothby Square;
Boyd Street Gardens;
Bramhall Square;
Capisic Pond Park;
Caldwell Square;
Clark Street Park;
Congress Square (specifically the remaining 1/3 of Congress Square);
Clark Street Playground;
Deering Oaks Park;
Dougherty Field;
Eastern Promenade Park(including East End Beach and Trail);
Fessenden Park;

Fort Allen Park;
 Fort Gorges;
 Fort Sumner Park;
 Fox Field/Kennedy Park;
 Harborview View and Tate-Tyng Park and Playground;
 Heseltine Park;
 Lincoln Park;
 Longfellow Park;
 Longfellow Square;
 Lobsterman Park;
 Marada Adams Playground;
 Martin's Point Park;
 Monument Square;
 Munjoy South Playground;
 Nason's Corner Park;
 Payson Park;
 Peppermint Park;
 Pedro Field;
 Pleasant Street Park and Playground;
 Post Office Park;
 Quaker Park;
 Riverside Golf Course;
 Riverton Trolley Park;
 South Street Playground;
 Stroudwater Park (Waldo Street and Westbrook Street);
 Taylor Street Park;
 Tommy's Park;
 Trinity Park;
 Western Promenade Park; and
 Winslow Park.

BE IT FURTHER ORDERED, that the following list in an Editor's Note in Chapter 18 shall be amended to read as follow:

ORDERED, that the following parks and public grounds shall be subject to the permitting requirements of Section 18-40 of the Portland City Code:

Back Cove Park	Lobsterman Park
Baxter Woods	Longfellow Square
Bayside Park	Marginal Way Field
Bedford-Noyes Park	Monument Square
Bell Buoy Park	Payson Park
Belmeade Park	Pleasant Street Park
Boothby Square	Post Office Park
Capisic Pond Park	Presumpscot Park

Congress Square
Deering Oaks Park
Dougherty Field

Eastern Promenade
Fessenden Park
Fort Allen Park
Fort Sumner Park
Ganley Plaza
Harbor View Park
Lincoln Park

Public school facilities and
grounds

Subject to agreement with the
Portland School Dept.

Riverton Park
Stroudwater Park
Tommy's Park
Western Promenade

TO: Mayor Kate Snyder and Members of the City Council
FROM: Ethan Hipple, Director of Parks, Recreation & Facilities
SUBJECT: Update on Name Change for Bedford Park (From Bedford Park to Noyes Park)
DATE: 2/3/22

Staff had previously brought forward a proposal to rename Bedford Park as Noyes Park. That was presented to City Council on November 1, 2021 and after discussion, Council postponed the item until Feb 7, 2022.

When the park was created in the 1920's, it is well documented that it was named Noyes Park. During the 1950's the park started to be called Bedford Park, but it has been determined through research of City records that the name change was accidental. In 2021, the Noyes family requested that the City change the name back to Noyes Park. During discussion of that proposal, Council members had requested more information on the Battle of Deering Oaks, which took place in multiple locations in Portland, on land that is currently Deering Oaks Park, University of Southern Maine, and I-295 and possibly Bedford/Noyes Park.

Staff reached out to several local historians and Indigenous leaders and scholars to inquire whether the land in question (Bedford Park) was indeed where the battle was fought, and what happened on the land now known as Bedford Park. Historians and experts that staff spoke to include Darren Ranco (Chair of the Native American Studies Program at UMaine), Herb Adams (local historian and history professor at Southern Maine Community College), and Fiona Hopper (Wabanki Studies Coordinator for Portland Public Schools). In turn, they recommended numerous articles and publications on the subject. A brief reading list they recommended:

- [“Our Beloved Kin: A New History of King Philip's War”](#) by Lisa Brooks
- Companion website to “Our Beloved Kin” <https://ourbelovedkin.com/awikhigan/index>
- 1989 Maine Sunday Telegram Article by Herb Adams
- [Bangor Daily News video](#) by Troy Bennett
- [Maps and Slide Presentation](#) available at Osher Map Library, USM
- “Bold Vision”, The Development of the Parks of Portland, Maine

Multiple sources confirmed that the Battle of Deering Oaks was fought in the general area of what is now Deering Oaks, USM, and Bedford Park, as well as other locations throughout Portland, including Fort Loyal (India St), Back Cove, and Munjoy Hill.

Over the past several years, staff have been working with the Parks Commission and various Indigenous contributors to gather information that can be used to share the Indigenous history of the

area, including the history of the Battle of Deering Oaks. Through a system of interpretive signage similar to what exists in many Portland Parks already, the stories of indigenous settlement and use of these lands can be shared with the general park-visiting public. Numerous information gathering meetings have been held with Darren Ranco (Chair of Native American Studies, UMaine), Osher Map Library Staff, and Portland Public Schools Staff. This endeavor is well underway with the Parks Commission already, and work will continue, with interpretive signage installed likely sometime in 2023 once all information has been vetted by local Indigenous scholars and contributors. The opportunity exists to work with students of USM and the staff of the Osher Map Library as well.

In addition to signage, there are opportunities in high-profile locations for highlighting the Indigenous history and contributions to the Portland area with the naming of a park or other recreational facility.

TO : All Concerned

RE: Noyes Park, Deering Avenue, Portland

7 SEPT. 2021

To All Concerned –

For almost the first half of the Twentieth Century, the half-acre triangle of land along Deering Ave. by Bedford Street was publicly known as “Noyes Park ,“ for the family that donated or sold the parcel to the City of Portland in 1927 .

The Noyes family were descendants of the Deering family, the pioneering old Falmouth-ites who built a magnificent federalist mansion in 1804 overlooking the 60-acre woodland that today bears their name as “Deering Oaks.“ They were a generous family to all the towns that moved around the boundaries of the communities that embraced their farm – Falmouth, Westbrook, Deering, and finally Portland.

As you can read in the PORTLAND CITY GUIDE (1940) the parcel # 5 (see attached map) is clearly designated as Noyes Park. The GUIDE was a long-researched project of the WPA (Works Progress Administration), a branch of the mid-depression New Deal employment program that put writers, photographers and artists to work on magisterial, comprehensive works about states and cities.

The WPA worked on the Portland version for several years before its long-awaited publication in 1940. It was considered accurate, authoritative and comprehensive.

I myself interviewed several of the very elderly folks who had worked on the WPA. They maintained pride in their productions to the very end.

Clearly what the City Guide says about Noyes Park is correct. Note that all other citations for parks of the same era (see pg. 290) – such as Fessenden Park (# 6) , Longfellow Park (# 7) and Trinity Square Park (#8) -- are accurate, accepted, and not in dispute as to date, size, and names.

Somehow, perhaps about 1950, as memories faded, the name of nearby Bedford St. was transferred over to the small triangle of Noyes Park. The magnificent, lamented Deering Mansion (see # 4) was demolished for the building of Luther Bonney Hall at University of Maine at Portland, today's USM. People forgot and time moved on.

Now is the time to right this wrong. New construction and a new era can also symbolize appreciation of old values and old gifts.

The magnificent Deering Mansion is gone ; its antiquarian contents scattered to the winds. The very last of the Noyes family, the last of the Deerings, today hold the last living memories of the family that gave our city so much.

I conclude this small corner of their world should bear their name again , and remind modern times of the generosity of so many like them that built the city we now enjoy.

What is in a name ? Why, plenty. It says as much about our times and what we value, as it does about their times, and what they gave.

Mr. Bedford has his street name. There is every reason to return the Noyes name to their park, however small, and be proud that we have remembered, and have done the right thing.

Please feel free to contact me for further conversation and research if needed.

Sincerely,



Adjunct Professor History
and Social Science
Southern Maine Community College
2 Fort Road
South Portland, ME 04106
hadams@smccme.edu

AMERICAN GUIDE SERIES

PORTLAND CITY GUIDE

*Compiled by workers of the Writers' Program
of the Work Projects Administration
in the State of Maine*

Illustrated

Sponsored by the City of Portland

THE FOREST CITY PRINTING COMPANY

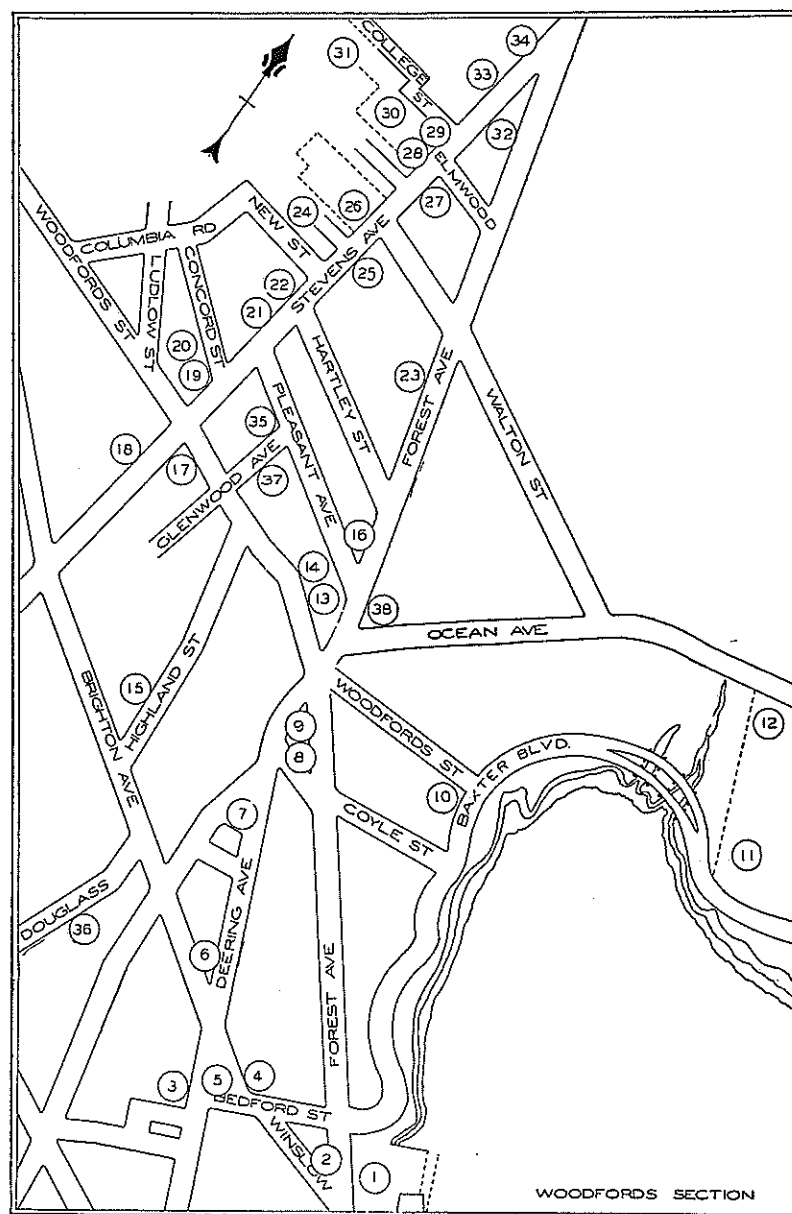
1940

WOODFORDS SECTION

The part of the city known today as Woodfords was virgin forest long after 'The Neck' had become a bustling port. With the withdrawal of hostile Indians farther west settlers straggled in, but it was not until after the Revolution that inhabitants of Stevens Plains, named for an extensive landowner, took up their peacetime trade of smithing and making tinware. A flourishing settlement then grew up, and craftsmen in tin and pewter made this section famous. Fine homes were built, and genial hosts entertained their guests in a lavish manner. A fire destroyed the tin shops in 1842, and the industry was never rebuilt. When the Maine Central Railroad ran its tracks through Woodfords and built a station there, many travelers preferred to leave the train at this junction and come in to Portland on the new horsecars. Stevens Plains, according to Edward Elwell in *Portland and Vicinity*, were: "the scene of 'General Musters,' where the 'old militia' disported themselves in gorgeous uniforms, and engaged in sham fights involving a great waste of gun-powder, though no loss of blood." After the disastrous fire of 1866 Portland residents began to build their homes in this less congested city of Deering which became a part of Portland in 1899. Woodfords, once famous for tinware and horn combs, is a section of comfortable homes with a shopping center at the "Corner."

1. *Winslow & Company*, 253 Forest Ave., known to early Portlanders as the Old Pottery, is the only plant of its kind in New England and is claimed to be the largest east of Ohio. Originally the Portland Stoneware Company established in 1846 by John T. Winslow (1820-96), the plant for many years produced crocks, jars, and ornamental stoneware. In 1870, however, the pottery started mass production of more utilitarian objects and today produces digester brick, tile pipe, wind guards, flue linings, and chimney tops. About one-third of the clay used in the pottery is obtained from the clay bank lying between Forest Avenue and Tukey's Bridge and the remainder is imported.

2. *Winslow Park*, Forest Ave. and Winslow St., a small triangular plot of .19 acres, was one of the first neighborhood parks established under the Portland Park System. It is named for Edward B. Winslow (1846-1936),



a local merchant, who for many years was president of the Old Pottery (see above).

3. The *Lafayette Restorator*, 25 Granite St., was built prior to 1760 as the home of Joshua Freeman (1730-70), brother-in-law of Dr. Samuel Deane of the First Parish Church. In 1775 Dr. Deane and his wife fled from the less protected area of 'The Neck' to this house to escape the bombardment of the town by Captain Henry Mowat (see *History*). Originally of two stories, a third floor was added to the frame building in recent years. During the early 1800's it was an inn known as the Lafayette Restorator. The original main entrance with its fine fanlight doorway and a portico with four large Doric pillars supporting a pediment, remain.

4. The *Deering Mansion*, 85 Bedford St., sets back from the busy street, its broad lawns shaded by fine old elms. This square, two-story, white frame residence was built in 1804 by James Deering (1766-1850), the son of Nathaniel Deering (1739-95), one of Portland's pioneers who came to 'The Neck' in 1761. The house occupies a part of the site of Anthony Brackett's farm where in 1689 Colonel Benjamin Church led his militia against the Indians in one of the bloodiest battles ever fought on Maine soil (see *History*). The interior of this old house, maintained in excellent condition, contains many early American antiques and is kept much as when its owner, James Deering, was host to such distinguished guests as Daniel Webster, Henry Wadsworth Longfellow, and Jefferson Davis.

5. *Noyes Park*, Deering and Brighton Aves. and Bedford St., containing .52 acres, was acquired by the city in 1927 and named in honor of the Noyes family who gave a part of the property to the city.

6. *Fessenden Park*, Brighton and Deering Aves., a .46-acre park honors Portland's William Pitt Fessenden (see *Downtown Section: No. 108*) and his son, General Francis Fessenden (1839-1906), a Civil War veteran, who was mayor of Portland in 1876.

7. *Longfellow Park*, Deering Ave., and Devonshire and Longfellow Sts., was acquired by the park department in a novel manner in 1929. Near-by residents paid part of the purchase price, and the city the balance. There are several excellent specimens of Norway maples in this .05-acre park.

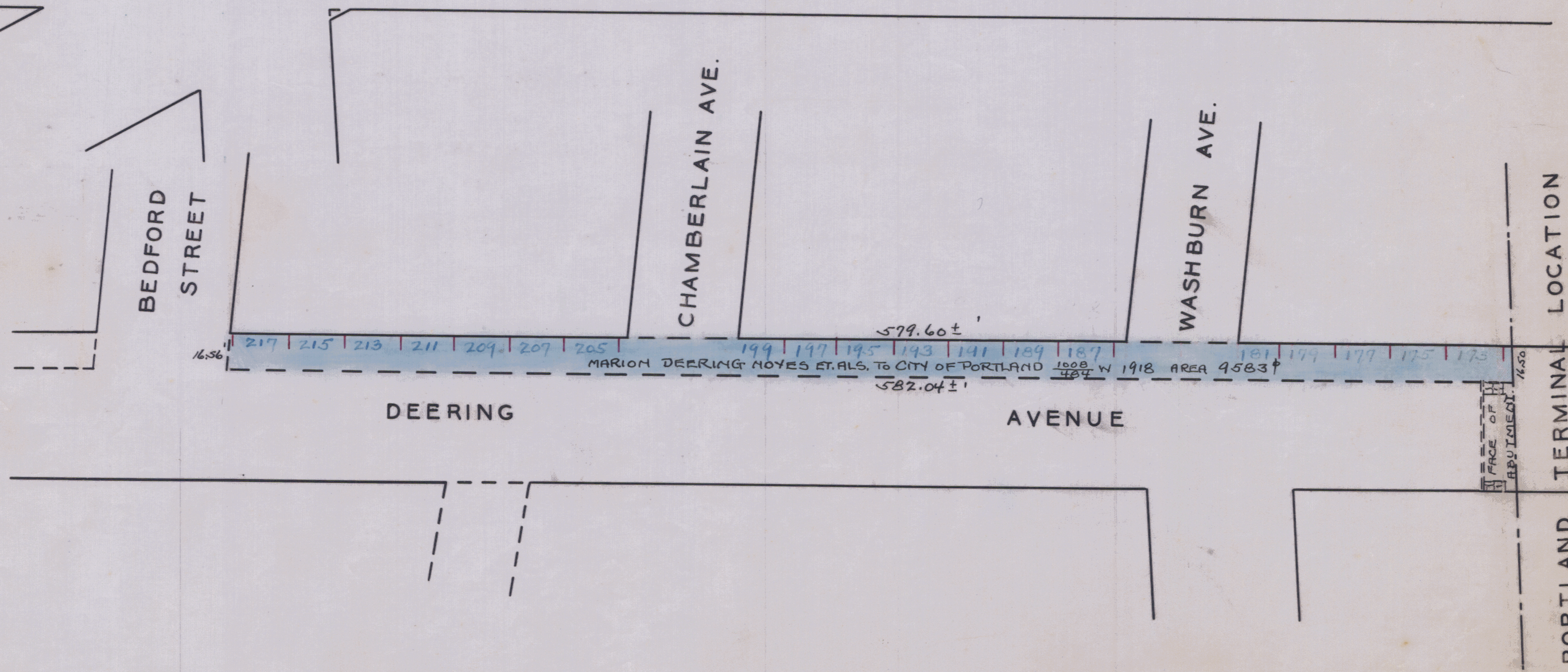
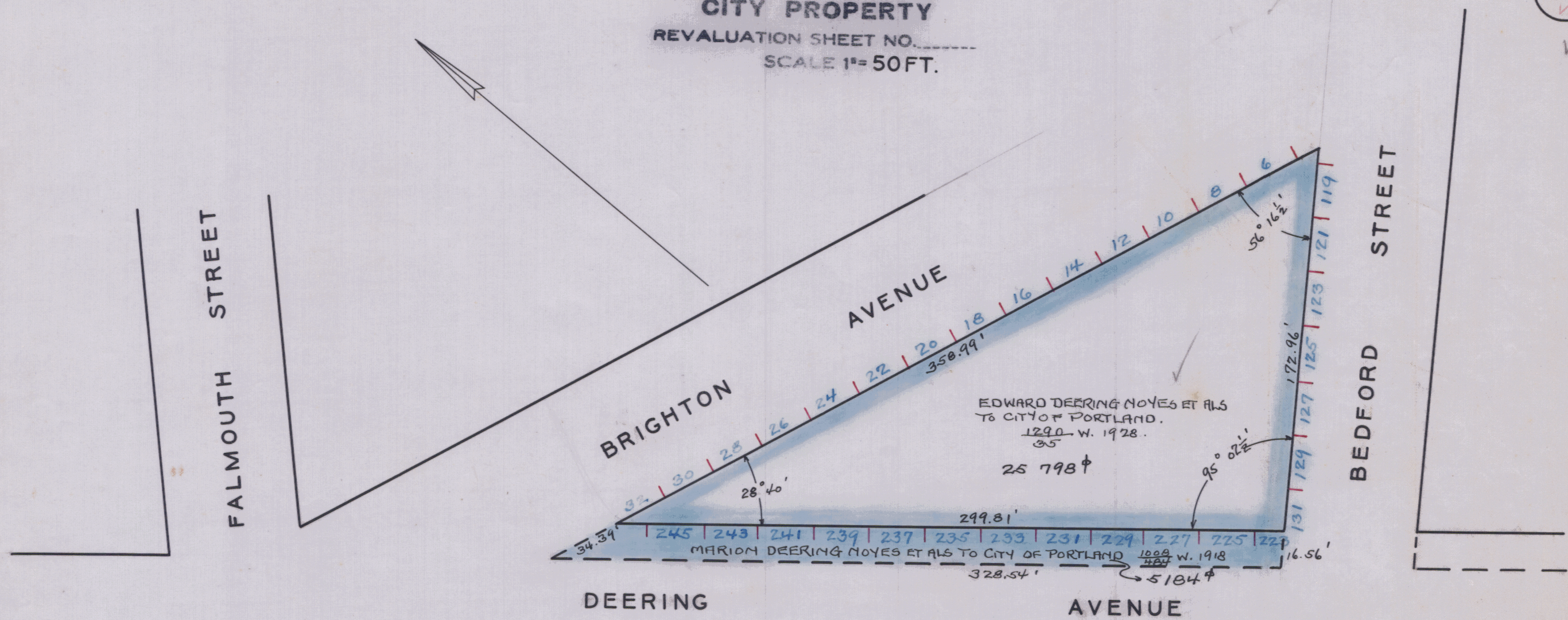
8. *Trinity Square Park*, Forest Ave. and Coyle St. of .3 acres, is named for (9) *Trinity Episcopal Church*, 113 Coyle St. The brown shingled church was designed and built under the supervision of the Reverend Charles T.



For

CITY OF PORTLAND
CITY PROPERTY
REVALUATION SHEET NO. _____
SCALE 1"= 50 FT.

116



Out Of 20 Tiny Plots Scattered Like Oases Throughout The City, Five Stand Out For Neatness And Beauty---William J. Dougherty Of Park Department Has Spared No Efforts In Making These Parks Best Possible

memorable drive. As Captain he was in the first company of the 10th Cavalry when there was an attack on the Spanish position at San Juan. He was sent to the 18th Legislature from his home district.

In 1877 Mr. and Mrs. Perkins moved from Brookville to Passaic, where Mr. Perkins was superintendent of the Passaic and Erie Railroad. He came to Alfred in 1883. To the family were born three children, by B. C. Jordan and from them came the death of Mr. Jordan. He held the office of clerk of the 18th Legislature, the 19th and 20th Legislatures, and was also clerk of the 21st Legislature, this time the longest of any man in the Legislature, and for 22 years, and in fact, with almost recent death, Mr. Perkins has been clerk of the 22nd Legislature.

Alfred and he had held all sorts of public office from that of a justice of the peace to that of a member of Congress.

Mr. and Mrs. Perkins became known in Passaic for their hospitality and were here named on. One of their daughters is Miss Mary Hallows Perkins, now Mrs. J. W. Hallows, of Astoria, Oregon, and the other is Miss Mary Perkins, of Alfred, who for many years has been principal of a girls school in Passaic, Chas. H. Perkins.

Know all Men by these Presents, That

We, Edward Deering Noyes, Ilsley Noyes, George F. Noyes and Mabel F. Noyes, widow of the late Wadsworth Noyes, all of Portland in the County of Cumberland and State of Maine,

in consideration of one dollar and other valuable considerations,
the City of Portland in said County and State,

paid by

the receipt whereof we do hereby acknowledge, do hereby give, grant, bargain, sell and convey unto the said City of Portland, its successors and assigns, forever, all that certain triangular piece or parcel of land in said Portland situated on the North side of Bedford Street and bounded and described as follows, viz, Beginning at the corner formed by the intersection of the northerly line of Bedford Street with the easterly line of Deering Avenue, and thence running northeasterly and along said northerly line of Bedford Street to its point of intersection with the westerly line of Brighton Avenue; thence northwesterly and along said westerly line of Brighton Avenue to its point of intersection with said easterly line of Deering Avenue; and thence southeasterly and along said easterly line of Deering Avenue to said Northerly line of Bedford Street at the point or place of beginning, said parcel having an estimated area of 25,000 square feet, be the same more or less.

Subject, however, to the condition that said tract of land shall be used only for park purposes or for the purpose of widening the streets bordering thereon; and in the event said land is used for other purposes it is hereby covenanted and agreed by all the parties hereto that the same shall revert to Edward Deering Noyes, one of the grantors herein and the donor of the largest interest in said land, his heirs and assigns, to whom the other three grantors herein hereby remise and release all their right, title and interest in said reversion, he, the said Edward Deering Noyes, for himself, his heirs, executors, administrators and assigns, hereby covenanting and agreeing in the event of said reversion to repay to said City of Portland the sum of Seven thousand two hundred fifteen and 59/100 dollars (\$7,215.59), being the amount paid for said land by said city, but without any interest thereon.

To Have and to Hold the aforegranted and bargained premises, with all the privileges and appurtenances thereof, to the said City of Portland, its successors heirs and assigns, to its and their use and behoof forever. And we do covenant with the said Grantee, its successors heirs and assigns, that we are lawfully seized in fee of the premises; that they are free of all incumbrances; except as aforesaid, that we have good right to sell and convey the same to the said grantee to hold as aforesaid; and that we and our heirs, shall and will warrant and defend the same to the said Grantee, its successors heirs and assigns forever, against the lawful claims and demands of all persons.

In Witness Whereof, we, the said Edward Deering Noyes, a widower, Ilsley Noyes, unmarried, George F. Noyes, and Mabel F. Noyes, widow of the late Wadsworth Noyes, and I, May M. Noyes, wife of the said George F. Noyes, joining in this deed as Grantor and relinquishing and conveying my rights by descent and all other rights in the above described premises

have hereunto set

our hands and seals this thirty-first day of March in the year of our Lord one thousand nine hundred and twenty-eight.

Signed, Sealed and Delivered
in presence of

Gertrude E. Berry to all

Edward Deering Noyes	Seal
Ilsley Noyes	Seal
George F. Noyes	Seal
Mabel F. Noyes	Seal
May M. Noyes	Seal

State of Maine, CUMBERLAND, ss. Portland, March 31, 1928.

Personally appeared

the above named Edward Deering Noyes, Ilsley Noyes, George F. Noyes and Mabel F. Noyes, and each and acknowledged the above instrument to be their free act and deed.

Before me,

Gertrude E. Berry, Notary Public *Justice of the Peace*
Notarial Seal.

Received April 2, 1928, at 10 o'clock 45 m. A. M., and recorded according to the original.

TO: All It May Concern

RE: Noyes Park, Portland

13 September 2021

To All It May Concern :

Following my previous letter of this month, attached is further proof that Noyes Park was a duly recognized City of Portland public park, under that name, from the moment it was obtained by the City of Portland in 1927.

- 1) Portland City Report for 1927, Pg. 189, Parks Commission Report, item # 14 on the list – clearly states Noyes Park and its proper location, near Fessenden Park, as one of the city holdings of 262.8 acres of municipal parkland.
- 2) Portland Sunday Telegram article of 4 October 1931 , page D 3, first column of text, which clearly states Noyes Park is “twin to Fessenden Park “ in the city park system and states its location exactly correctly.

With no doubt in my mind, I believe that these items prove conclusively that the parcel of land in question was officially and formally known as Noyes Park from the date it was first obtained by the City, and that somehow the name simply fell out of use over time, The time has come to restore the proper

name, may I suggest, in recognition of the many gifts the Deering and Noyes families have given our city in the past.

The present is in their debt. The time is right to set the record right.

Please feel free to contact me with any comments or questions.

Sincerely,

A handwritten signature in cursive script that reads "Herb Adams".

Herb Adams

Adjunct Professor History & Social Sciences
SMCC

2 Fort Road

South Portland, ME. 04106

hadams@smccme.edu

EVERGREEN CEMETERY

Annual Report for the Fiscal Year Ending
December 24, 1927

Number of Burials from Dec. 24, 1926, to Dec. 24, 1927.....	281
Number of Headstones Erected.....	229
Number of Monuments Erected.....	32
Number of Lots Regraded.....	76
Number of Single Graves Sold.....	1
Number of Lots Sold.....	58
Number of Lots Originally Sold without Perpetual Care and Placed under Same.....	50
Number of Bodies Removed in Evergreen.....	18
Number of Bodies Removed from Evergreen.....	1
Number of Lots in Annual Care.....	602
Number of Bodies in Receiving Tomb.....	6
Number of Funerals in Chapel.....	51
Number of Cubic Yards Foundations Built.....	212
Average Number of Employees.....	35
Number of Graves Ready for Sale.....	76
Number of Lots Ready for Sale.....	317
Number of Perpetual Care Lots Regraded.....	65
Number of Cement Boxes Set.....	149
Number of Steel Boxes Set.....	8
Number of Slate Boxes Set.....	2

FINANCIAL

The receipts for Evergreen Cemetery for the year ending December 24, 1927, are as follows:

Received for Burials.....	\$5,928.06
Received for Foundations.....	3,438.50
Received for Care.....	3,631.39
Received for Regrading.....	2,522.60
Received for Plants.....	512.70
Received for General Labor.....	1,535.94
	\$17,569.19

PARK COMMISSION
Report for the Year 1927

The areas now under the control of the Park Commissioners total 262.85 acres and are divided as follows:

(1) Almshouse Valley Lot (northerly side of Park Ave.)	14.18 acres
(2) Andrews Square (Pine and West Sts., west corner)	0.05 "
(3) Baxter Boulevard	28.83 "
(4) Boothby Square (Fore St., at Pearl St.)	0.11 "
(5) Caldwell Square (Woodford St. and Stevens Ave.)	0.12 "
(6) Deering's Oaks (northerly side Park Ave.)	53.70 "
(7) Eastern Promenade	69.76 "
(8) Fessenden Park (corner Brighton and Deering Aves.)	0.46 "
(9) Fort Allen Park (adjoining Eastern Promenade)	4.55 "
(10) Fort Sumner Park (North St.)	1.07 "
(11) Lincoln Park and Extension (Fire Station lot)	3.51 "
(12) Land at Noyes, Longfellow and Oakdale Sts.	0.34 "
(13) Monument Square (ornamental circle)	0.10 "
(14) Noyes Park (Bedford St., Deering and Brighton Aves.)	0.52 "
(15) Presumpscot Park (Stevens Ave.)	28.01 "
(16) Payson Park, The Edward (Ocean Ave.)	47.75 "
(17) Thomas Square (Congress and Lowell Sts.)	0.39 "
(18) Trinity Square (Forest Ave. and Coyle St.)	0.30 "
(19) Western Promenade	18.91 "
(20) Winslow Park (Forest Ave. and Winslow St.)	0.19 "
Total area,	262.85 "

The relation of new improvement to maintenance and fixed charges is the real index of the operations, and the striving is constantly to show, annually, a higher comparative ratio in the way of improvement outlay. Naturally, as the park system increases in area and hearkening to increased public demand for considerations which reflect maintenance costs, the maintenance charges mount higher each year, but, on the other hand, the tax levy appropriation is increasing at a rate that should permit of continued improvement outlay at a constantly increasing rate over fixed costs.

The deficit of \$8,081.61 from 1926, occasioned by special bridge repairs on the Boulevard bridges in 1926, made a severe inroad into the fund for 1927, cutting down possible improvements by just this amount. The total cost of maintenance and fixed charges, exclusive of the fund set off to the Recreation Commission, amounted to \$48,273.95, and the improvement expenditures amounted to \$40,377.21. The amount set off to the Recreation Commission, by statute, was \$13,959.48. Amounts given are based on net operating costs and allow for credits, receipts or other city department transfers for recovered expenditures.

IMPROVEMENT EXPENDITURES

THE ALMSHOUSE LOT: Having in mind future athletic field development on this area, a sizeable contribution to the final grading plan was made during 1926 by way of placement of many thousands of cubic yards of street excavation from the Park Avenue project. This material was deposited free of charge to the department, but graded by the department forces. Also in October the department deposited in filling a large amount of material excavated by steam shovel from one of the small hills in the Almshouse lot. The area in close proximity to Deering Avenue was rough-graded, and it should not take much material to complete the grading in this area.

BAXTER BOULEVARD ASPHALT MACADAM: The expenditure for permanent road construction on the Baxter Boulevard needs only brief explanation. The new construction was placed in the junction of Bates Street and the Boulevard and from Bates Street to Washington Avenue. The total area improved was 3,728 square yards, or a unit cost of \$2.16 per square yard. This construction should prove highly satisfactory, since trap rock wearing surface

stone was used and the work done under nearly ideal conditions.

DEERING'S OAKS—LANDSCAPE IMPROVEMENT: The new landscape improvements on this area were confined to the area between State Street parkway and High Street parkway. This work was a continuation of the lawn construction started in 1926, the completion of crushed stone foot walk construction, making of new paths, and a limited setting out of deciduous tree and shrubbery stock. Plantings can be added to this area from year to year.

DEERING'S OAKS—CONCRETE TENNIS COURT: The construction of a Portland cement concrete tennis court to serve for municipal play is a radical departure from the former practice of building clay surface courts, yet the concrete type of construction is very rapidly meeting favor throughout the country, and appears to have merit in keeping down maintenance cost. There is a division of opinion as to the desirability of playing on the respective types, but it has been proven in many places that, although the concrete is slightly hard on the feet, the discomfort can be overcome by thickened soles and a shorter period of play, which latter works well in municipal control, where many desire to play. The contract for construction was let to the Portland Realty and Contracting Co., Inc., of Portland, Me. The base construction was an 8-inch compacted thickness of coarse gravel. Base concrete layer was 3½-inch thickness and the top surface of 1-inch thickness cement mortar mix. Alternate pouring of slabs, which were separated by bituminous jointing, was the method used in constructing the courts. Wire mesh reinforcement, weighing approximately thirty pounds per 100 square feet, was used in the base as reinforcing steel.

PAYSON PARK IMPROVEMENT: The landscape improvements in this area were made on the memorial gun plot fronting on the Baxter Boulevard. The work comprised considerable lawn area construction, base course for future walks around and leading to the war trophy, and the setting out of ornamental trees and shrubs.

PAYSON PARK NURSERY STOCK: The purchase of trees, shrubs, and evergreen seedlings for the nursery in this park was the smallest outlay in years. Whereas it seems gratifying to have the municipal nursery in condition to furnish all stock for park and street purposes during one planting season, it is not wise at this time to make inroads annually without replenishment for future use. Purchases in the spring of 1928 should be made with future considerations in mind.

LAND PURCHASES: Included in the expenditure for land in 1927 is \$5,000.00, which is a continuing annual payment on the purchase by bond issue of the former Tannery Company lot now added to Deering's Oaks. Other payments for land were as follows:

Two parcels of land on the Eastern Promenade, nearly adjacent to Fort Allen Park—one from the Boyd heirs, Philip G. Clifford, trustee, for \$500.00, and one from William J. Knowlton for \$2,250.00. The parcels were taken by condemnation process and represent an addition in square area to the Promenade of .39 acres.

Payment of \$2,000.00 to Geo. F. Noyes, attorney and agent, for land in escrow status at Brighton Avenue, Deering Avenue and Bedford Street. This is the second payment on this land, the final payment of \$2,000.00 coming in 1928.

The purchase of land at Noyes Street, Longfellow Street and Oakdale Street, 14,767 square feet in area, for the sum of \$4,500.00. This payment, however, does not represent

the full amount, since a sum of approximately \$2,000.00 was contributed by subscriptions of many of the residents in close proximity to the area. The spirit evidenced in this transaction, wherein the persons interested to have this area appear attractive so generously contributed to the city's welfare, is a very commendable attitude towards park development, and one which the writer makes a particular point to praise. The area added to the system in this transaction is 0.34 acres.

PRESUMPSCOT PARK—CONCRETE TENNIS COURT: That which has been written in general description of Deering's Oaks tennis court construction is applicable to the work in this park. It was necessary to construct new 10-foot high wire mesh back stops here, and the item of grading was somewhat heavier. These items account for the difference in cost over the construction in the Oaks.

NOYES SQUARE DEVELOPMENT—BRIGHTON AND DEERING AVENUES: Early in the spring the department completely improved this conspicuous plot in the park system, and much favorable comment was expressed by citizens for this small undertaking. The work consisted of fairly heavy grading, lawn construction, crushed stone walk construction, removal of several large trees, new ornamental plantings, curb circles and brick walk construction, in part, and the installation of a bubbler drinking fountain.

EQUIPMENT PURCHASES: The department is constantly endeavoring to obtain more efficiency by way of mechanical apparatus when purchase of same seems justified. The outstanding purchase in 1927 was that of a 2½-ton Mack truck for general usage for the sum of \$2,800.00. Also there was purchased a new Sargent wood plow to go with the Best-30 tractor purchased in 1926. This plow cost \$1,050.00. To equip the Mack truck for snow "fighting," the department

purchased a Champion blade plow for the sum of \$284.20. Miscellaneous purchases included small tools and appliances, park benches, lawn mowers, etc.

The following is a summarized report of the work done under the Forestry Maintenance Account in caring for the city street shade trees and trees in public areas:

Trees trimmed,	739
Broken limbs removed,	154
Trees "topped out,"	22
Tree guards removed,	1
Trees removed,	183
Trees treated for scars, wounds, etc.,	21
Tree butts removed,	27
New plantings,	112

Added to the above operations, the department forces removed all tree wood, limbs and brush from the extensive special work in State Street, by the Lucas Tree Company. This work was done in the late fall and early winter of 1927, the charges of the Lucas Company being payable in 1928.

Also, supervision and direction was given to the operations for the Cumberland County Power and Light Company, by the Davey Tree Surgery Company, which company did extensive work over the city for the Light Company in clearing the trees from "fouling" wires.

A small amount of forestry work was done at Riverside Street and Read Street in increasing the visibility on to the railroad tracks.

The department was bothered, somewhat, by a slight infestation of the satin moth and gypsy moth in the early summer. This nuisance was overcome by special spraying services given by the Lucas Company, and this service cost \$80.39.

The writer feels that this report would not be complete for the year 1927, without sympathetic mention of the loss of the late Frank C. Goodrich to the City of Portland Park Commission. The feelings of the Commissioners are known to the writer and in order that the citizens of Portland may publicly know the expression of the entire Park Commission in the death of Frank C. Goodrich, a copy of the message of sympathy to the family and relatives of Mr. Goodrich is herewith printed.

"In your bereavement the Park Commissioners of the city of Portland, Maine, wish to express their sincere sympathy for your loss.

"Your loss is shared, as well, by the members of this Commission and the City of Portland in general, for we have looked upon Mr. Goodrich as a faithful public servant who has given his best to the end that the Portland public be made happier and healthier through the immeasurably valuable park establishments of the city, which institutions Mr. Goodrich worked so earnestly and faithfully to build.

"Therefore, in behalf of the members of the Park Commission and the citizens of Portland, I extend deepest sympathy."

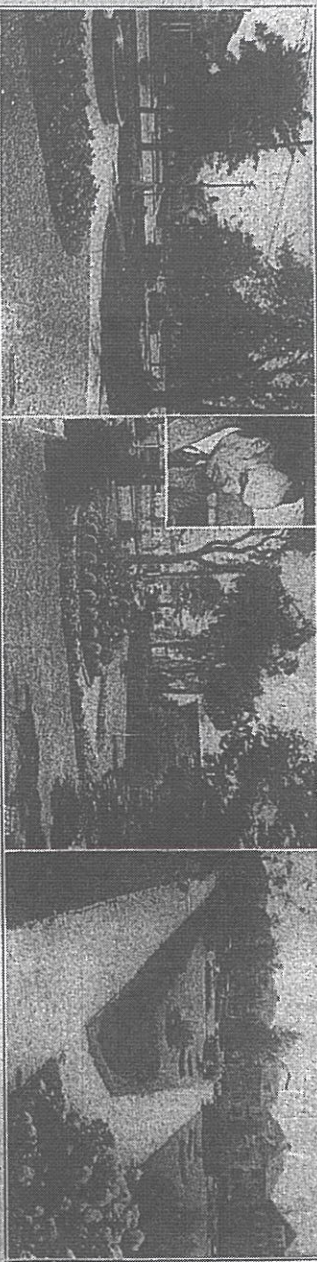
PHILIP J. DEERING,
Chairman of the Park Commission.

NOTE.—For financial statement see Auditor's Report. Complete detailed report on file with City Clerk.

FOREST CITY CEMETERY

The sources of receipts for 1927, and also the amount of services given in this city cemetery, are indicated in the following listing of the important divisions of the work in Forest City Cemetery.

Inviting Charm Of Portland's "Neighborhood Parks" Alluring To Weary Out Of Town Plois Scattered Like Oases Throughout The City. Five Stand Out For Neatness And Beauty—William J. Dougherty Of Park Department Has Spared No Efforts In Making These Parks Best Possible



Left to right: Trinity Park, a playground for children and more; Pleasant Neighborhood Park, center of neighborhood beauty; William J. Dougherty, secretary and engineer of the Portland Park Department.

Representing Four Generations Of Well-Known Lewiston Family



Paula Deane Clark, wife of William J. Dougherty, secretary and engineer of the Portland Park Department.

Happy Four Generation Group

Conway, N. H.

After Being Wedded

Stacy Revis Jackson

Couple Return Vows

The Rev. Thomas N. Smith of

Boston Conducts Ceremony

In Orange Hall

The wedding of Stacy Revis Jackson and Paula Deane Clark, daughter of William J. Dougherty, secretary and engineer of the Portland Park Department, took place at 10 o'clock this morning in the Orange hall, at Conway, N. H.

The bride was given away by her father, William J. Dougherty, and the groom was escorted by his best man, William J. Dougherty, Jr. The ceremony was conducted by the Rev. Thomas N. Smith of Boston.

The wedding party consisted of the bride, groom, best man, maid of honor, bridesmaids, flower girls, ring bearers, and a large number of guests.

The wedding reception was held at the Orange hall, and a large number of guests were present.

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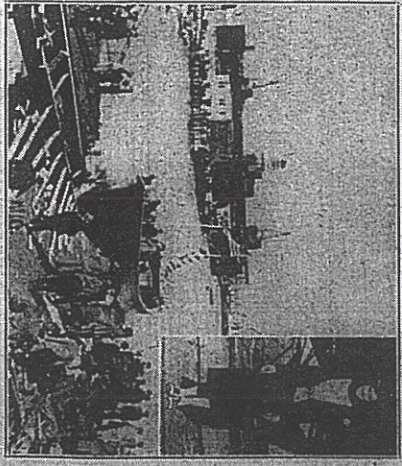
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Portland's New Pilot Boat Is Launched



The new pilot boat, Portland pilot, photographed as she took the water. The ship was launched at 10 o'clock this morning in the presence of a large number of guests.

Bates Debating League Sending Out Invitations

Secondary Schools Invited To Participate In 19th Annual Tournament

Invited Schools To Participate In 19th Annual Tournament

Invited Schools To Participate In 19th Annual Tournament

Invited Schools To Participate In 19th Annual Tournament

Maine Postmasters

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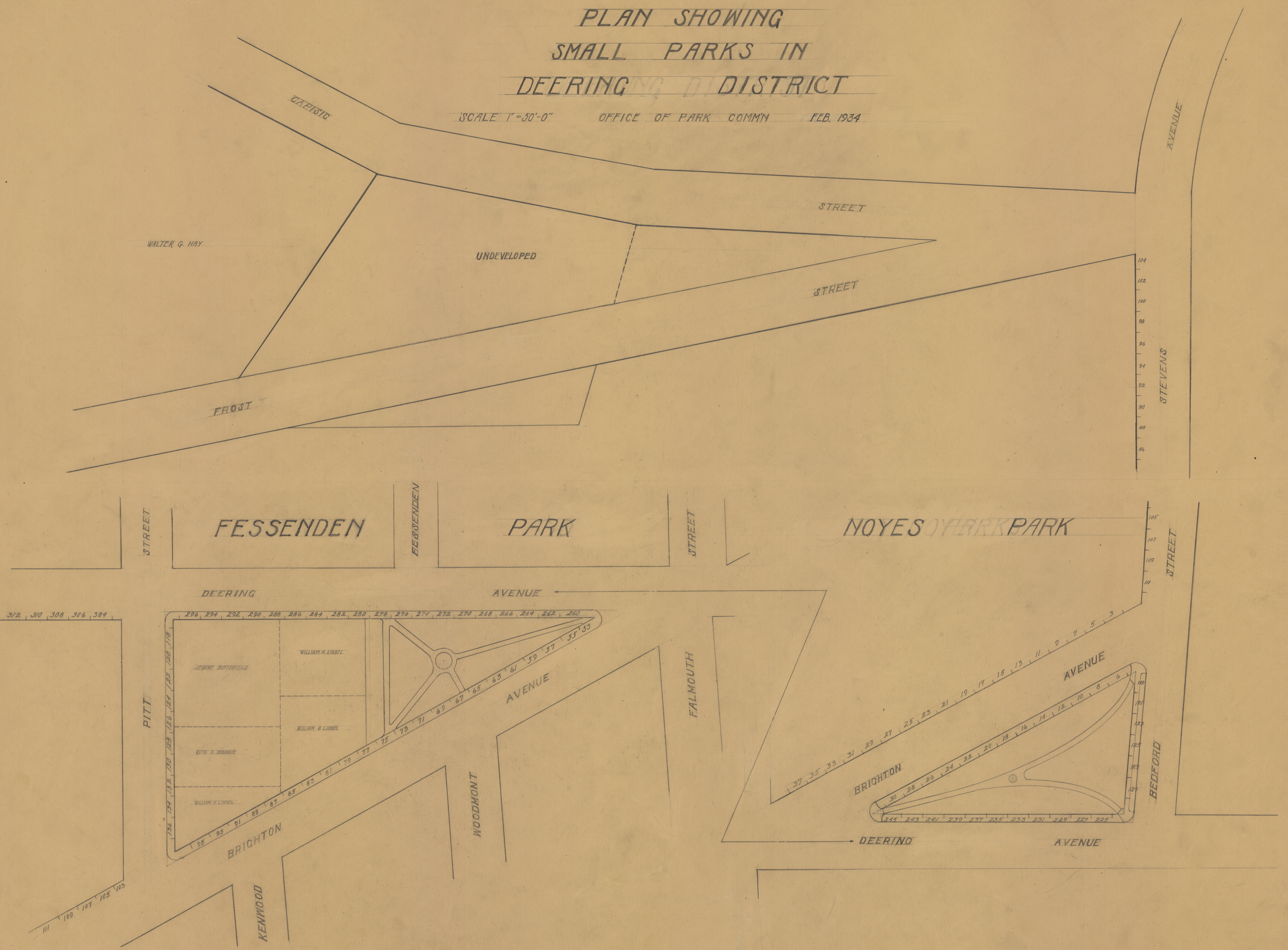
Maine Postmasters

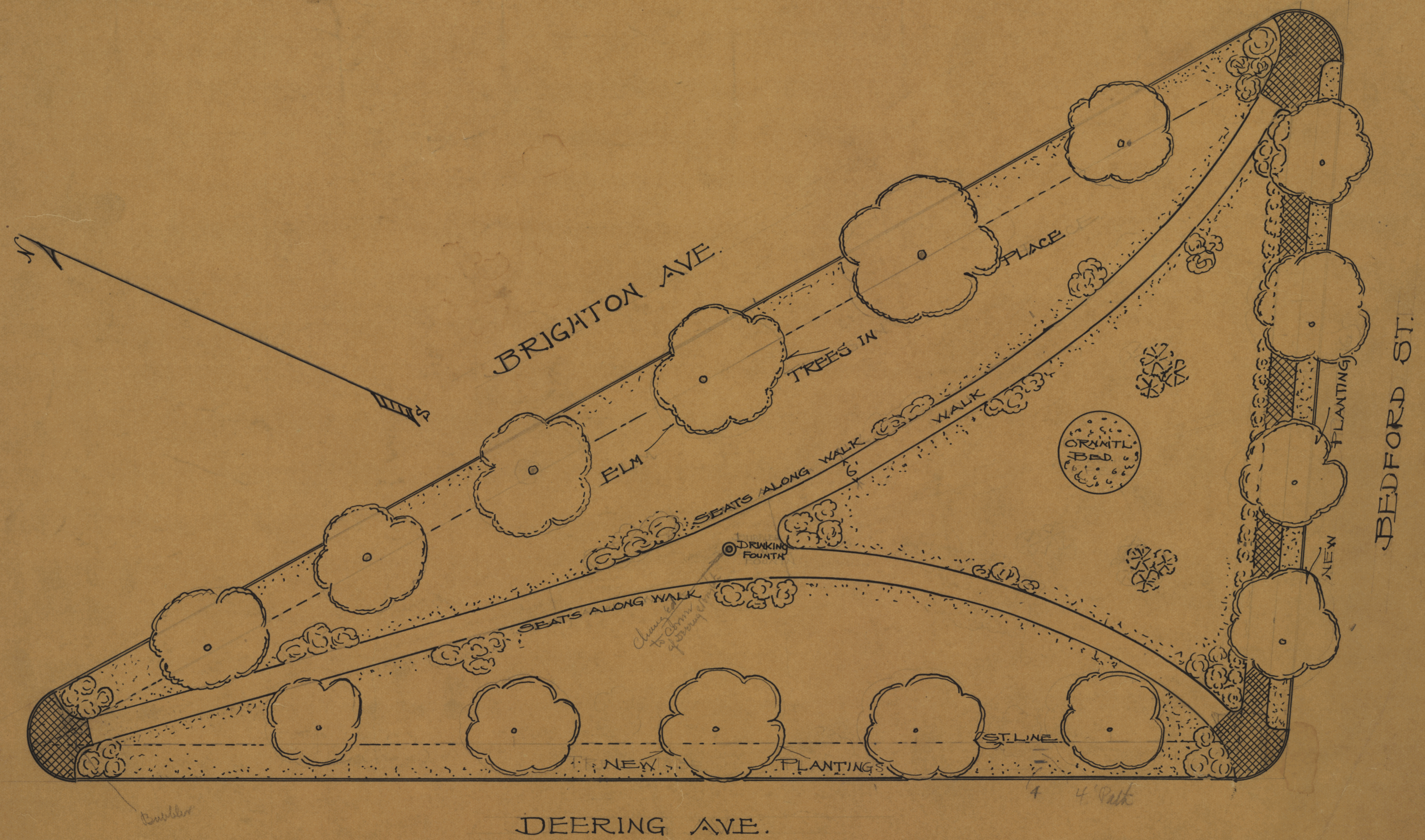
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Maine Postmasters

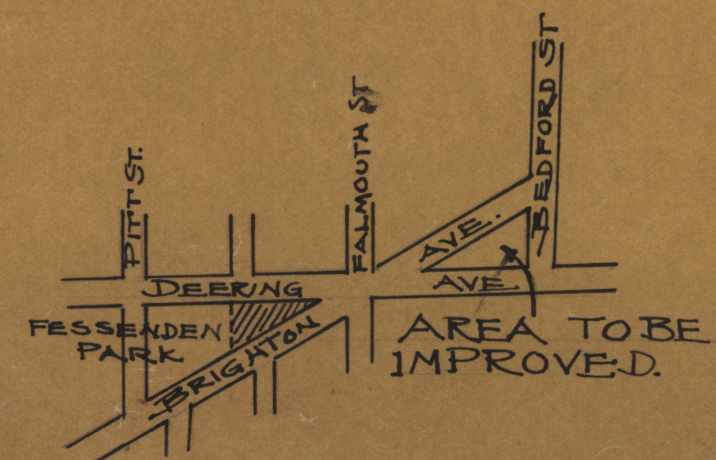
PLAN SHOWING SMALL PARKS IN DEERING DISTRICT

SCALE 1"=50'-0" OFFICE OF PARK COMM FEB. 1934





- BRICK WALK
- CR. STONE WALK
- LAWN AREAS
- EVERGREENS



PROPOSED
LANDSCAPE TREATMENT
FOR PARK LAND
AT
BRIGHTON & DEERING AVES
PORTLAND, ME.
SCALE 1"=20'
PARK COMM'N
ENGINEER

From: **Michael Mertaugh** <michaelmertaugh@gmail.com>

Date: Sat, Nov 6, 2021 at 5:25 PM

Subject: Parks Commission Support for Restoring Name of Noyes Park

To: Kate Snyder <ksnyder@portlandmaine.gov>, Belinda Ray <bsr@portlandmaine.gov>, <tchong@portlandmaine.gov>, <azarro@portlandmaine.gov>, Mark Dion <mdion@portlandmaine.gov>, Pious Ali <pali@portlandmaine.gov>, Nicholas Mavodones <nmm@portlandmaine.gov>, April Fournier <afournier@portlandmaine.gov>

CC: Danielle West-Chuhta <dwest@portlandmaine.gov>, Ethan Hipple <ehipple@portlandmaine.gov>, Alex Marshall <amarshall@portlandmaine.gov>, Samara Ray <sray@portlandmaine.gov>

Dear Mayor and City Councilors,

The Parks Commission would like to express its support for the Parks, Recreation, and Facilities Department's proposal to restore the original name of Noyes Park. The park, which has been referred to in recent years as Bedford Park, was created from properties that were given and sold to the city by members of the Noyes family in 1927. The park was officially designated and recognized as Noyes park for the first decades after its creation as a park. Use of the name "Bedford park" came about in the 1950s without the city's formal sanction. Restoring the park's original name would recognize the Noyes family's generosity in the bequest that created the park. It would also be consistent with the practice of naming other Portland parks -- including Deering Oaks, Baxter Woods, Baxter Pines, and Payson Park -- after their benefactors.

The Parks Commission voted unanimously at its November 4 meeting in support of the Department's proposal to restore the park's original name. In discussing that proposal, the Commission recognized that this and other Portland parks occupy lands that were formerly the domain of various North American First Nations. The Commission plans to work with representatives of the Wabanaki community to develop recommendations for appropriate recognition of the First Nations heritage as it affects Portland's parks. That recognition could take various forms, including the development and delivery of educational programs, public signage, and naming of new parks. The Parks Commission will keep the Council informed of its findings and recommendations as this work progresses.

Respectfully,

Michael Mertaugh
Chair, Parks Commission

Support for Order 89-21/22 Amendment to City Code Chapter 18

0 views



Anna Noyes Benoit <purple16@maine.rr.com>

7:44 AM (6 hours ago)

to publiccomment@portlandmaine.gov, Hank Benoit

To Whom it may concern:

Reference: Support for Order 89-21/22 Amendment to the Portland City Code Chapter 18 Re: Bedford Park renamed Noyes Park - Sponsored by Jon P. Jennings, City Manager

My name is Anna Margaret Deering Noyes Benoit. I live at 107 West Street in Portland.

Thank you Mr. Jennings, Mayor Snyder and Council for hearing this petition. I am here to ask the counsel to support a resolution that will correct a mistake that was made a long time ago. The proposal asks you to return the name of a small parcel of land that was given to the City by my grandfather, Edward Deering Noyes and his family. The land was sold for use as a park and in recognition of for its sale to the City, it was named Noyes Park. Until just recently this triangular piece of park land was bounded by Deering Ave, Bedford Street and the last section of Brighton Ave. that ran into Bedford St. This section has been discontinued as part of the establishment of the new roundabout.

Long before there was a USM campus next to this parcel, there was a farm, the Deering farm. Back then the water in Deering Oaks was tidal and the farm included an orchard that extended all the way into what is now Deering Oaks.

My Dad, Edward Deering Noyes Jr and his sister, my aunt, Anna, called Nancy, grew up in the large old home, built in 1804, that sat on the land that is now the Portland campus of USM.

The two copper Beech trees were planted by James Deering, my great, great, great grandfather. One is now a center piece of Noyes Park. I like to think of my family, and so many others enjoying the beauty and shade of the trees and hope the residents of Portland can continue to enjoy Noyes Park for another 100 years.

Three of my brothers were raised in a house on Bedford Street. None of us ever met Mr. Bedford, but I understand he developed the neighborhood homes in that part of the City. Somehow the name of the park was changed to Bedford Park, but Mr. Bedford, played no roll in the creation of Noyes Park.

Growing up the members of my family always referred to the Park as Noyes Park, but some 50 or sixty years ago on city maps apparently it somehow came to identified as Bedford Park. Unfortunately this error was not discovered for many years, but my brothers, and I have brought this mistake to the attention of the City Manager and his staff, and, with the research of my brother Nicholas Noyes, historian Herb Adams, Neighborhood Activist, Carol Schiller and the support of others we have asked the City to restore this small neighborhood park to its correct historic name to honor my grandfather and his family who were responsible for its creation.

November 1, 2021

Anna Noyes Benoit

MEMORANDUM
City Council Agenda Item

FROM: Paul Bradbury, Jetport Director

DATE: January 20, 2022

SUBJECT: Order 137-21/22 Approving and Appropriating a Federal Aviation Administration Airport Improvement Program Federal Fiscal Year 2022 Entitlement and Discretionary Grant - Sponsored by Danielle P. West, Interim City Manager

SPONSOR: Danielle P. West, Interim City Manager
(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading 1/19/2022

Final Action 2/7/2022

Can action be taken at a later date: Yes

PRESENTATION: Paul Bradbury will introduce this item as needed, and answer any Council questions on this item.

I. SUMMARY

The Portland International Jetport requests approval and appropriation of a Federal Aviation Administration Airport Improvement Program (AIP) federal fiscal year 2022 grant totaling \$12.39 million and matching funds of \$1.38 million split equally between the Jetport and the State of Maine for a total of \$13.77 million to rehabilitate the Jetport's primary runway 11/29.

II. AGENDA DESCRIPTION

The Federal Aviation Administration issues grants to fund eligible safety and capacity projects at airports nationwide through the Airport Improvement Program (AIP). This program is funded through federal taxes on commercial air fares and on aviation fuel. The amount of entitlement funding allocated to each airport is based on the annual number of enplaned commercial passengers the airport handled in the prior calendar year. Due to the pandemic, the FAA is allowing entitlement funds to be based on 2019 passenger enplanements since for most airports, including the Jetport, 2019 passenger enplanements were significantly higher than 2020. For federal fiscal year 2022, the Portland International Jetport will be allocated AIP entitlement funding totaling \$4.15 million based upon 1,088,728 enplaned passengers in calendar year 2019. In addition to entitlement funding, the Jetport is also seeking AIP discretionary funding of \$8.24 million in federal fiscal year 2022. The full AIP grant of \$12.39 million combined with \$1.38 million in matching funds split equally between the Jetport and the state of Maine will fund the total \$13.77 million cost to rehabilitate the Jetport's primary runway 11/29.

This item must be read on two separate days. It received its first reading on January 19, 2022. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

The FAA requires approval of AIP Grants and AIP Grant Assurances by the airport sponsor's governing body, which for the Portland International Jetport is the Portland City Council. Additionally, it requires the governing body to name the official representative for those grants, which for the Portland International Jetport is the Airport Director. The runway reconstruction project being proposed for federal FY 2022 was included and scheduled within the 20 year capital program developed as part of the Jetport's Sustainable Airport Master Plan that was accepted by the City Council in November 2016.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The approval of this federal FY 2022 AIP grant will allow the Portland International Jetport to proceed with this important runway rehabilitation project.

The Portland International Jetport provides a robust connection for the region to the national air transportation system and, in doing so, plays an important role in supporting the Council's goals for regional economic stability.

V. FINANCIAL IMPACT

If approved, the Portland International Jetport will apply for and expects to receive a \$12.39 million federal AIP grant that will fund 90% of the project's \$13.77 million cost. The \$1.38 million not covered by the federal AIP grant will be covered equally by the Jetport and the State of Maine in the amount of \$688,000 each. Approval of this AIP grant has no impact on the City of Portland's general fund or the tax rate.

VI. STAFF ANALYSIS AND BACKGROUND

The Portland International Jetport's primary runway, 11/29, is its most critical operational asset. It has been 18 years since the last rehabilitation was completed in 2004. As assets like this age, the cost to maintain and operate increases dramatically. Sections of the runway have already required patching to mitigate pavement surface cracking, weathering, and aggregate loss. This is certainly a greater concern for runway surfaces which need to be kept clear of debris that could be ingested by aircraft engines. This grant will provide a complete mill and overlay of the bituminous asphalt surface and replacement of critical runway lighting system infrastructure.

The project will require a 56 day runway closure that will result in a change to flight patterns in and out of the Jetport. A media campaign is underway to notify communities surrounding the airport of this change to flight patterns from April 18 through June 13, 2022.

VII. RECOMMENDATION

Portland International Jetport staff highly recommends City Council approval and appropriation of this federal fiscal year 2022 AIP grant funding request of \$12.39 million, and local Jetport and state funding of \$1.38 million to rehabilitate its primary runway 11/29.

VIII. LIST ATTACHMENTS

1. Order FAA AIP Grants and Authorizing Dir. of Jetport 1.19.2022
2. Orientation Plan 11-29 Rehabilitation and Development Staging Diagram
3. airport-sponsor-assurances-aip-2020

Prepared by:

Paul Bradbury, Jetport Director

Date: 01/20/2022

KATE SNYDER (MAYOR)
ANNA TREVORROW (1)
VICTORIA L. PELLETIER (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
ROBERTO RODRÍGUEZ (A/L)

**ORDER APPROVING AND APPROPRIATING
A FEDERAL AVIATION ADMINISTRATION
AIRPORT IMPROVEMENT PROGRAM
FEDERAL FISCAL YEAR 2022 ENTITLEMENT AND DISCRETIONARY
GRANT**

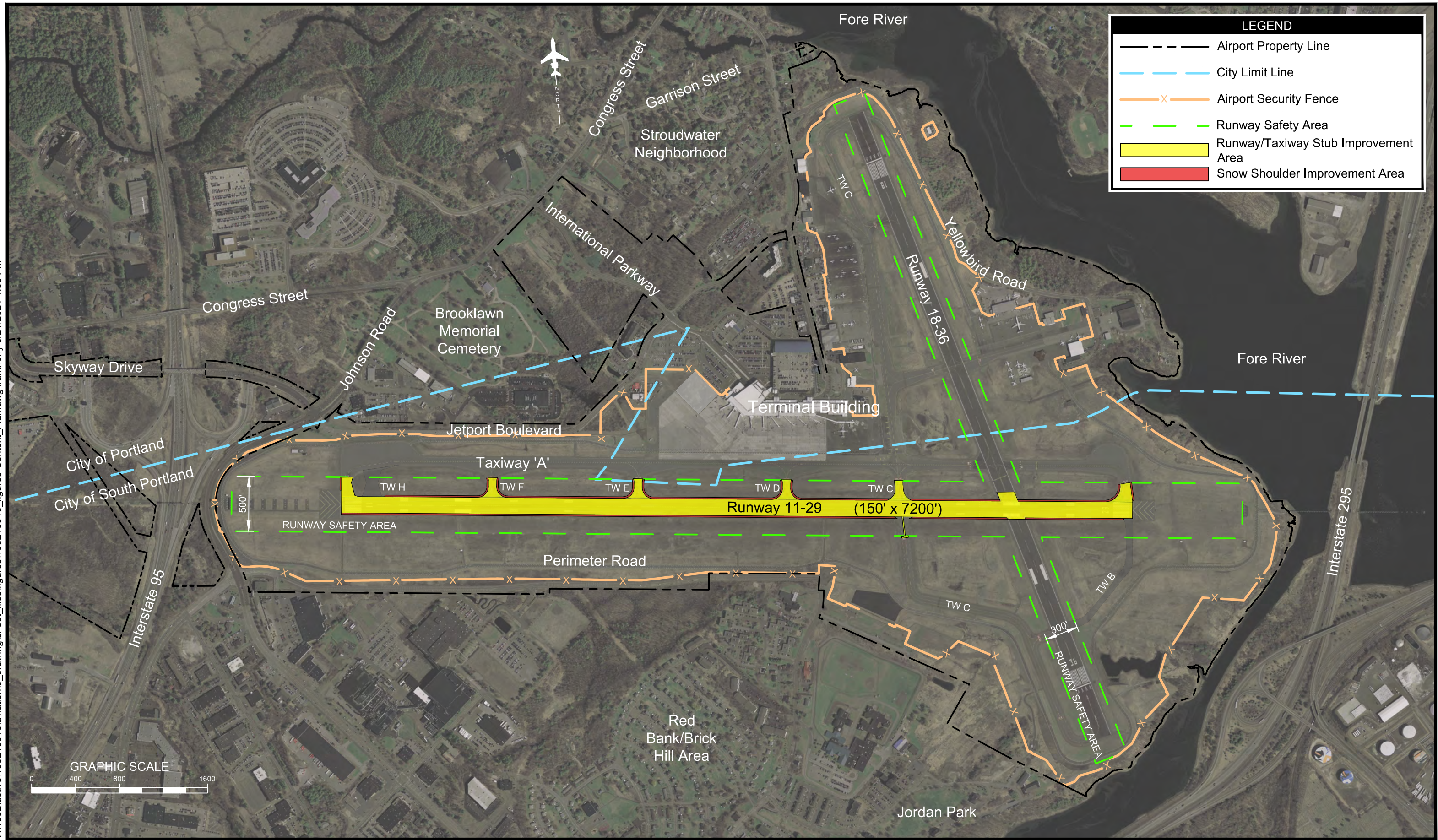
ORDERED, that grant funding of approximately \$4.15 million dollars from the Federal Aviation Administration (FAA) Airport Improvement Program (AIP) from federal fiscal year 2022 entitlement and \$8.24 million in discretionary funding is hereby approved for the Portland International Jetport (Jetport) for the following project, as well as funding of \$1.38 million split equally between the Jetport and the State of Maine:

- Rehabilitate the Portland International Jetport's primary runway 11/29;
and

BE IT FURTHER ORDERED, that the funds for said project are hereby appropriated from federal and state grant funding, and the local share of the projects shall be appropriated from the Jetport's unrestricted fund balance and from state funding; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the Director of the Jetport to be the official representative for these AIP grants, as required by the FAA, and to execute grant documents and any other related documents necessary or convenient to carry out the intent of said documents.

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Stantec
2211 Congress Street, Suite 380
Portland, Maine 04102-1955
Tel. 207.883.3355
www.stantec.com

Client/Project
PORTLAND INTERNATIONAL JETPORT
PORTLAND AND SOUTH PORTLAND, MAINE

Title
STRENGTHEN\REHABILITATION RUNWAY 11-29
PROJECT LOCATION

File Name: 195210916_figures-context_plan	LA	DDA	DDA	21.09.21
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Figure No.
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SHORT TERM DEVELOPMENT

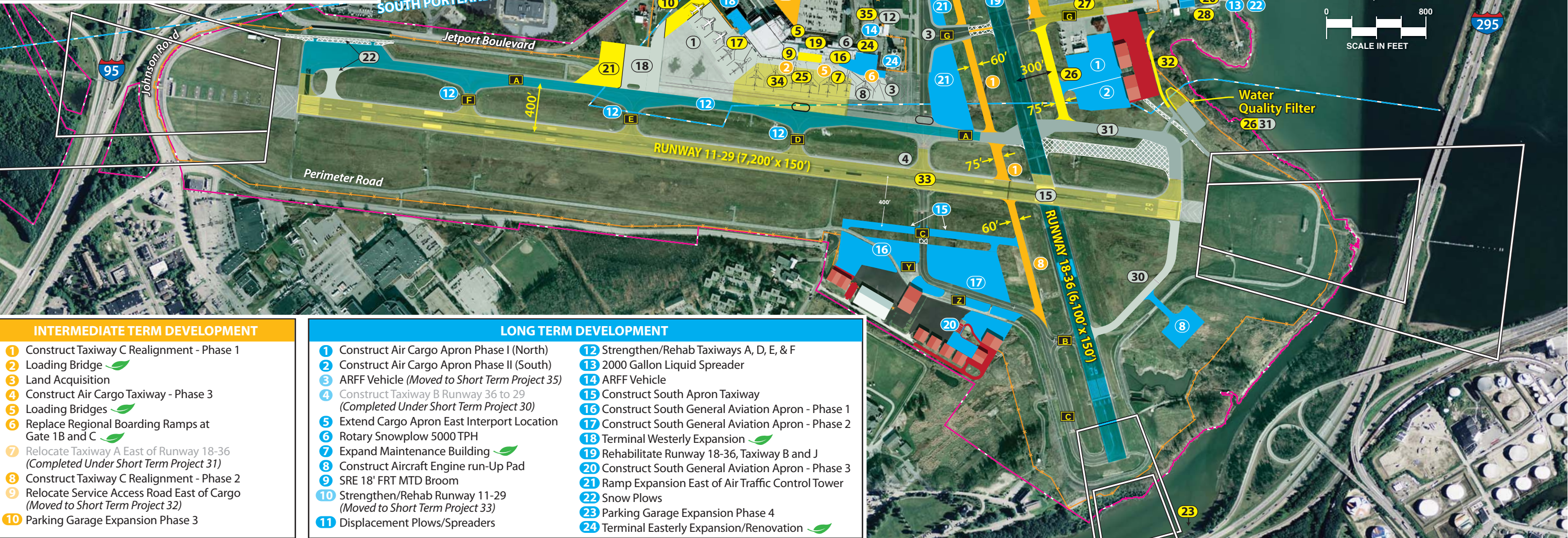
- 1 Terminal Apron Expansion Northwest End - Phase 1
- 2 Environmental Assessment and Permitting for Airport Improvements - NS
- 3 Gate 1 Apron Reconstruction and Construct TW C Snow Shoulders North
- 4 Runway Incursion Warning System
- 5 3rd Floor Bypass Auto Exit Portals
- 6 Gate 1 - 6 Rehabilitation Vertical Circulation Improvement
- 7 Preconditioned Air/Lifts for Loading Bridges
- 8 Gates 1 Additional Loading Bridges
- 9 Central Air Handling Units
- 10 Terminal Apron Expansion Northwest End - Phase 2
- 11 Environmental Assessment Mitigation Measures - NS
- 12 ARFF Vehicle
- 13 Snow Removal Tractor for Airfield Lights/Signs
- 14 Maintenance Building Generator and Enclosure
- 15 Click to Activate Runway Lights
- 16 Admin Offices above Bag Claim - East End
- 17 Additional Loading Bridges for Gate 11
- 18 Long Term Hold/Deicing/RON Apron - Phase 1
- 19 FIS Facility
- 20 Snow Melt Equipment for Contaminated Snow - SRE/Maintenance
- 21 Long Term Hold/Deicing/RON Apron - Phase 2
- 22 Runway 11 Taxiway Bypass and Perimeter Service Road Realignment

- 23 Tree Removal for GQS on Runway 36 End
- 24 Expand Baggage Claim - Phase 2
- 25 Loading Bridge
- 26 Construct Air Cargo Taxiway & Taxiway A East - Phase 2
- 27 Rehabilitate Cargo Apron
- 28 Displacement Plows
- 29 Airport Security Fence and Gate Upgrades (North East Area)
- 30 Construct Taxiway B Runway 36 to 29 (Moved to Short Term Due to RSAT Priority)
- 31 Construct Air Cargo Taxiway & TW A East - Phase 1
- 32 Relocate Service Access Road East of Cargo
- 33 Strengthen/Rehab Runway 11-29
- 34 Terminal Apron Rehabilitation
- 35 ARFF Vehicle

NS - Not Shown

LEGEND

- Airport Property Line
- City Limit Line
- Airport Fence Line
- Runway Protection Zone (RPZ)
- Short Term Development
- Intermediate Term Development
- Long Term Development
- Third Party Tenant Development
- Completed Projects
- Sustainable Projects



INTERMEDIATE TERM DEVELOPMENT

- 1 Construct Taxiway C Realignment - Phase 1
- 2 Loading Bridge
- 3 Land Acquisition
- 4 Construct Air Cargo Taxiway - Phase 3
- 5 Loading Bridges
- 6 Replace Regional Boarding Ramps at Gate 1B and C
- 7 Relocate Taxiway A East of Runway 18-36 (Completed Under Short Term Project 31)
- 8 Construct Taxiway C Realignment - Phase 2
- 9 Relocate Service Access Road East of Cargo (Moved to Short Term Project 32)
- 10 Parking Garage Expansion Phase 3

LONG TERM DEVELOPMENT

- 1 Construct Air Cargo Apron Phase I (North)
- 2 Construct Air Cargo Apron Phase II (South)
- 3 ARFF Vehicle (Moved to Short Term Project 35)
- 4 Construct Taxiway B Runway 36 to 29 (Completed Under Short Term Project 30)
- 5 Extend Cargo Apron East Interport Location
- 6 Rotary Snowplow 5000 TPH
- 7 Expand Maintenance Building
- 8 Construct Aircraft Engine run-Up Pad
- 9 SRE 18' FRT MTD Broom
- 10 Strengthen/Rehab Runway 11-29 (Moved to Short Term Project 33)
- 11 Displacement Plows/Spreaders
- 12 Strengthen/Rehab Taxiways A, D, E, & F
- 13 2000 Gallon Liquid Spreader
- 14 ARFF Vehicle
- 15 Construct South Apron Taxiway
- 16 Construct South General Aviation Apron - Phase 1
- 17 Construct South General Aviation Apron - Phase 2
- 18 Terminal Westerly Expansion
- 19 Rehabilitate Runway 18-36, Taxiway B and J
- 20 Construct South General Aviation Apron - Phase 3
- 21 Ramp Expansion East of Air Traffic Control Tower
- 22 Snow Plows
- 23 Parking Garage Expansion Phase 4
- 24 Terminal Easterly Expansion/Renovation

Exhibit 10

DEVELOPMENT STAGING



ASSURANCES

AIRPORT SPONSORS

A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this grant agreement.

B. Duration and Applicability.

1. **Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.**

The terms, conditions and assurances of this grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.**

The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

3. **Airport Planning Undertaken by a Sponsor.**

Unless otherwise specified in this grant agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 25, 30, 32, 33, and 34 in Section C apply to planning projects. The terms, conditions, and assurances of this grant agreement shall remain in full force and effect during the life of the project; there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport.

C. Sponsor Certification.

The sponsor hereby assures and certifies, with respect to this grant that:

1. General Federal Requirements.

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

- a. Title 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.¹
- c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
- d. Hatch Act – 5 U.S.C. 1501, et seq.²
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.^{1 2}
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).¹
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.¹
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended.
- j. Coastal Zone Management Act, P.L. 93-205, as amended.
- k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.¹
- l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f))
- m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.), prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968 -42 U.S.C. 4151, et seq.¹
- s. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.¹
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.¹
- u. Copeland Anti-kickback Act - 18 U.S.C. 874.1
- v. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.¹
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- x. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.²
- y. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.
- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Pub. L. 110-252).

EXECUTIVE ORDERS

- a. Executive Order 11246 - Equal Employment Opportunity¹
- b. Executive Order 11990 - Protection of Wetlands
- c. Executive Order 11998 –Flood Plain Management
- d. Executive Order 12372 - Intergovernmental Review of Federal Programs
- e. Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction¹
- f. Executive Order 12898 - Environmental Justice
- g. Executive Order 13788 - Buy American and Hire American
- h. Executive Order 13858 – Strengthening Buy-American Preferences for Infrastructure Projects

FEDERAL REGULATIONS

- a. 2 CFR Part180 – OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Non-procurement).
- b. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. [OMB Circular A-87 Cost Principles Applicable to Grants and Contracts with State and Local Governments, and OMB Circular A-133 - Audits of States, Local Governments, and Non-Profit Organizations].^{4, 5, 6}
- c. 2 CFR Part 1200 – Non-procurement Suspension and Debarment
- d. 14 CFR Part 13 - Investigative and Enforcement Procedures14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
- e. 14 CFR Part 150 - Airport noise compatibility planning.
- f. 28 CFR Part 35- Discrimination on the Basis of Disability in State and Local Government Services.
- g. 28 CFR § 50.3 - U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964.
- h. 29 CFR Part 1 - Procedures for predetermination of wage rates.¹
- i. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.¹
- j. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).¹
- k. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).¹
- l. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.³
- m. 49 CFR Part 20 - New restrictions on lobbying.

- n. 49 CFR Part 21 – Nondiscrimination in federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
- o. 49 CFR Part 23 - Participation by Disadvantage Business Enterprise in Airport Concessions.
- p. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs.^{1 2}
- q. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Programs.
- r. 49 CFR Part 27 – Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.¹
- s. 49 CFR Part 28 –Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities conducted by the Department of Transportation.
- t. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.
- u. 49 CFR Part 32 –Government-wide Requirements for Drug-Free Workplace (Financial Assistance)
- v. 49 CFR Part 37 –Transportation Services for Individuals with Disabilities (ADA).
- w. 49 CFR Part 41 - Seismic safety of Federal and federally assisted or regulated new building construction.

SPECIFIC ASSURANCES

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this grant agreement.

FOOTNOTES TO ASSURANCE C.1.

- ¹ These laws do not apply to airport planning sponsors.
- ² These laws do not apply to private sponsors.
- ³ 49 CFR Part 18 and 2 CFR Part 200 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under Title 49, United States Code.
- ⁴ On December 26, 2013 at 78 FR 78590, the Office of Management and Budget (OMB) issued the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR Part 200. 2 CFR Part 200 replaces and combines the former Uniform Administrative Requirements for Grants (OMB Circular A-102 and Circular A-110 or 2 CFR Part 215 or Circular) as well as the Cost Principles (Circulars A-21 or 2 CFR part 220; Circular A-87 or 2 CFR part 225; and A-122, 2 CFR part 230). Additionally it replaces Circular A-133 guidance on the Single Annual Audit. In accordance with 2 CFR section 200.110, the standards set forth in Part 200 which affect administration of Federal awards issued by Federal agencies become effective once implemented by Federal agencies or when any future amendment to this Part becomes final. Federal agencies, including the Department of Transportation, must implement the policies and procedures applicable to Federal awards by promulgating a regulation to be effective by December 26, 2014 unless different provisions are required by statute or approved by OMB.

- ⁵ Cost principles established in 2 CFR part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.
- ⁶ Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

2. Responsibility and Authority of the Sponsor.

a. Public Agency Sponsor:

It has legal authority to apply for this grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. Private Sponsor:

It has legal authority to apply for this grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. Sponsor Fund Availability.

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this grant agreement which it will own or control.

4. Good Title.

- a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.
- b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. Preserving Rights and Powers.

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.
- b. Subject to the FAA Act of 2018, Public Law 115-254, Section 163, it will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this grant agreement without approval by the

Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this grant agreement.

- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.
- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to insure that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations and the terms, conditions and assurances in this grant agreement and shall insure that such arrangement also requires compliance therewith.
- g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

6. Consistency with Local Plans.

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

7. Consideration of Local Interest.

It has given fair consideration to the interest of communities in or near where the project may be located.

8. Consultation with Users.

In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

9. Public Hearings.

In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

10. Metropolitan Planning Organization.

In projects involving the location of an airport, an airport runway, or a major runway extension at a medium or large hub airport, the sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted.

11. Pavement Preventive Maintenance.

With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

12. Terminal Development Prerequisites.

For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 44706 of Title 49, United States Code, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

13. Accounting System, Audit, and Record Keeping Requirements.

- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this grant, the total cost of the project in connection with which this grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

14. Minimum Wage Rates.

It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

15. Veteran's Preference.

It shall include in all contracts for work on any project funded under this grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in Section 47112 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

16. Conformity to Plans and Specifications.

It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval of the Secretary, shall be incorporated into this grant agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this grant agreement.

17. Construction Inspection and Approval.

It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

18. Planning Projects.

In carrying out planning projects:

- a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
- b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
- c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
- d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
- e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.

- f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
- g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
- h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. Operation and Maintenance.

- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for-
 - 1) Operating the airport's aeronautical facilities whenever required;
 - 2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
 - 3) Promptly notifying airmen of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.
- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. Hazard Removal and Mitigation.

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

21. Compatible Land Use.

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with

respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

22. Economic Nondiscrimination.

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to-
 - 1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
 - 2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
- d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
- e. Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.
- f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees [including, but not limited to maintenance, repair, and fueling] that it may choose to perform.
- g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.
- h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.

- i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. Exclusive Rights.

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. Fee and Rental Structure.

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. Airport Revenues.

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:
 - 1) If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated

by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

- 2) If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.
 - 3) Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at Section 47102 of title 49 United States Code), if the FAA determines the airport sponsor meets the requirements set forth in Sec. 813 of Public Law 112-95.
- b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.
 - c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of Section 47107 of Title 49, United States Code.

26. Reports and Inspections.

It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;
- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and
- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
 - 1) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
 - 2) all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. Use by Government Aircraft.

It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that –

- a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

28. Land for Federal Facilities.

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. Airport Layout Plan.

- a. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, it will keep up to date at all times an airport layout plan of the airport showing:
 - 1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;
 - 2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities;
 - 3) the location of all existing and proposed non-aviation areas and of all existing improvements thereon; and
 - 4) all proposed and existing access points used to taxi aircraft across the airport's property boundary. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity

with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.

- b. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, if a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

30. Civil Rights.

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any activity conducted with, or benefiting from, funds received from this grant.

- a. Using the definitions of activity, facility and program as found and defined in §§ 21.23 (b) and 21.23 (e) of 49 CFR § 21, the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by, or pursuant to these assurances.
- b. Applicability
 - 1) Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities.
 - 2) Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.
 - 3) Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.

c. Duration.

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

- 1) So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
- 2) So long as the sponsor retains ownership or possession of the property.

- d. Required Solicitation Language. It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this grant agreement and in all proposals for agreements, including airport concessions, regardless of funding source:

“The **(Name of Sponsor)**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises and airport concession disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.”

- e. Required Contract Provisions.

- 1) It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the DOT, and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.
- 2) It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
- 3) It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
- 4) It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin, creed, sex, age, or handicap as a covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:
 - a. For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
- f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.
- g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

31. Disposal of Land.

- a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order, (1)

- reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund. If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.
- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, (1) upon application to the Secretary, be reinvested or transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order: (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund.
 - c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.
 - d. Disposition of such land under (a) (b) or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

32. Engineering and Design Services.

Engineering and Design Services. If any phase of such project has received Federal funds under Chapter 471 subchapter 1 of Title 49 U.S.C., it will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services in the same manner as a contract for architectural and engineering services is negotiated under Chapter 11 of Title 40 U. S. C., or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

33. Foreign Market Restrictions.

It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

34. Policies, Standards, and Specifications.

It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including, but not limited to, the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated _____, and included in this grant, and in accordance with applicable state policies, standards, and specifications approved by the Secretary.

35. Relocation and Real Property Acquisition.

- a. It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B.
- b. It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24.
- c. It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

36. Access By Intercity Buses.

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

37. Disadvantaged Business Enterprises.

The sponsor shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its Disadvantaged Business Enterprise (DBE) and Airport Concessions Disadvantaged Business Enterprise (ACDBE) programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1936 (31 U.S.C. 3801).

38. Hangar Construction.

If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or

operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

39. Competitive Access.

- a. If the airport owner or operator of a medium or large hub airport (as defined in section 47102 of title 49, U.S.C.) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that-
 - 1) Describes the requests;
 - 2) Provides an explanation as to why the requests could not be accommodated; and
 - 3) Provides a time frame within which, if any, the airport will be able to accommodate the requests.
- b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: January 20, 2022

SUBJECT: Order 138-21/22 Amendment to Portland City Code Chapter 17 Re: Sale of Flavored Tobacco Products Prohibited - Sponsored by the Health & Human Services and Public Safety Committee, Councilor Tae Chong, Chair

SPONSOR: Health & Human Services and Public Safety Committee, Councilor Tae Chong, Chair

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading 12/6/2021

Final Action 12/20/2021

Can action be taken at a later date: Yes Yes.

PRESENTATION: Councilor Tae Chong will present at the second reading.

I. SUMMARY

The amendment would define and ban flavored tobacco and nicotine products; these include natural, synthetic, and menthol products with the ban enforced by the City's Public Health Director.

II. AGENDA DESCRIPTION

The Health & Human Services and Public Safety Committee met on November 9, 2021 and voted 3 - 0 to recommend passage to the full Council.

The amendment would define and ban the sale of flavored tobacco and nicotine products, including natural, synthetic, and menthol tobacco products, with the ban enforced by the City's Public Health Director.

The Health & Human Services Committee also voted that the amendment should be effective June 1, 2022 to be consistent with one approved by the Bangor City Council. Bangor, Maine is the first municipality in the state of Maine to adopt a full flavor ban ordinance. Additionally, this will give ample time for the Portland Public Health's Tobacco Prevention Team to develop and disseminate a retailer campaign and other educational resources.

This item must be read on two separate days. It received its first reading on January 19, 2022. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

To address the increase in youth tobacco and nicotine use and prevent a new generation of addicted youth, Public Health staff presented a full tobacco flavor ban to the Health & Human Services and Public Safety Committee on October 12, 2021 meeting. Public comment was taken at that meeting and at the November 9, 2021 meeting where the Committee voted 3 - 0 to recommend passage to the full Council.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The intended result is to prevent Portland youth from becoming addicted to tobacco and nicotine and the negative health outcomes that result from addiction. The amendment addresses the Council goal to prioritize human dignity and adopt anti-racism and anti-discrimination practices; the tobacco industry targets their

products to marginalized people and communities of color, leading to disproportionate rates of use and health disparities for BIPOC and LGBT people.

V. FINANCIAL IMPACT

Enforcement will be part of the Public Health Director's duties and will not incur additional staffing costs.

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

Passage.

VIII. LIST ATTACHMENTS

1. Ch. 17 Ban on Flavored Tobacco Products 12.6.2021
2. City of Portland Flavor Ban Response Memo
3. Draft Flavored Tobacco Ordinance (revision 11.9.2021)
4. Tobacco Free Kids Factsheet 2- Flavors attract kids
5. Tobacco Free Kids Factsheet- Impact of Menthol Cigarettes on Youth Smoking Initiation and Health Disparities 2021
6. State and Localities Fact Sheet -Tobacco Free Kids
7. FDA Commits to Evidence-Based Actions Aimed at Saving Lives and Preventing Future Generations of Smokers _ FDA
8. City of Portland Tobacco Flavor Ban Memo October 2021
9. Flavored Tobacco Ban Public Comment

Prepared by:

Date: 01/20/2022

KATE SNYDER (MAYOR)
ANNA TREVORROW (1)
VICTORIA L. PELLETIER (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
ROBERTO RODRÍGUEZ (A/L)

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 17**

Re: SALE OF FLAVORED TOBACCO PRODUCTS PROHIBITED

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

1. *That Sections 17-71 and 17-98 of the Portland City Code are hereby amended to read as follows:*

Chapter 17 OFFENSES, MISCELLANEOUS PROVISIONS*

Art. I. In General, §§ 17-1--17-14

...

Art. V. Regulation of Tobacco, §§ 17-70--17-98

Div. 1. Generally, §§ 17-70--17-80

...

Div. 6. Smoking Prohibited in City Parks and Public Grounds
§§17-96-17-98

Div. 7. Sale of Flavored Tobacco Products Prohibited, Sec.
17-98.

...

Sec. 17-71. Definitions.

Words used in this chapter shall have their common meanings, except that definitions set forth in 22 M.R.S.A. Chapter 262-A, or this section shall apply unless the context clearly indicates that a different meaning is intended:

Designated city trail means the traveled portion of all city-owned or controlled trails open to use by the public that have been designated as a nonsmoking trail by order of the city council.

Flavored tobacco products means any tobacco product that

imparts a taste or smell, other than the taste or smell of tobacco, either prior to, or during the consumption of, a tobacco product, including, but not limited to, any taste or smell relating to fruit, menthol, mint, wintergreen, chocolate, cocoa, vanilla, honey, or any candy, dessert, alcoholic beverage, herb, or spice. Specifically excluded from this definition are any product(s) containing cannabis, as defined by Chapter [], of this Code, unless these products contain, are made of, or are derived from tobacco or nicotine.

Outdoor eating areas shall mean patios, decks, public property permitted for outdoor dining and other outdoor areas under the control of a restaurant or bar for the use of its patrons.

Owner means and includes the proprietor, manager, lessee, lessor licensee or any other person exercising control over any facility or location.

Private function is a room or a hall in which the sponsor of the private function and not the owner or proprietor has control over the seating arrangements.

Smoking means the lighting, inhaling, exhaling, burning or carrying of any cigar, cigarette, pipe, electronic cigarette, electronic cigar, electronic pipe, other similar product that relies on vaporization or aerosolization, or other tobacco product, or carrying or having in one's possession any lighted object giving off smoke from tobacco or any other substance that emits smoke that is customarily used and intended for inhalation into the lungs.

~~*Tobacco or tobacco product* means any form of tobacco, including but not limited to cigarettes, cigars, pipe tobacco, chewing tobacco or snuff, and any material or device used in the smoking, chewing or other form of tobacco consumption, including but not limited to cigarette papers, pipes, electronic cigarettes, electronic cigars, electronic pipes, and other similar products that rely on vaporization or aerosolization.~~

Tobacco product means: (1) any product containing, made of, or derived from tobacco or nicotine, natural or synthetic, that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus; (2) any electronic

smoking device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; or (3) any component, part, or accessory of (1) or (2), whether or not any of these contains tobacco or nicotine, including but not limited to filters, rolling papers, blunt or hemp wraps, hookahs, and pipes. "Tobacco product" does not mean drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

Traveled portion means that area of a trail covered by material such as concrete, pavement, stone dust, or cedar mulch, designed to bear traffic from individuals or vehicles powered by individuals.

...

DIVISION 7

Sec. 17-98. Sale of Flavored Tobacco Products Prohibited.

(a) No individual, corporation, partnership, unincorporated association or other entity may sell or permit the sale of any flavored tobacco product, or display, market, or advertise for sale in the City of Portland, or display, market, or advertise for sale in the City of Portland, any flavored tobacco product.

(b) There shall be a rebuttable presumption that a tobacco product is a flavored tobacco product if a manufacturer of tobacco products, or any employee or agent of a manufacturer of tobacco products, or any individual, corporation, partnership, or other entity that sells tobacco in the City of Portland, has: (1) made a public statement or claim that the tobacco product imparts a taste or smell other than the taste or smell of tobacco; (2) used text or images, or both, on the tobacco product's labeling or packaging to explicitly or implicitly indicate that the tobacco product imparts a taste or smell other than tobacco; or (3) taken action directed to consumers that would be reasonably expected to cause consumers to believe the tobacco product imparts a taste or smell other than tobacco.

(c) The City of Portland's Public Health Division Director or his/her/their designee(s) shall have the primary responsibility for enforcement of this section and may conduct random, unannounced inspections at locations where tobacco

products are sold to test and ensure compliance with this ordinance.

(d) A violation of this section shall be a civil violation subject to the general penalty provisions of section 1-15 of this Code.

(e) This section shall become effective on June 1, 2022.

~~Sec. 17-98. Reserved.~~



CITY OF PORTLAND
Health and Human Services

MEMORANDUM

TO: Kristen Dow, Director of Health and Human Services
Tina Pettingill, Deputy Director of Health and Human Services
Bridget Rauscher, Chronic Disease Prevention Manager
FROM: Kirsten Goodrich, Public Health Division, Tobacco Prevention Program
DATE: 11/3/2021
SUBJECT: Outline of Education and Outreach Strategy for Retailers

This memo addresses the questions posed by the Health and Human Services and Public Safety Committee (HHS&PS Committee) on October 12, 2021.

Outreach & Education Strategies:

As of September 2021, there are 90 licensed tobacco retailers in the City of Portland. The tobacco prevention team has a previously established partnership with local retailers for retailer education and technical assistance. In the past, the tobacco prevention team has had success surveying retailers to identify needs of appropriate educational materials. The tobacco prevention program will continue with this approach and will survey licensed retailers in the City of Portland to get a better sense of the materials that retail establishments would prefer to display. The survey will be conducted and evaluated prior to developing materials.

As a current grant recipient and partner, the tobacco prevention team anticipates continuing partnerships with MaineHealth's Center for Tobacco Independence (CTI) to improve and support consistent messaging. The tobacco prevention team will expand the current retailer initiatives such as promoting the NO BUTS! training program, a free training to reduce underage tobacco sales, and the Maine QuitLink program, a tobacco quitting program free to Maine residents. Additionally, the tobacco prevention team will update the current retailer toolkits to reflect the flavor ban, if adopted. The purpose of the toolkit will be to provide education and support to retailers around the specifics of the full flavor ban. It will also provide materials to educate customers by providing resources to display with language that informs customers of the change. These resources will be designed to alleviate the burden placed on retailers to educate customers. The toolkit will be mailed to retailers at least 30 days before the law goes into effect.

A retailer toolkit will include:

- Signage stating new ordinance changes and the effective date (various sizes and styles)
- Educational rack cards,
- Maine Quitlink resources,
- No Buts! one pager,
- FAQ one pager.

In addition, the tobacco prevention program will draft communication that will go out to all licensed retailers in the Portland area that will comprehensively detail the changes to the current retail tobacco ordinance. The tobacco prevention program will record educational trainings for retailers. The tobacco prevention team will create social media posts to share on virtual platforms to expand reach. All resources will be uploaded to the City's website in order to be accessible to retailers and residents. All materials will be translated into the top five most spoken languages here in Portland. The top five languages spoken in Portland are Somali, Arabic, Spanish, French, Portuguese. Translated materials will be printed and distributed and electronic versions will be available on the City's website. We anticipate that the retailer outreach process will take approximately four to six months.

Updates to LD1190 & LD1550:

LD 1190, passed as amended in the 129th Legislature

When LD 1190 was introduced at the start of the 129th Legislature (January 2019), the FDA was considering action on flavored tobacco products. The Legislature's Health & Human Services Committee decided they wanted to wait and see what actions the FDA would take. As a result, LD 1190 was amended significantly by the Committee, stripping out all references to flavored tobacco products and simply aligning statutory enforcement provisions for furnishing tobacco products with those for furnishing alcohol in Maine, thereby leaving the continued proliferation of flavored tobacco products unaddressed. Unfortunately, the FDA has taken extremely limited action, likely taking years to fully implement, which is why LD 1550 (see below) was introduced in the 130th.

LD 1550, carried over to the 2nd Regular Session of the 130th Legislature

Two years later, with inadequate action taken by the FDA and an explosion of flavored tobacco products on the market, LD 1550 was introduced at the start of the 130th Legislature (January 2021) with strong bipartisan sponsorship, including members of Democratic leadership, Democratic House chairs of both the HHS and Appropriations Committees and Republican Senate and House Appropriations Committee leads. The bill was supported by Governor Mills, who included the proposal in her Supplemental Budget proposal, and was voted with a majority "ought to pass" out of the HHS committee. The Governor and Appropriations Committee agreed to advance a budget that could garner the support of 2/3 of legislators. Ultimately, Republican leadership requested the flavors proposal come out of the budget in order to reach 2/3 support, and this was agreed to by the Appropriations Committee. With only a few days remaining in the legislative session, LD 1550 was carried over to the 2nd Regular Session of the 130th (starting January 2022), where it will be considered for passage and funding.

Fiscal Note:

The cost of implementing a full ban on flavored tobacco products will not exceed \$50,000. Any costs incurred would be minimal and will be paid from existing grant funds by the Tobacco Prevention Program, in collaboration with the Center for Tobacco Independence and the Maine CDC.

Ordinance Language:
See Attached

Chapter 17 OFFENSES, MISCELLANEOUS PROVISIONS*

*Cross reference(s)--Alarm systems, Ch. 2.5; rules of conduct in cemeteries, § 7-123 et seq.; police, Ch. 20; traffic and motor vehicles, Ch. 28.

Art. I. In General, §§ 17-1--17-14

Art. II. Offenses Against Public Peace, §§ 17-15--17-30

Art. III. Offenses Against Public Safety, §§ 17-31--17-60

Div. 1. Generally, §§ 17-31--17-40

Div. 2. Weapons, §§ 17-41--17-43

Art. III-A. Trigger Locking Devices, §§ 17-44--17-60

Art. IV. Obscenity, §§ 17-61--17-69

Art. V. Regulation of Tobacco, §§ 17-70--17-98

Div. 1. Generally, §§ 17-70--17-80

Div. 2. Miscellaneous Provisions, §§ 17-81--17-85

Div. 3. Nonsmoking on Designated City Trails, §§ 17-86--17-89

Div. 4. Secondhand Smoke on Playgrounds, Beaches, and Athletic Facilities, §§17-90--17-93

Div. 5. Secondhand Smoke in Indoor and Outdoor Eating Areas, §§17-94--17-95

Div. 6. Smoking Prohibited in City Parks and Public Grounds §§17-96--17-98

[Div. 7. Sale of Flavored Tobacco Products Prohibited, Sec. 17-98.](#)

Art. VI. Mercury Thermometers, §§ 17-99--17-107

Div. 1. Generally, §§ 17-99--17-100

Div. 2. Restrictions, §§ 17-101--17-107

Art. VII. Reserved, §§ 17-108--17-112

Art. VIII. Recreational Use of Marijuana by Adults 21 Years of Age or Older, §§ 17-113--17-119

Art. IX. Moratorium on Retail Marijuana Establishments and Retail Marijuana Social Clubs, §§ 17-120--17-123

Art. X. Moratorium on Marijuana Caregiver Retail Stores, Testing Facilities, Manufacturing Facilities, and Grow Facilities, §§ 17-124--17-128

Art. XI. Facial Recognition Technology, , §§ 17-130--17-133

....

Sec. 17-68. Reserved.

Sec. 17-69. Reserved.

ARTICLE V. REGULATION OF TOBACCO*

***Editor's note**--Ord. No. 241-98, § 1, adopted Apr. 7, 1998, amended this chapter by adding provisions as herein set out; such ordinance was approved at referendum on Nov. 3, 1998, with an effective date of Dec. 5, 1998.

***Editor's note**—Pursuant to Council Order 39-12/13, passed by City Council on 2/4/13 repealed Article V in its entirety and replaced it with a new Article V.

DIVISION 1. GENERALLY

Sec. 17-70. Findings; purposes.

(a) The city council hereby finds as follows:

- (1) There is no risk-free level of contact with secondhand smoke; even brief exposure can be harmful to health;
- (2) Secondhand smoke contains over 4,000 chemicals, more than 60 of which are known to cause cancer;
- (3) The smoking of other substances may also cause serious health problems and risks to those who smoke; and
- (4) The purpose of this regulation is to decrease the exposure of individuals, and children in particular, to secondhand smoke in their outdoor environment.

(b) The city council hereby finds that it is in the public health, safety and welfare to supplement state regulation of the use of tobacco, tobacco products and other substances that emit smoke that is used and intended customarily for inhalation into the lungs in outdoor locations and the free distribution and self-service displays of tobacco and tobacco products.
(Ord. No. 39-12/13, 2-4-13, Ord. 207-14/15, 4-27-2015)

Sec. 17-71. Definitions.

Words used in this chapter shall have their common meanings, except that definitions set forth in 22 M.R.S.A. Chapter 262-A, or this section shall apply unless the context clearly indicates that a different meaning is intended:

Designated city trail means the traveled portion of all city-owned or controlled trails open to use by the public that have been designated as a nonsmoking trail by order of the city council.

Flavored tobacco products means any tobacco product that imparts a taste or smell, other than the taste or smell of tobacco, either prior to, or during the consumption of, a tobacco product, including, but not limited to, any taste or smell relating to fruit, menthol, mint, wintergreen, chocolate, cocoa, vanilla, honey, or any candy, dessert, alcoholic beverage, herb, or spice. Specifically excluded from this definition are any product(s) containing cannabis, as defined by Chapter [_____], of this Code, unless these products contain, are made of, or are derived from tobacco or nicotine.

Outdoor eating areas shall mean patios, decks, public property permitted for outdoor dining and other outdoor areas under the control of a restaurant or bar for the use of its patrons.

Owner means and includes the proprietor, manager, lessee, lessor licensee or any other person exercising control over any facility or location.

Private function is a room or a hall in which the sponsor of the private function and not the owner or proprietor has control over the seating arrangements.

Smoking means the lighting, inhaling, exhaling, burning or carrying of any cigar, cigarette, pipe, electronic cigarette, electronic cigar, electronic pipe, other similar product that relies on vaporization or aerosolization, or other tobacco product, or carrying or having in one's possession any lighted object giving off smoke from tobacco or any other substance that emits smoke that is customarily used and intended for inhalation into the lungs.

~~*Tobacco or tobacco product* means any form of tobacco, including but not limited to cigarettes, cigars, pipe tobacco, chewing tobacco or snuff, and any material or device used in the smoking, chewing or other form of tobacco consumption, including~~

~~but not limited to cigarette papers, pipes, electronic cigarettes, electronic cigars, electronic pipes, and other similar products that rely on vaporization or aerosolization.~~

"Tobacco product" means: (1) any product containing, made of, or derived from tobacco or nicotine, natural or synthetic, that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus; (2) any electronic smoking device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; or (3) any component, part, or accessory of (1) or (2), whether or not any of these contains tobacco or nicotine, including but not limited to filters, rolling papers, blunt or hemp wraps, hookahs, and pipes. "Tobacco product" does not mean drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

Traveled portion means that area of a trail covered by material such as concrete, pavement, stone dust, or cedar mulch, designed to bear traffic from individuals or vehicles powered by individuals.

(Ord. No.39-12/13, 2-4-13, Ord. 207-14/15, 4-27-2015)

Sec. 17-72. Reserved.
Sec. 17-73. Reserved.
Sec. 17-74. Reserved.
Sec. 17-75. Reserved.
Sec. 17-76. Reserved.
Sec. 17-77. Reserved.
Sec. 17-78. Reserved.
Sec. 17-79. Reserved.
Sec. 17-80. Reserved.

DIVISION 2. MISCELLANEOUS PROVISIONS

Sec. 17-81. Free distribution; sampling.

The free distribution or sampling of tobacco is prohibited in the City of Portland. A violation of this section shall be a civil violation subject to the general penalty provisions of section 1-15 of this Code.

(Ord. No. 241-98, § 1, 4-7-98; Ord. No. 39-12/13, 2-4-13)

Sec. 17-82. Self-service displays.

(a) Self-service displays of tobacco products, from which individual packages, cartons, or items may be selected by the customer, are prohibited in the City of Portland.

(b) The foregoing shall not apply in a retail tobacco store which specializes in the sale of tobacco and tobacco products only.

(c) A violation of this section shall be a civil violation subject to the general penalty provisions of section 1-15 of this Code.

(Ord. No. 39-12/13, 2-4-13)

Sec. 17-83. Nonretaliation.

No person or employer shall discharge, refuse to hire or in any manner retaliate against any employee or applicant for employment because such employee or applicant exercises any right to smoke-free environment afforded by this article. A violation of this section shall be a civil violation subject to the general penalty provisions of section 1-15 of this code.

(Ord. No. 39-12/13, 2-4-13)

Sec. 17-84. Sale of tobacco products to people under 21 prohibited.

(a) Notwithstanding the provisions of 22 M.R.S. §1555-B(2) and in accordance with 22 M.R.S. 1556, in the City of Portland, no individual, corporation, partnership, unincorporated association or other entity may sell, furnish, give away or offer to sell, furnish or give away a tobacco product to any individual under 21 years of age.

(b) No individual, corporation, partnership, unincorporated association or other entity may sell or permit the sale of tobacco products in the City of Portland unless a clearly visible notice is posted at the location where tobacco products are available for purchase. The City of Portland shall provide this notice, which shall state "No person under the age of 21 may purchase tobacco products," legibly printed in letters at least one-half inch high.

(c) The City of Portland's Public Health Division Director or his or her designee(s) shall have the primary responsibility

for enforcement of this section and may conduct random, unannounced inspections at locations where tobacco products are sold to test and ensure compliance with this ordinance.

(d) A violation of this section shall be a civil violation subject to the general penalty provisions of section 1-15 of this Code.

(Ord. No. 303-15/16, 7-20-2016)

Sec. 17-85. Reserved.

DIVISION 3. NONSMOKING ON DESIGNATED CITY TRAILS

Sec. 17-86. Purpose.

This ordinance is enacted to protect, preserve, and promote the health, safety, welfare, and quality of life of the children and other people that use designated city trails.

(Ord. No. 39-12/13, 2-4-13)

Sec. 17-87. Smoking prohibited.

It shall be unlawful for any person to smoke on a designated city trail at any time.

(Ord. No. 39-12/13, 2-4-13)

Sec. 17-88. Enforcement.

The parks and recreation department shall place signs at the beginning and end point of any city trail as well as in such other locations that, in its sole discretion, the parks and recreation department deems necessary to notify the public of this ordinance. Prior to issuing a citation for a violation of this section, a police officer or any law enforcement or code enforcement officer or park ranger shall issue one verbal warning to an individual. If the individual fails to immediately comply after one warning, individual shall be given a citation.

(Ord. No. 39-12/13, 2-4-13)

Sec. 17-89. Reserved.

DIVISION 4. SECONDHAND SMOKE ON
PLAYGROUNDS, BEACHES, AND ATHLETIC FACILITIES

Sec. 17-90. Purposes.

The purpose of this regulation is to decrease the exposure of individuals, and children in particular, to secondhand smoke in their outdoor environment.

(Ord. No. 39-12/13, 2-4-13, Ord. 207-14/15, 4-27-2015)

Sec. 17-91. Smoking prohibited at playgrounds, beaches and outdoor athletic facilities.

(a) Smoking is prohibited both at, or within, twenty (20) feet of the following outdoor areas: playgrounds, beaches and outdoor athletic facilities owned and maintained by the city where members of the general public of any age assemble to engage in physical exercise, participate in athletic competition, play or recreational activity, or to witness sports, or other outdoor recreational events.

(b) The foregoing prohibition shall not apply in an area which has been designated prior to passage of this ordinance as a designated smoking area at Hadlock Field, but such area shall not be expanded.

(Ord. No. 39-12/13, 2-4-13)

Sec. 17-92. Enforcement.

(a) The health and human services department shall work with the public works department to place signs notifying the public of this prohibition at or near playgrounds and athletic facilities, as well as in such other locations that, in its sole discretion, the health and human services department deems necessary to notify the public of this ordinance.

(b) Prior to issuing a citation for a violation of this section, a police officer or any law enforcement or code enforcement officer or park ranger shall issue one verbal warning to an individual. If the individual fails to comply after one warning, said individual shall be given a citation. Failure to comply after one warning is cause for citation whether or not the failure or subsequent failures are contemporaneous in time with the initial warning.

(Ord. No. 39-12/13, 2-4-13; Ord. 108-15/16, 11-16-2015)

Sec. 17-93.Reserved.

DIVISION 5. SECONDHAND SMOKE IN
INDOOR AND OUTDOOR EATING AREAS

Sec. 17-94. Smoking Prohibited in Indoor and Outdoor Eating Areas.

(a) Smoking is prohibited within the indoor and outdoor eating areas provided by restaurants and bars while such indoor or outdoor eating areas, or any portion thereof, are open and available for dining and beverage service.

(b) *Indoor eating areas* shall mean indoor areas permitted for dining that are under the control of a restaurant or bar for the use of its patrons.

(c) *Outdoor eating areas* shall mean patios, decks, public property permitted for outdoor dining and other outdoor areas under the control of a restaurant or bar for the use of its patrons.
(Ord. 207-14/15, 4-27-2015)

Sec. 17-95. Enforcement.

(a) It shall be the responsibility of restaurants and bars to notify its customers of this prohibition and to request that customers comply with it.

(b) Prior to issuing a citation for a violation of this section, a police officer or any law enforcement or code enforcement officer shall issue one verbal warning to an individual and the restaurant. If the individual or restaurant or bar fails to comply after one warning, said individual or restaurant or bar shall be given a citation. Failure to comply after one warning is cause for citation whether or not the failure or subsequent failures are contemporaneous in time with the initial warning.
(Ord. 207-14/15, 4-27-2015)

DIVISION 6. SMOKING PROHIBITED IN CITY PARKS AND PUBLIC GROUNDS

Sec. 17-96. Smoking prohibited in all city-owned or maintained parks.

(a) Smoking is prohibited in the City's public parks, squares and grounds and temporary parks requiring a permit.

(b) The Council shall define by order the City-owned or maintained public parks and grounds to which this requirement shall apply and such order shall be kept on file in the Department of Public Works.

(c) Smoking is prohibited in any temporary or "pop-up" park operated or maintained by a private person or entity, into which the public is invited and that requires an event permit under Chapter 18 for the duration of the event so approved. (Ord. No. 39-12/13, 2-4-13; Ord. 80-15/16, 10-19-2015, Ord. 108-15/16, 11-16-2015)

***Editor's Note:** Pursuant to Council Order 38-12/13, passed on 2/4/13, and Order 76-15/16, passed on 10/19/2015, the following is the list of public parks to which 17-96(b) applies:

ORDERED, that smoking shall be prohibited in the following parks and public grounds as described in Section 17-96 of the Portland City Code:

Back Cove Park	Lobsterman Park
Baxter Woods	Longfellow Square
Bayside Park	Marginal Way Field
Bedford Park	Monument Square
Bell Buoy Park	Oatnuts Park
Belmeade Park	Payson Park
Boothby Square	Pleasant Street Park
Capisic Pond Park	Post Office Park
Compass Park/Maine State Pier	Presumpscot Park
Congress Square	Presumpscot River Preserve
Deering Oaks Park	Quarry Run Dog Park
Dougherty Field	Riverton Park
Eastern Promenade	Stroudwater Park
Fessenden Park	Tommy's Park
Fort Allen Park	University Park
Fort Sumner Park	Valley Street Dog Park
Ganley Plaza	Western Promenade
Harbor View Park	
Heseltine Park	
Lincoln Park	

Sec. 17-97. Enforcement.

(a) The health and human services department shall work with the public works department to place signs notifying the public of this prohibition at or near playgrounds and athletic facilities, as well as in such other locations that, in its sole discretion, the health and human services department deems necessary to notify the public of this ordinance.

(b) Prior to issuing a citation for a violation of this section, a police officer or any law enforcement or code enforcement officer or park ranger shall issue one verbal warning to an individual. If the individual fails to comply after one warning, said individual shall be given a citation. Failure to comply after one warning is cause for citation whether or not the failure or subsequent failures are contemporaneous in time with the initial warning.
(Ord No. 39-12/13, 2-4-13; Ord. 108-15/16, 11-16-2015)

DIVISION 7

Sec. 17-98. Sale of Flavored Tobacco Products Prohibited.

(a) No individual, corporation, partnership, unincorporated association or other entity may sell or permit the sale of any flavored tobacco product, or display, market, or advertise for sale in the City of Portland, or display, market, or advertise for sale in the City of Portland, any flavored tobacco product.

(b) There shall be a rebuttable presumption that a tobacco product is a flavored tobacco product if a manufacturer of tobacco products, or any employee or agent of a manufacturer of tobacco products, or any individual, corporation, partnership, or other entity that sells tobacco in the City of Portland, has: (1) made a public statement or claim that the tobacco product imparts a taste or smell other than the taste or smell of tobacco; (2) used text or images, or both, on the tobacco product's labeling or packaging to explicitly or implicitly indicate that the tobacco product imparts a taste or smell other than tobacco; or (3) taken action directed to consumers that would be reasonably expected to cause consumers to believe the tobacco product imparts a taste or smell other than tobacco.

(c) The City of Portland's Public Health Division Director or his/her/their designee(s) shall have the primary responsibility for enforcement of this section and may conduct random, unannounced inspections at locations where tobacco products are sold to test and ensure compliance with this ordinance.

(d) A violation of this section shall be a civil violation subject to the general penalty provisions of section 1-15 of this Code.

(e) This section shall become effective on [_____].

~~Sec. 17-98. Reserved.~~



FLAVORED TOBACCO PRODUCTS ATTRACT KIDS

Cigarettes with specific characterizing flavors were prohibited in the U.S. on September 22, 2009, as part of the Family Smoking Prevention and Tobacco Control Act (TCA) that gave the U.S. Food and Drug Administration (FDA) authority over tobacco products.¹ However, before that, tobacco companies marketed cigarettes with flavors, images, and names that appealed to a young audience. Despite the FDA's ban on flavored cigarettes, the overall market for flavored tobacco products is growing. Continuing a long tradition of designing products that appeal explicitly to new users, tobacco companies in recent years have significantly stepped up the introduction and marketing of flavored other tobacco products (OTPs), particularly e-cigarettes and cigars, as well as smokeless tobacco and hookah. With their colorful packaging and sweet flavors, today's flavored tobacco products are often hard to distinguish from the candy displays near which they are frequently placed in retail outlets. Although tobacco companies claim to be responding to adult tobacco users' demand for variety, flavored tobacco products play a key role in enticing new users, particularly kids, to a lifetime of addiction. This growing market for flavored tobacco products is undermining the nation's overall progress in reducing youth tobacco use.

Flavored Tobacco Products are on the Rise

Tobacco companies market products in many kid-friendly flavors such as gummy bear, berry blend, chocolate, peach, cotton candy, strawberry, and grape, and more seem inevitable. "Candy-flavored" is, in fact, an appropriate way to describe these products since a recent chemical analysis has shown that the same flavor chemicals used in sweet-flavored cigars of various sizes and smokeless tobacco products are also used in popular candy and drink products such as LifeSavers, Jolly Ranchers, and Kool-Aid.² A 2013 survey of internet tobacco retailers found that more than 40% of cigarette-sized cigars, machine-made cigars, moist snuff, and dry snuff tobacco products were flavored, including fruit, sweet, and mint/menthol.³ An article in *Convenience Store News* stated, "flavored tobacco is offering a bright spot in the category," referring to the increased tobacco sales – and number of consumers – in stores that sell such products.⁴

Cigars. Historically, cigar manufacturers designed flavored cigars to serve as "starter" smokes for youth and young adults because the flavors helped mask the harshness, making the products easier to smoke.⁵ Recently, there has been an explosion of cheap, flavored cigars. Sales of cigars (i.e., large cigars, cigarillos, and small cigars) have more than doubled between 2000 and 2019, from 6.1 billion cigars to 13.4 billion cigars, and sales have been generally increasing at a time when cigarette smoking has been declining.⁶

Much of the growth in cigar sales is attributable to smaller types of cigars, many of them flavored. An industry publication stated, "While different cigars target a variety of markets, all flavored tobacco products tend to appeal primarily to younger consumers."⁷ These products are often colorfully packaged and much cheaper than cigarettes; for instance, cigarillos can be priced as low as 3 or 4 for 99 cents, making them even more appealing to price-sensitive youth.

- There has been an explosive growth in flavor options for cigars, such as candy, fruit, chocolate, and various other kid-attracting tastes. The vice president of one distributor commented, "For a while it felt as if we were operating a Baskin-Robbins ice cream store" in reference to the huge variety of cigar flavors available – and, no doubt, an allusion to flavors that would appeal to kids.⁸
- Flavored cigars have made a substantial contribution to the overall growth of the cigar market. 2015 Nielsen convenience store market scanner data show that sales of flavored cigars increased by nearly 50% since 2008. As a proportion of all cigar sales in these stores, the share of flavored cigars rose from 43.6% in 2008 to 52.1% in 2015. Among flavored cigars sold in these stores in 2015, the most popular flavors were fruit (38.8%), sweet or candy (21.2%), and wine (17.0%). Further, the number of unique cigar flavor names more than doubled from 2008 to 2015, from 108 to 250.⁹

Including additional store types, Nielsen data showed that flavored cigars made up 43% of cigar sales in 2015, an increase from 2011.¹⁰

- The top five most popular cigar brands among 12- to 17-year olds who have used cigars – Swisher Sweets, Black & Mild, Backwoods, White Owl, and Dutch Masters – all come in flavor varieties.¹¹ For example, Black & Mild cigars come in flavors such as apple and cherry; Swisher Sweets comes in a huge variety of flavors such as tropical fusion, Maui pineapple, twisted berry, cherry dynamite and banana smash; and White Owl has flavors such as mango, tropical twist, strawberry kiwi and peach. Altria, the nation's largest tobacco manufacturer and parent company of Philip Morris USA, expanded its business to the cigar category in 2007 by acquiring John Middleton, Inc., which sells Black & Mild.
- Nielsen convenience store market scanner data also show an increasing number of products with names that do not explicitly identify a flavor, such as Swisher's "Wild Rush" and Altria's "Jazz," even though they are flavored. From 2012 to 2016, the proportion of all cigar sales comprised by these products (which researchers call "concept flavors") increased from 9% to 15%. The increase was greatest among cigarillos, among which the number of unique concept flavors more than doubled, from 17 to 46.¹² This strategy could be an attempt by cigar manufacturers to circumvent or complicate enforcement of local sales restrictions on characterizing flavors, some of which rely on definitions that describe flavors.

Since the Tobacco Control Act prohibited flavored cigarettes in 2009, cigarette makers have manipulated their products to qualify as "little" or "filtered" cigars.¹³ For instance, the 2012 Surgeon General's report, *Preventing Tobacco Use Among Youth and Young Adults*, noted that flavored cigarettes such as Sweet Dreams re-emerged as Sweet Dreams flavored cigars after the federal restriction on flavored cigarettes went into effect.¹⁴ In October 2009, U.S. Representatives Henry Waxman and Bart Stupak sent letters to two flavored cigarette companies, Cheyenne International and Kretek International, that began making little cigars shortly after the federal flavored cigarette ban went into effect.¹⁵ Rep. Waxman discovered that Kretek International intentionally changed their cigarettes to cigars to exploit a loophole in the TCA.¹⁶ In December 2016, the FDA issued warning letters to four tobacco manufacturers – Swisher International, Inc., Cheyenne International LLC, Prime Time International Co. and Southern Cross Tobacco Company Inc. – for marketing and selling fruit-flavored cigarettes labeled as cigars, in violation of the 2009 Tobacco Control Act.¹⁷

Electronic Cigarettes. Although these products are relatively new to the market, the variety of flavors available for use in e-cigarettes has grown exponentially. E-cigarette marketing employs many of the same strategies used for years by cigarette manufacturers that proved so effective in reaching kids, such as celebrity endorsements, slick TV and magazine advertisements, and sports and music sponsorships. Another strategy has been the widespread marketing of e-cigarettes and nicotine "e-juice" with a wild assortment of candy, fruit and other flavors. 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 that, **"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."**¹⁸

- As of 2017, researchers had identified more than 15,500 unique e-cigarette flavors available online.¹⁹ An earlier study of e-cigarette flavors found that among the more than 400 brands available online in 2014, 84% offered fruit flavors and 80% offered candy and dessert flavors.²⁰
- In addition to the more traditional candy and fruit flavors like cherry and chocolate, the liquid nicotine solutions are sold in such kid-friendly options as cotton candy, root beer float, and banana split. One study even uncovered over twenty different types of unicorn-flavored e-liquid, often paired with cartoon imagery, undoubtedly appealing to kids.²¹
- "Vape shops," which are specialty e-cigarette retail stores, offer an even wider assortment of flavors. In addition to the pre-made options, these stores allow patrons to mix their own preferred flavor combinations.²²

In January 2020, the FDA issued guidance restricting some flavors in cartridge-based e-cigarettes, but exempted menthol-flavored e-cigarettes and left flavored e-liquids and disposable e-cigarettes widely available in every imaginable flavor. As a result, sales of these products have grown substantially:

- From February 2020 to June 2021, sales of disposable e-cigarettes increased by over 200% (from 2.8 million units to 8.5 million units). During this time period, the proportion of total e-cigarette sales that were disposable devices nearly doubled, from 18.8% to 38%. Disposables are widely sold in kid-friendly flavors like fruit and candy. 80% of disposable sales are of flavors other than tobacco, mint and menthol.²³
- From February 2020 to June 2021, menthol flavored e-cigarette sales increased by 42.5% (from 6.4 million units to 9.1 million units), and they are now the top selling e-cigarette flavor, comprising 40.4% of the market. Sales of menthol-flavored cartridge-based products (like JUUL) increased by 47% over this same time.²⁴

The use of flavors in e-cigarette products is of even greater concern because e-cigarettes are the subject of extensive advertising campaigns, and there is evidence that young people are exposed to significant amounts of e-cigarette advertising. 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.²⁵

Smokeless Tobacco. The variety of flavored smokeless tobacco products has grown over time and continues to grow.

- U.S. Smokeless Tobacco Company (UST, owned by Philip Morris USA's parent company, Altria) increased the number of its sub-brands—including flavored products—by 140% from 2000 to 2006 in order to “cast a wide net” and appeal to as many potential users as possible.²⁶ In 2011, more than 80% of Skoal smokeless tobacco sold in convenience stores was flavored; and more than one out of five (21.1%) were fruit-flavored.²⁷ Current Skoal flavors include kid-friendly peach, citrus, cherry, berry, and apple.
- Between 2011 and 2019, the portion of flavored moist snuff products grew such that these products accounted for two-thirds of moist snuff products sold in 2019. Mint-type flavors (e.g., wintergreen, mint, spearmint) are by far the most popular.²⁸
- In 2019, nearly 90% of snus products sold were flavored as wintergreen, spearmint, and mint. All newer non-tobacco nicotine pouches are flavored, with wintergreen/spearmint/mint making up nearly 80% of the market, followed by cinnamon, coffee, and fruit flavors.²⁹
- A trade publication for convenience stores quoted one retailer stating, “In the case of smokeless tobacco, you get a new flavor once every quarter.”³⁰

Hookah. Hookahs (water pipes) originate from Middle Eastern countries, but their use has rapidly increased in the U.S. The tobacco used in hookah often has flavorings or sweeteners added to enhance the taste and aroma. In the U.S., even more kid-friendly flavors are available, such as watermelon, tropical fruit, orange cream, caramel, chocolate, tutti frutti, vanilla and strawberry.³¹

Cigarettes. Menthol cigarettes, the only remaining flavored cigarette, maintain a significant market share. While overall cigarette sales have been declining, the proportion of smokers using *menthol* cigarettes has been increasing.³²

- Data from the Federal Trade Commission (FTC) show that in 2019 (the most recent year for which data are available), menthol cigarettes comprised 37% of the market, the highest proportion on record since FTC began collecting this data in 1963.³³ Between 2009 and 2018, sales of non-menthol cigarettes have declined by 33.1% nationally while sales of menthol cigarettes have declined by only 8.2% during the same period. 91% of the decline in cigarette sales between 2009 and 2018 is attributable to nonmenthol cigarettes.³⁴
- Before cigarettes with specific characterizing flavors were prohibited by the Tobacco Control Act, R.J. Reynolds’ “Camel Exotic Blends” came in flavors such as Twista Lime, Kauai Kolada, Warm Winter Toffee and Winter Mocha Mint, among others. Bright, colorful and alluring ads for these cigarettes have appeared in magazines popular with kids, including *Rolling Stone*, *Cosmopolitan* and *Sports Illustrated*.
- Using data from the 1999-2013 Youth Tobacco Surveys, a 2017 study analyzed the impact of the 2009 ban on characterizing flavors in cigarettes on youth tobacco use. The researchers found that cigarette use declined significantly after the ban, whereas cigar and pipe tobacco use significantly

increased. Further, use of menthol cigarettes, the only remaining flavored cigarette, increased significantly after the ban.³⁵

Flavored Products Appeal to Youth and Young Adults

Research shows that flavored products – no matter what the tobacco product – appeal to youth and young adults. Data from the 2013-2014 Population Assessment of Tobacco and Health (PATH) study found that 80.8% of 12-17 year olds who had ever used a tobacco product initiated tobacco use with a flavored product and that for each tobacco product, at least two-thirds of youth reported using these products “because they come in flavors I like.”³⁶ Data from the 2014-2015 wave of the PATH study found that 72.3% of current tobacco users had used a flavored tobacco product in the past month.³⁷

Another national study found that 18.5% of young adult tobacco users (18-34 years old) currently use a flavored tobacco product, with younger age being a predictor of flavored tobacco product use. In fact, the study found that those aged 18-24 years old had an 89% increased odds of using a flavored tobacco product compared to those aged 25-34 years old.³⁸

According to the 2012 Surgeon General Report, “Much of the growing popularity of small cigars and smokeless tobacco is among younger adult consumers (aged <30 years) and appears to be linked to the marketing of flavored tobacco products that, like cigarettes, might be expected to be attractive to youth.”³⁹ The 2016 Surgeon General Report on e-cigarettes concluded that flavors are among the most commonly cited reasons for using e-cigarettes among youth and young adults.⁴⁰

Cigars. More than 1,400 kids under age 18 try cigar smoking for the first time every day.⁴¹ Research shows that flavored cigars are driving much of this usage. Cheap, sweet cigars can serve as an entry product for kids to a lifetime of smoking.

- 43.2% of current youth high school cigar smokers report using a flavored product in the last month.⁴²
- The 2016-2017 wave of the PATH study found that 56.8% of 12-17 year olds who had ever smoked cigarillos started with a flavored product.⁴³ In 2013-2014, 73.8% of youth cigar smokers reported that they smoked cigars “because they come in flavors I like.”⁴⁴
- National data suggest that flavored cigar products are driving cigar use among adults, particularly young adults. With few exceptions, use of flavored cigars among adult cigar smokers is highest among those groups with the highest overall cigar use rates, including young adults aged 18-24 (57.1%), income below \$20,000 (51.7%), and non-Hispanic others (62.4%).⁴⁵
- Data from the National Adult Tobacco Survey indicate that use of flavored cigars decreases with age. Flavored cigar use among cigar smokers was 57.1% among 18-24 year olds, 43.2% among 25-44 year olds, 28.9% among 45-64 year olds and 13.4% among those ages 65 and older.⁴⁶
- Youth and young adults prefer brands that come in a variety of flavors, and that preference declines significantly with age – in one study, 95% of 12-17 year old cigar smokers reported a usual brand that makes flavored cigars compared with 63% of cigar smokers aged 35 and older.⁴⁷

E-Cigarettes. Given the dramatic growth in the availability and marketing of flavored e-cigarettes, it's no surprise that e-cigarettes have been the most popular tobacco product among youth since 2014. Among high school students, e-cigarette use declined to 19.6% in 2020, after increasing an alarming 135% from 2017 to 2019 (from 11.7% to 27.5%).⁴⁸ 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 use e-cigarettes, about the same as in 2018 when the U.S. Surgeon General first called youth e-cigarette use an “epidemic.”⁴⁹

One tobacco company has even acknowledged that youth are attracted to sweet flavored products. Lorillard Inc.'s Youth Smoking Prevention Program posted a page on e-cigarettes on its “Real Parents Real Questions” website that stated: “Kids may be particularly vulnerable to trying e-cigarettes due to an abundance of fun flavors such as cherry, vanilla, piña-colada and berry.”⁵⁰

- The 2020 NYTS found that an increasing proportion of youth e-cigarette users reported using flavored products in 2020 (82.9%, up from 68.8% in 2019).⁵¹ Nearly 3 million youth use flavored e-cigarettes.⁵²

Among high school students who currently used any type of flavored e-cigarette, the most commonly used flavor types were fruit (73.1%), mint (55.8%), menthol (37%), and candy, desserts, or other sweets (36.4%).⁵³

- Earlier data from the 2016-2017 wave of the PATH study found that 96.1% of 12-17 year olds who had initiated e-cigarette use since the last survey wave started with a flavored product. Additionally, it found that 97% of current youth e-cigarette users had used a flavored e-cigarette in the past month and 70.3% say they use e-cigarettes “because they come in flavors I like.”⁵⁴
- While fruit and mint flavors are now prohibited in cartridge-based e-cigarettes, disposable e-cigarettes come in a wide array of kid-friendly flavors, like cotton candy, strawberry, and mint, which have become increasingly popular among kids. Among high school current e-cigarette users, use of disposable e-cigarettes increased by 1,000% from 2019 to 2020 (from 2.4% to 26.5%).⁵⁵ Among current youth users of disposable e-cigarettes, the most commonly used flavor type is fruit (82.7%), followed by mint (51.9%).⁵⁶
- The 2013-2014 National Adult Tobacco Survey found that use of flavored e-cigarettes was highest among young adults (ages 18-24), compared to those over age 25, and that flavored e-cigarettes were most popular among adults who were never cigarette smokers.⁵⁷
- A national phone survey found that youth (ages 13-17) were more likely to report interest in trying an e-cigarette offered by a friend if it were flavored like fruit, candy or menthol, compared to tobacco. This study also found that youth believed that fruit-flavored e-cigarettes were less harmful than tobacco-flavored e-cigarettes.⁵⁸
- Another study found that compared to college students, high school students were more likely to report experimenting with e-cigarettes because of appealing flavors (47% vs. 33%).⁵⁹

Smokeless Tobacco. As with cigarettes, characterizing flavors in other tobacco products (OTPs) mask the tobacco flavor, and can make the products appealing to youth. Smokeless (or spit) tobacco companies, particularly the U.S. Smokeless Tobacco Company (UST), have a long history of creating new products that appeal to kids and marketing them aggressively to children in order to “graduate” them to more potent smokeless tobacco varieties.⁶⁰

- Although cigarette smoking among youth in the U.S. has declined rapidly since the Tobacco Control Act went into effect, use of smokeless tobacco among youth has not followed that same trend, and among high school boys, the prevalence of smokeless tobacco use is about the same as that of cigarettes (4.8 vs. 5.4%).⁶¹
- The 2019 NYTS found that about half (49.8%) of current high school smokeless tobacco users report using flavored products.⁶²
- The 2013-2014 PATH study found that 68.9% of 12-17 year olds who had ever used smokeless tobacco reported using flavored smokeless tobacco the first time they tried the product.⁶³
- Among youth smokeless tobacco users, mint and menthol are the most popular flavors.⁶⁴

Hookah. Research shows that many youth and young adults perceive hookah to be safer than other combustible tobacco products.⁶⁵ However, according to the CDC, using a hookah to smoke tobacco poses serious health risks to smokers and others exposed to the smoke from the hookah.⁶⁶ Because the flavors and the smoking technique create a more soothing (“smooth”) experience, hookah smokers can inhale more deeply and spend more time in a “hookah session,” which typically lasts for 40 to 45 minutes (three to four times longer than it takes to smoke a cigarette). While a typical cigarette requires about 20 puffs, an hour-long hookah session may involve 100 to 200 puffs⁶⁷, potentially exposing the user to more smoke over a greater period of time than what occurs when smoking a regular cigarette.⁶⁸ The appeal of flavored hookah undoubtedly contributes to its popularity among youth and young adults.

- The 2019 NYTS found that one-third of current high school hookah users reported using a flavored product in the last month.⁶⁹

- The 2013-2014 PATH study found that 88.7% of 12-17 year olds who had ever smoked hookah used flavored hookah the first time they tried the product and more than three-quarters (78.9%) of youth hookah users reported that they use hookah “because they come in flavors I like.”⁷⁰

Cigarettes. As the only flavored cigarette left on the market, it is 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 tobacco use.⁷¹

- About half of all high school smokers use menthol cigarettes. Over half a million (530,000) middle and high schoolers use menthol cigarettes.⁷²
- The popularity of menthol flavored cigarettes is also evidenced by brand preference among youth. According to data from the 2016 National Survey on Drug Use and Health, about one in five (18.9%) smokers ages 12-17 prefers Newport cigarettes, a heavily marketed menthol cigarette brand. Preference for Newport is even higher among African-American youth smokers (70.9%) because of targeted marketing by the tobacco industry.⁷³

According to FDA’s Tobacco Product Scientific Advisory Committee (TPSAC):⁷⁴

- 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.

FDA’s own scientific analysis concluded that menthol cigarettes lead to increased smoking initiation among youth and young adults, greater addiction and decreased success in quitting smoking.⁷⁵

Although they are no longer on the market, older studies on flavored cigarettes other than menthol are still relevant to reinforce the general appeal of flavors to youth and young adults. When they were available, flavored cigarettes were being tried and used primarily by the young.⁷⁶ Candy-flavored cigarettes clearly had their greatest appeal to new smokers, 90% of whom were teens or younger. Research indicated that youth and young adults were more likely to notice flavored tobacco products and their ads, and this awareness translated into higher use rates among young smokers.

- Older adolescents and young adults aged 17 to 19 years old were more than twice as likely to report using flavored cigarettes (specifically Camel Exotic blends, Kool Smooth Fusion or Salem Silver Label brands) in the past 30 days compared to those aged 22 years or older.⁷⁷
- A significant gradient in flavored cigarette use was seen across age, with the highest rates of utilization among 17 year old smokers (22.8%) and 18-19 year old smokers (21.7%). Nine% of 24-26 year olds reported flavored cigarette use.⁷⁸

Tobacco Companies Have Long Recognized that Flavored Products Appeal to Youth

The tobacco companies know that almost all new tobacco users begin their addiction as kids, but they also know that to novice smokers, tobacco can be harsh and unappealing. Internal tobacco industry documents show that tobacco companies have a long history of using flavors to reduce the harshness of their products to make them more appealing to new users, almost all of whom are under age 18.⁷⁹ By masking the harshness and soothing the irritation caused by tobacco smoke, flavors make it easier for beginners – primarily kids – to try the product and ultimately become addicted. As early as the 1970s, the tobacco companies were discussing the “benefits” of sweet flavors. Their internal documents and public statements show that the tobacco industry’s use of sweet flavors goes beyond just encouraging current smokers to switch brands, but rather to attract new users, mostly kids.

- As early as 1972, advisors to Brown & Williamson reviewed new 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.”⁸⁰

- A 1974 summary of an RJR meeting discussed cigarettes designed for beginning smokers, noting that such a cigarette should be *“low in irritation and possibly contain added flavors to make it easier for those who never smoked before to acquire the taste of it more quickly.”*⁸¹
- An RJR interoffice memo revealed ideas for new products: *“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.”*⁸²
- A Lorillard report summarizing the test results from new cigarette flavors, included smokers' description of “Tutti Frutti” flavored cigarettes as *“for younger people, beginner cigarette smokers, teenagers . . . when you feel like a light smoke, want to be reminded of bubblegum.”*⁸³
- A UST document called “The graduation theory” stated: *“New users of smokeless tobacco – attracted to the product for a variety of reasons – are most likely to begin with products that are milder tasting, more flavored, and/or easier to control in the mouth. After a period of time, there is a natural progression of product switching to brands that are more full-bodied, less flavored, have more concentrated ‘tobacco taste’ than the entry brand.”*⁸⁴
- A former UST sales representative revealed that, *“Cherry Skoal is for somebody who likes the taste of candy, if you know what I’m saying.”*⁸⁵

What States and Localities Can Do

In addition to the federal ban on flavored cigarettes, states and localities can implement additional sales restrictions to address the remaining flavored tobacco products on the market, including menthol cigarettes.

Five states—California, Massachusetts, New Jersey, New York and Rhode Island—have enacted laws or rules to prohibit the sale of flavored e-cigarettes, and both California and Massachusetts prohibit the sale of menthol cigarettes (CA implementation pending referendum vote). Maryland and Utah also restrict the sale of some flavored e-cigarettes. In addition, at least 300 localities across the country restrict the sale of flavored tobacco products, although laws differ in their application to specific products and store types.

For a list of state and localities that have passed restrictions on the sale of flavored tobacco products, visit: <https://www.tobaccofreekids.org/assets/factsheets/0398.pdf>.

Campaign for Tobacco-Free Kids, September 1, 2021 / Laura Bach

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IMPACT OF MENTHOL CIGARETTES ON YOUTH SMOKING INITIATION AND HEALTH DISPARITIES

Cigarettes with specific characterizing flavors were prohibited in the U.S. on September 22, 2009, as part of the Family Smoking Prevention and Tobacco Control Act (TCA) that gave the U.S. Food and Drug Administration (FDA) authority over tobacco products.¹ This provision excluded menthol cigarettes, which have subsequently increased their share of the cigarette market. Data from the Federal Trade Commission (FTC) show that in 2019, menthol cigarettes comprised 37% of the market, the highest proportion on record since FTC began collecting this data in 1963.² Between 2009 and 2018, sales of non-menthol cigarettes declined by 33.1% nationally while sales of menthol cigarettes declined by only 8.2% during the same period. 91% of the decline in cigarette sales between 2009 and 2018 is attributable to nonmenthol cigarettes.³

Menthol cigarettes pose a tremendous public health threat. A 2013 FDA report on the health impact of menthol cigarettes determined that menthol cigarettes lead to increased smoking initiation among youth and young adults, greater addiction and decreased success in quitting smoking.⁴ Further, FDA's Tobacco Products Scientific Advisory Committee's (TPSAC)* concluded, **"Removal of menthol cigarettes from the marketplace would benefit public health in the United States."**⁵

Menthol Makes it Easier for Youth to Initiate Tobacco Use

The tobacco companies know that almost all new tobacco users begin their addiction as kids, but they also know that to novice smokers, tobacco can be harsh and unappealing. Internal tobacco industry documents show that tobacco companies have a long history of using flavors to reduce the harshness of their products to make them more appealing to new users, almost all of whom are under age 18.⁶ By masking the harshness and soothing the irritation caused by tobacco smoke, flavors make it easier for beginners – primarily kids – to experiment with the product and ultimately become addicted. Menthol has particularly appealing qualities for novice smokers. Menthol is a chemical compound that cools and numbs the throat, reducing the harshness of cigarette smoke, thereby making menthol cigarettes more appealing to youth who are initiating tobacco use.⁷ As TPSAC noted, "Menthol cannot be considered merely a flavoring additive to tobacco. Its pharmacological actions reduce the harshness of smoke and the irritation from nicotine."⁸ According to TPSAC's conclusions:⁹

- 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.

As the only flavored cigarette left on the market, it is no surprise that menthol cigarettes remain popular among youth. In fact, a study analyzing the impact of the 2009 ban on characterizing flavors in cigarettes on youth tobacco use found that use of menthol cigarettes among high schoolers significantly increased after the ban.¹⁰ Since the reports from FDA and TPSAC, research has continued to demonstrate the popularity of menthol cigarettes among youth and menthol's role in smoking initiation:

* TPSAC is a group of scientific experts charged with advising the Commissioner of Food and Drugs on safety, dependence, and health issues relating to tobacco. See <https://www.fda.gov/advisoryCommittees/CommitteesMeetingMaterials/tobaccoproductsScientificAdvisoryCommittee/default.htm> for more details.

- About half of all high school smokers use menthol cigarettes. Over half a million (530,000) middle and high schoolers use menthol cigarettes.¹¹
- The popularity of menthol-flavored cigarettes is also evidenced by brand preference among youth. According to data from the 2015 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%) because of targeted marketing by the tobacco industry.¹²
- Data from the government's Population Assessment of Tobacco and Health (PATH) study shows that youth menthol smokers are more likely to perceive menthol cigarettes as easier to smoke than regular cigarettes,¹³ that youth menthol smokers have significantly higher levels of certain measures of dependence,¹⁴ and that initiation with a menthol-flavored cigarette is associated with a higher relative risk of daily smoking.¹⁵
- Data from Truth Initiative's Young Adult Cohort Study, a national study of 18-34 year olds, showed that 52% of new young adult smokers initiated with menthol cigarettes. Initiation with menthol cigarettes was higher among black smokers (93.1%) compared to white smokers (43.9%).¹⁶
- Data from the 2017 and 2018 National Youth Tobacco Surveys shows that among middle and high school students, menthol smoking was associated with greater smoking frequency (smoking on at least 10 of the last 30 days) and intention to continue smoking, compared to non-menthol smoking.¹⁷

Menthol Increases Addiction and Makes it Harder for Smokers to Quit

While the tobacco industry initially marketed menthol cigarettes as safer and healthier cigarettes, because of their cooling properties and reduced throat irritability, this could not be further from the truth.¹⁸ In fact, because menthol cigarettes are less harsh, they are associated with increased initiation and greater addiction, and FDA found that it is **“likely that menthol cigarettes pose a public health risk above that seen with nonmenthol cigarettes.”**¹⁹

Both TPSAC's and FDA's own scientific analyses conclude that menthol cigarettes are associated with increased nicotine dependence and reduced success in smoking cessation.²⁰ TPSAC projected that by 2020, about 17,000 premature deaths will be attributable to menthol cigarettes and about 2.3 million people will have started smoking because of menthol cigarettes.²¹ Using the same model, researchers recently quantified the population harms caused by menthol cigarettes between 1980 and 2018. They estimate that during this time, menthol cigarettes were responsible for 10.1 million additional new smokers, 378,000 premature deaths and nearly 3 million life years lost. This amounts to nearly 10,000 premature deaths and over 265,000 new smokers each year over the 38-year period.²²

Research published since FDA's and TPSAC's reports continue to demonstrate the detrimental public health impact of menthol cigarettes:

- A 2014 randomized clinical trial of FDA-approved cessation treatments among 1,500 US adult smokers found that menthol smoking was associated with reduced likelihood of quitting, compared to non-menthol smoking. African American female menthol smokers had the lowest quit rates of all groups in the study.²³
- A meta-analysis of findings from nearly 150,000 smokers found that among African Americans, menthol smokers have a 12% lower odds of smoking cessation compared to non-menthol smokers.²⁴
- Relying on these studies as well as the FDA's and TPSAC's findings, the 2020 Surgeon General Report on Smoking Cessation determined that the evidence was suggestive, but not conclusive as to the role of menthol on smoking cessation, finding the strongest evidence for reduced likelihood of smoking cessation among African American menthol smokers.²⁵

- Most recently, a study analyzing four waves of data from the government's Population Assessment of Tobacco and Health (PATH) study found that among daily smokers, menthol cigarette smokers have a 24% lower odds of quitting as compared to non-menthol smokers (the study did not find a significant difference among quit rates for non-daily menthol and non-menthol smokers). Among daily smokers, African American menthol smokers had a 53% lower odds of quitting compared to African American non-menthol smokers and white menthol smokers had a 22% lower odds of quitting compared to white non-menthol smokers.²⁶
- Despite the overwhelming evidence regarding the public health harms of menthol cigarettes, misperceptions still exist. A survey of African American adult smokers in Minnesota found that over half (59%) were either unsure of the relative harm of menthol cigarettes or perceived that menthol cigarettes are less harmful than non-menthol cigarettes.²⁷

The difficulty that menthol smokers have in quitting continues to be reflected in national smoking prevalence trends. While smoking rates have declined overall in recent years, use of menthol cigarettes has increased significantly. Menthol smoking rates have increased among young adults and remained constant among youth and adults, while non-menthol smoking has decreased in all three age groups.²⁸ Overall, about 4 out of 10 (39.9%) of smokers use menthol cigarettes.²⁹

In recent years, use of menthol cigarettes has increased among White, Asian, and Hispanic smokers. Use of menthol cigarettes has remained constant among African-American smokers, who continue to use menthol cigarettes more than any other racial/ethnic group.³⁰ Research also shows that use of menthol cigarettes has perpetuated disparities among other groups. According to the 2018 National Survey of Drug Use and Health (NSDUH):³¹

- 85% of African American smokers, 50% of Hispanic smokers and 47% of Asian American smokers use menthol cigarettes, compared to 29% of White smokers.
- 51% of lesbian/gay and 46% of bisexual smokers use menthol cigarettes, compared to 39% of heterosexual smokers.
- 45% of smokers with severe psychological distress use menthol cigarettes compared to 39% of smokers with no past month serious psychological distress.
- 47% of smokers living in poverty use menthol cigarettes, compared to 36% of smokers with an income exceeding twice the Federal Poverty Threshold.
- 60% of pregnant smokers use menthol cigarettes.

Use of Menthol Cigarettes Leads to Health Disparities for African Americans

Prevalence of menthol use is highest among African Americans – 85% of all African-American smokers smoke menthol cigarettes, compared to 29% of Whites.³² The tobacco industry's "investment" in the African-American community has had a destructive impact. TPSAC's report and FDA's analysis conclude that African Americans are disproportionately burdened by the health harms of menthol cigarettes. Specifically, TPSAC concluded that the marketing and availability of menthol cigarettes increases the overall prevalence of smoking and reduces cessation among African Americans.³³

- African Americans generally have higher levels of nicotine dependence as a consequence of their preference for mentholated cigarettes.³⁴ While research shows that African American smokers are highly motivated to quit smoking and are more likely than White smokers to have made a quit attempt and used counseling services in the previous year, they are less likely than White smokers to successfully quit smoking.³⁵
- Due to the lower likelihood of smoking cessation among African American menthol smokers, the 2020 Surgeon General Report on Smoking Cessation concluded that, "Use of menthol cigarettes has been shown to contribute to tobacco cessation-related disparities in the United States."³⁶

- 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 cigarettes.³⁷
- A 2019 metaanalysis found that among African American smokers, menthol smokers had a 12% lower odds of successfully quitting smoking compared to non-menthol smokers.³⁸
- African Americans suffer the greatest burden of tobacco-related mortality of any racial or ethnic group in the United States. Each year, approximately 45,000 African Americans die from a smoking-caused illness. Unless action is taken, an estimated 1.6 million African Americans alive today, who are now under the age of 18, will become regular smokers; and about 500,000 of these will die prematurely from a tobacco-related disease.³⁹
- 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.⁴⁰ Decreased cessation success due to the popularity of menthol cigarettes among African Americans likely contributes to this mortality disparity.⁴¹

The Tobacco Industry Targets Minorities and Youth with Menthol Cigarette Marketing

The greater popularity of menthol cigarettes among African Americans, youth, and other minorities is a direct result of a decades-long marketing campaign by the tobacco industry. In fact, TPSAC concluded that menthol cigarettes are marketed disproportionately to younger smokers and African Americans.⁴² 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.

Music and Community Event Sponsorship. Beginning in the 1970s, the major tobacco companies competed for the African American market share by sponsoring music and community events like Brown & Williamson's "Kool Jazz Festival," R.J. Reynolds' "Salem Summer Street Scenes," and Phillip Morris's "Club Benson & Hedges" promotional bar nights.⁴³ Kool also sponsored Latin music festivals, including the branded "Kool Latino Festival," in the 1970s and 1980s.⁴⁴

Magazine Advertising. Expenditures for magazine advertising of mentholated cigarettes increased from 13% of total ad expenditures in 1998 to 76% in 2006.⁴⁵ During the two years after the Master Settlement Agreement (MSA) in November 1998, the average annual expenditures for Newport in magazines with high youth readership increased 13.2% (from \$5.3 to \$6.0 million).⁴⁶ Between 1998–2002, *Ebony*, a magazine tailored to African-American culture, was 9.8 times more likely than *People* to contain ads for menthols.⁴⁷ One study comparing the English and Spanish language versions of *Cosmopolitan* and *Glamour* from 1998–2002 found that 51% of the cigarette ads in the Spanish language versions were for menthol brands, compared to only 28% in the English language versions.⁴⁸

Youthful Imagery. The tobacco companies commonly use youthful imagery in its advertising to appeal to young consumers. As a R.J. Reynolds document from 1981 noted, "The benefit of smoking which has most frequently and most successfully been exploited by brand families appears to be Social Interaction. For example, some brands, such as Newport, have focused on the younger adult 'peer group' aspect of social interaction."⁴⁹ Newport's "Alive with Pleasure" campaign, which continues today, portrays smokers in fun, social environments in its advertisements.⁵⁰ In 2004, Brown & Williamson started an ad campaign for their Kool brand cigarettes clearly aimed at youth—and African-American youth, in particular. The Kool Mixx campaign featured images of young rappers, disc jockeys and dancers on cigarette packs and in advertising. The campaign also included radio giveaways with cigarette purchases and a Hip-Hop disc jockey competition in major cities around the country. The themes, images, radio giveaways and music involved in the campaign all clearly have tremendous appeal to youth, especially African-American youth.

Attorneys General from several states promptly filed motions against Brown & Williamson for violating the Master Settlement Agreement.⁵¹

Retail Promotions. For decades, tobacco companies have specifically targeted minority communities, particularly African Americans, with intense advertising and promotional efforts. Beginning in the 1970s, the major tobacco companies used mobile van programs, like the Newport Pleasure Van, to expand their reach in urban areas through product sampling and coupon distribution.⁵² The tobacco companies also developed specific strategies and specially designed product displays to adapt their point-of-sale marketing to smaller retailers that were more common in urban areas. Phillip Morris implemented promotion programs and paid retailers to exhibit product displays and grow their inventory. Brown & Williamson launched its Kool Inner City Point of Purchase Program, later the Kool Inner City Family Program, with the explicit goal, “to reach the core of Kool’s franchise (young, black, relatively low income and education),”⁵³ with both retailer and consumer promotions.⁵⁴ Today, menthol cigarettes continue to be heavily advertised, widely available, and priced cheaper in certain African-American communities, making them more appealing, particularly to price-sensitive youth. A wealth of research indicates that African-American neighborhoods have a disproportionate number of tobacco retailers, pervasive tobacco marketing, and in particular, more marketing of menthol products.⁵⁵

- Like many minority and low-income neighborhoods, African-American neighborhoods tend to have more tobacco retailers. Nationwide, census tracts with a greater proportion of African American residents have higher tobacco retailer density.⁵⁶
- A 2011 study of cigarette prices in retail stores across the U.S. found that Newport cigarettes are significantly less expensive in neighborhoods with higher proportions of African Americans.⁵⁷
- The 2011 California Tobacco Advertising Survey reports that there were significantly more menthol advertisements at stores in neighborhoods with a higher proportion of African-American residents and in low-income neighborhoods.⁵⁸
- Another 2011 California study found that as the proportion of African-American high school students in a neighborhood rose, the proportion of menthol advertising increased, the odds of a Newport promotion were higher, and the cost of Newport cigarettes was lower.⁵⁹
- A 2013 study of tobacco retail outlets in St. Louis found more tobacco advertising, including more menthol advertising, in areas with a greater proportion of African-American residents.⁶⁰ Another 2013 study found similar patterns in Ramsey County, Minnesota.⁶¹

FDA Action Needed to Prohibit Menthol Cigarettes

Despite strong evidence from the FDA and TSPAC reports and continued research on the public health harms, the FDA has yet to take action to prohibit menthol cigarettes. In 2013, the FDA issued an Advanced Notice of Proposed Rulemaking (ANPRM), soliciting additional research and comments from the public on prohibiting menthol cigarettes. In 2018, the FDA issued another ANPRM, seeking additional evidence on the public health harms of menthol cigarettes, along with other flavored tobacco products. Neither of these ANPRMs have led to the issuance of a rule to prohibit menthol cigarettes; however, in November 2018, FDA Commissioner Scott Gottlieb announced the agency’s intention to ban menthol in combustible tobacco products, including cigarettes and cigars.⁶² This announcement received strong support from the public health and African American communities, including the National Association for the Advancement of Colored People (NAACP), the National Urban League, the National African American Tobacco Prevention Network and the African American Tobacco Control Leadership Council.⁶³

State and Local Action to Restrict the Sale of Menthol Tobacco Products

States and localities can implement additional sales restrictions on menthol cigarettes and flavored non-cigarette tobacco products.

- In November 2019, Massachusetts enacted the first statewide ban on the sale of all flavored tobacco products, including menthol cigarettes (effective 6/1/20). In August 2020, California became the second state to ban menthol cigarettes, along with flavored e-cigarettes and most other flavored tobacco products (implementation pending referendum vote).
- In 2017, the San Francisco Board of Supervisors unanimously passed an ordinance to prohibit the sale of all flavored tobacco products, including menthol cigarettes and e-cigarettes, becoming the first major U.S. city to enact a comprehensive ban.⁶⁴ This law was originally slated to go into effect on April 1, 2018. However, R.J. Reynolds, manufacturer of the top-selling menthol brand, quickly responded by gathering signatures for a referendum petition, allowing voters to decide on the June 2018 ballot whether the restriction should be implemented.⁶⁵ San Francisco residents overwhelmingly voted (68.4% to 31.6%)⁶⁶ to implement the flavored tobacco sales restriction, despite the industry spending nearly \$12 million to try to defeat the initiative.⁶⁷
- Now, over 100 localities from California to Illinois to Minnesota restrict or ban the sale of menthol cigarettes.⁶⁸

The Canadian government banned menthol cigarettes in October 2017, although most provinces had banned menthol cigarettes prior to the nationwide law. Surveillance from Ontario, which banned menthol cigarettes on January 1, 2017 shows promising evidence that banning menthol cigarettes increases quit attempts and cessation:

- A 1-year follow-up survey found that both daily and occasional menthol smokers were more likely to report having quit smoking (24% and 20%, vs 14%) or having made a quit attempt (63% and 62%, vs 43%), compared to non-menthol smokers.⁶⁹
- A 2-year follow-up survey found that menthol smokers were more likely to report having quit smoking for at least the last 6 months (12% for daily menthol smokers and 10% for occasional menthol smokers), compared to non-menthol smokers (3%), with no significant differences in relapse rates. Menthol smokers also reported more quit attempts than non-menthol smokers. Daily menthol smokers reported an average of 3 quit attempts, compared to 2.6 for occasional menthol smokers and 1.2 for non-menthol smokers.⁷⁰

Research on the impact of Canada's national ban is also starting to emerge. Data from the International Tobacco Control Policy Evaluation Project (ITC) are consistent with the findings on the impact of the Ontario ban. Specifically, ITC researchers, using longitudinal surveys of Canadian smokers in seven provinces from 2016-2018 found that following provincial bans and the national ban, menthol smokers were more likely to try to quit than non-menthol smokers (59% vs. 49%), and were twice as likely to have quit smoking for at least six months (12% vs. 6%).⁷¹ It is important to note that menthol cigarettes comprised a much smaller proportion of the Canadian cigarette marketplace (~5%) than the US marketplace (37%), and the demographics of menthol smokers are very different between the two countries.

In May 2020, the European Union and the United Kingdom banned the sale of menthol cigarettes, but research is not yet available on the impact of these bans.

Campaign for Tobacco-Free Kids, April 14, 2021 / Laura Bach

More information on Tobacco and African Americans is available at
<https://www.tobaccofreekids.org/fact-sheets/tobaccos-toll-health-harms-and-cost/toll-of-tobacco-on-specific-populations-african-americans>

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STATES & LOCALITIES THAT HAVE RESTRICTED THE SALE OF FLAVORED TOBACCO PRODUCTS

Cigarettes with specific characterizing flavors, other than menthol, were prohibited in the U.S. on September 22, 2009, as part of the Family Smoking Prevention and Tobacco Control Act (TCA) that gave the U.S. Food and Drug Administration (FDA) authority over tobacco products. In addition to the federal ban on flavored cigarettes, states and localities can implement additional sales restrictions to address menthol cigarettes and flavored non-cigarette tobacco products and their appeal to youth and young adults.

States

In November 2019, Massachusetts became the first state to restrict the sale of all flavored tobacco products, including menthol cigarettes. In 2020, New Jersey, New York and Rhode Island enacted bans on the sale of flavored e-cigarettes and California became the second state to prohibit the sale of both flavored e-cigarettes and menthol cigarettes.

1. **Massachusetts**² (effective 11/27/19 for e-cigarettes; 6/1/20 for all other products)
2. New Jersey⁴ (effective 4/20/20)
3. New York^{4,7} (effective 5/18/20)
4. Rhode Island⁴ (effective 3/26/20)
5. **California**^{6,8,9} (implementation pending referendum vote)

In 2019, eight states—Massachusetts, Michigan, Montana, New York, Oregon, Rhode Island, Utah and Washington—issued emergency rules to temporarily ban the sale of flavored e-cigarettes. As a result of legal challenges, these orders were blocked in Michigan, New York, Oregon and Utah. The Montana and Washington state orders have expired. Massachusetts, New York and Rhode Island later enacted permanent bans. Utah later enacted regulations restricting the sale of flavored e-cigarettes (except mint/menthol) to adult-only retail tobacco specialty businesses

Prior to the enactment of the Tobacco Control Act, New Jersey had already restricted the sale of flavored cigarettes, excluding menthol and clove flavors. Maine prohibits the sale of flavored non-premium cigars.

Localities

At least 310 localities have passed restrictions* on the sale of flavored tobacco products, although laws differ in their application to specific products and store types (see endnotes). At least 120 of these communities—those listed in **bold**—restrict the sale of menthol cigarettes, in addition to other flavored tobacco products.

California (109)

1. **Adelanto**
2. **Alameda**
3. **Alameda County**³
4. **Albany**
5. **Alturas**
6. Anderson^{2,4}
7. Arroyo Grande^{4,7}
8. Auburn
9. **Benicia**
10. **Berkeley**
11. **Beverly Hills**
12. **Burbank**²
13. **Burlingame**

California (cont'd)

14. Calabasas²
15. **Capitola**
16. **Carpinteria**
17. **Carson**
18. Cerritos⁴
19. Cloverdale
20. **Compton**²
21. **Contra Costa County**³
22. **Corte Madera**
23. **Cudahy**
24. **Culver City**²
25. **Cupertino**
26. Danville^{4,7}

California (cont'd)

27. **Davis**
28. **Delano**
29. **Dublin**
30. **East Palo Alto**
31. El Cerrito
32. **El Monte**
33. **Encinitas**⁶
34. **Fairfax**
35. **Fremont**
36. **Glendale**^{6,8,9}
37. **Guadalupe**
38. **Half Moon Bay**
39. **Hayward**

California (cont'd)

40. **Hermosa Beach**
41. **Imperial Beach**
42. **Lafayette**
43. **Laguna Niguel**
44. **Larkspur**
45. **Livermore**
46. **Long Beach**^{6,8,9}
47. **Loomis**⁴
48. **Los Altos**²
49. **Los Angeles County**³
50. **Los Gatos**
51. **Mammoth Lakes**
52. **Manhattan Beach**
53. **Marin County**³
54. **Maywood**
55. **Mendocino County**³
56. **Menlo Park**
57. **Mill Valley**
58. **Mono County**³
59. **Morgan Hill**
60. **Morro Bay**⁵
61. **Novato**
62. **Oakland**
63. **Oroville**
64. **Oxnard**
65. **Napa**^{6,8,9}
66. **Pacific Grove**
67. **Palmdale**⁴
68. **Palo Alto**
69. **Paradise**
70. **Pinole**
71. **Pleasanton**
72. **Portola Valley**
73. **Redondo Beach**²
74. **Richmond**
75. **Ross**
76. **Sacramento**
77. **San Anselmo**
78. **San Carlos**
79. **San Diego County**^{3,6,8,9}
80. **San Francisco**
81. **San Leandro**
82. **San Luis Obispo**^{4,7}
83. **San Luis Obispo County**^{3,4,7}
84. **San Mateo**
85. **San Mateo County**³
86. **San Pablo**
87. **San Rafael**
88. **Santa Barbara County**³
89. **Santa Clara County**³
90. **Santa Clarita**
91. **Santa Cruz**
92. **Santa Cruz County**³
93. **Santa Maria**
94. **Saratoga**

California (cont'd)

95. **Sausalito**
96. **Sebastopol**
97. **Solana Beach**
98. **Sonoma**⁴
99. **South San Francisco**
100. **Sunnyvale**
101. **Tiburon**
102. **Ventura**
103. **Ventura County**^{3,4}
104. **Watsonville**
105. **West Hollywood**⁶
106. **West Sacramento**
107. **Windsor**
108. **Woodland**
109. **Yolo County**³

Colorado (5)

1. **Aspen**
2. **Boulder**⁴
3. **Carbondale**
4. **Glenwood Springs**
5. **Snowmass Village**

Illinois (1)

1. **Chicago**¹

Massachusetts (168)

1. **Acton**²
2. **Adams**²
3. **Agawam**²
4. **Andover**²
5. **Amherst**²
6. **Arlington**²
7. **Ashburnham**²
8. **Ashby**²
9. **Ashland**²
10. **Athol**²
11. **Attleboro**²
12. **Avon**²
13. **Ayer**²
14. **Barnstable**²
15. **Bedford**²
16. **Belmont**²
17. **Beverly**²
18. **Billerica**²
19. **Bolton**²
20. **Boston**²
21. **Braintree**²
22. **Brewster**²
23. **Brockton**²
24. **Brookline**
25. **Buckland**²
26. **Cambridge**²
27. **Canton**²
28. **Carver**²
29. **Charlemont**²
30. **Charlton**²
31. **Chatham**²

Massachusetts (cont'd)

32. **Chelsea**²
33. **Chelmsford**²
34. **Clinton**²
35. **Cohasset**²
36. **Concord**²
37. **Conway**²
38. **Danvers**²
39. **Dedham**²
40. **Deerfield**²
41. **Dracut**²
42. **Duxbury**²
43. **Easthampton**²
44. **E. Longmeadow**²
45. **Easton**²
46. **Edgartown**²
47. **Essex**²
48. **Everett**²
49. **Fairhaven**²
50. **Fitchburg**²
51. **Framingham**²
52. **Franklin**²
53. **Gardner**²
54. **Gill**²
55. **Gloucester**²
56. **Grafton**²
57. **Granby**²
58. **Greenfield**²
59. **Groton**²
60. **Hadley**²
61. **Halifax**²
62. **Hamilton**²
63. **Harvard**²
64. **Harwich**²
65. **Hatfield**²
66. **Haverhill**²
67. **Holbrook**²
68. **Holden**²
69. **Holyoke**²
70. **Hopkinton**²
71. **Ipswich**²
72. **Lancaster**²
73. **Lanesboro**²
74. **Lawrence**²
75. **Leominster**²
76. **Lee**²
77. **Lenox**²
78. **Leverett**²
79. **Littleton**²
80. **Lowell**²
81. **Ludlow**²
82. **Lynn**²
83. **Lynnfield**²
84. **Malden**²
85. **Marblehead**²
86. **Marion**²
87. **Marlboro**²
88. **Marshfield**²

Massachusetts (cont'd)

89. Mashpee²
90. Maynard²
91. Medfield²
92. Medford²
93. Melrose²
94. Methuen²
95. **Middleboro**²
96. Middleton²
97. Millis²
98. Milton²
99. Montague²
100. Natick²
101. **Needham**²
102. Newburyport²
103. Newton²
104. **Norfolk**²
105. North Adams²
106. **North Andover**²
107. North Attleboro²
108. Northampton²
109. North Reading²
110. Norton²
111. Norwell²
112. **Norwood**²
113. Oak Bluffs²
114. Orange²
115. Orleans²
116. Palmer²
117. Peabody²
118. Pittsfield²
119. Provincetown²
120. Reading²
121. Rockport²
122. Royalston²
123. Salem²
124. Sandwich²
125. Saugus²
126. **Sharon**²
127. Shelburne²
128. Sherborn²
129. Shrewsbury²
130. **Somerville**²
131. Southampton²
132. **South Hadley**²
133. Spencer²

Massachusetts (cont'd)

134. Stockbridge²
135. Stoneham²
136. **Stoughton**²
137. Stow²
138. Sudbury²
139. Sunderland²
140. **Swampscott**²
141. Templeton²
142. Tewksbury²
143. Topsfield²
144. Townsend²
145. Tyngsboro²
146. Upton²
147. Uxbridge²
148. Wakefield²
149. **Walpole**²
150. Wareham²
151. Watertown²
152. Webster²
153. Wellfleet²
154. West Boylston²
155. Westboro²
156. Westford²
157. Westminster²
158. Westwood²
159. Whately
160. Wilbraham²
161. Williamstown²
162. Wilmington²
163. Winchendon²
164. Winchester²
165. Winthrop²
166. Worcester²
167. Wrentham²
168. Yarmouth²

Minnesota (19)

1. **Arden Hills**
2. **Bloomington**
3. **Duluth**²
4. **Edina**
5. **Falcon Heights**²
6. **Fridley**²
7. **Golden Valley**
8. **Hennepin County**^{2,3}

Minnesota (cont'd)

9. **Lauderdale**
10. **Lilydale**
11. **Mendota Heights**
12. **Minneapolis**²
13. New Hope
14. Robbinsdale²
15. **Roseville**²
16. Rushford²
17. St. Louis Park²
18. **St. Paul**²
19. Shoreview²

Montana (1)

1. Missoula⁴

New Jersey (1)

1. Jersey City⁴

New York (3)

1. New York City²
2. **Manheim**
3. Yonkers⁴

Pennsylvania (1)

1. Philadelphia^{2,5,6}

Rhode Island (6)

1. Barrington²
2. Central Falls²
3. Johnston²
4. Middletown²
5. Providence²
6. Woonsocket²

MA localities courtesy of the Municipal Tobacco Control Technical Assistance Program.

*The above list may not be comprehensive. It includes communities that have passed restrictions, but some have future implementation dates and/or are the subject of litigation.

Campaign for Tobacco-Free Kids, June 8, 2021 / Laura Bach

¹ Chicago's e-cigarette flavor ban is comprehensive, but restrictions on other tobacco products apply only to retailers within 500 feet of high schools and exempt adult-only tobacco retailers

² Exempts certain types of retailers, such as tobacco retailers (stores that receive a certain proportion of their revenue from tobacco), tobacco/smoking bars, hookah bars, e-cigarette establishments, adult-only retailers and/or liquor stores.

³ Applies only to retailers in unincorporated areas of the County.

⁴ Flavor restrictions only apply to e-cigarettes.

⁵ Exempts smokeless tobacco.

⁶ Exempts hookah tobacco

⁷ Exempts products that have received a marketing order from the FDA. Currently, no e-cigarettes have received a marketing order.

⁸ Exempts pipe tobacco

⁹ Exempts premium cigars

FDA NEWS RELEASE

FDA Commits to Evidence-Based Actions Aimed at Saving Lives and Preventing Future Generations of Smokers

Efforts to ban menthol cigarettes, ban flavored cigars build on previous flavor ban and mark significant steps to reduce addiction and youth experimentation, improve quitting, and address health disparities

For Immediate Release:

April 29, 2021

Español ([/news-events/press-announcements/la-fda-se-compromete-tomar-medidas-basadas-en-la-evidencia-dirigidas-salvar-vidas-y-prevenir-futuras](https://www.fda.gov/news-events/press-announcements/la-fda-se-compromete-tomar-medidas-basadas-en-la-evidencia-dirigidas-salvar-vidas-y-prevenir-futuras))

Today, the U.S. Food and Drug Administration announced it is committing to advancing two tobacco product standards to significantly reduce disease and death from using combusted tobacco products, the leading cause of preventable death in the U.S. The FDA is working toward issuing proposed product standards within the next year to ban menthol as a characterizing flavor in cigarettes and ban all characterizing flavors (including menthol) in cigars; the authority to adopt product standards is one of the most powerful tobacco regulatory tools Congress gave the agency. This decision is based on clear science and evidence establishing the addictiveness and harm of these products and builds on important, previous actions that banned other flavored cigarettes in 2009.

“Banning menthol—the last allowable flavor—in cigarettes and banning all flavors in cigars will help save lives, particularly among those disproportionately affected by these deadly products. With these actions, the FDA will help significantly reduce youth initiation, increase the chances of smoking cessation among current smokers, and address health disparities experienced by communities of color, low-income populations, and LGBTQ+ individuals, all of whom are far more likely to use these tobacco products,” said Acting FDA Commissioner Janet Woodcock, M.D. **“Together, these actions represent powerful, science-based approaches that will have an extraordinary public health impact. Armed with strong scientific evidence, and with full support from the Administration (<https://www.hhs.gov/about/news/2021/04/29/statement-hhs-secretary-xavier-becerra-fda-tobacco-actions-menthol-cigarettes-flavored-cigars.html>), we believe these actions will launch us on a trajectory toward ending tobacco-related disease and death in the U.S.”**

The agency is taking urgent action to reduce tobacco addiction and curb deaths. There is strong evidence that a menthol ban will help people quit. Studies show that menthol increases the appeal of tobacco and facilitates progression to regular smoking, particularly among youth and young adults. Menthol masks unpleasant flavors and harshness of tobacco products, making them easier to start using. Tobacco products with menthol can also be more addictive and harder to quit by enhancing the effects of nicotine. One [study](https://tobaccocontrol.bmj.com/content/early/2021/03/31/tobaccocontrol-2020-056259) (<https://tobaccocontrol.bmj.com/content/early/2021/03/31/tobaccocontrol-2020-056259>) [↗](http://www.fda.gov/about-fda/website-policies/website-disclaimer) (<http://www.fda.gov/about-fda/website-policies/website-disclaimer>) suggests that banning menthol cigarettes in the U.S. would lead an additional 923,000 smokers to quit, including 230,000 African Americans in the first 13 to 17 months after a ban goes into effect. An earlier [study](https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2011.300179) (<https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2011.300179>) [↗](http://www.fda.gov/about-fda/website-policies/website-disclaimer) (<http://www.fda.gov/about-fda/website-policies/website-disclaimer>) projected that about 633,000 deaths would be averted, including about 237,000 deaths averted for African Americans.

“For far too long, certain populations, including African Americans, have been targeted, and disproportionately impacted by tobacco use. Despite the tremendous progress we’ve made in getting people to stop smoking over the past 55 years, that progress hasn’t been experienced by everyone equally,” said Mitch Zeller, J.D., director of the FDA’s Center for Tobacco Products. **“These flavor standards would reduce cigarette and cigar initiation and use, reduce health disparities, and promote health equity by addressing a significant and disparate source of harm. Taken together, these policies will help save lives and improve the public health of our country as we confront the leading cause of preventable disease and death.”**

If implemented, the FDA’s enforcement of any ban on menthol cigarettes and all flavored cigars will only address manufacturers, distributors, wholesalers, importers and retailers. The FDA cannot and will not enforce against individual consumer possession or use of menthol cigarettes or any tobacco product. The FDA will work to make sure that any unlawful tobacco products do not make their way onto the market.

These actions are an important opportunity to achieve significant, meaningful public health gains and advance health equity. The FDA is working expeditiously on the two issues, and the next step will be for the agency to publish proposed rules in the Federal Register allowing an opportunity for public comment.

The agency also recognizes the importance of ensuring broad and equitable access to all the tools and resources that can help currently addicted smokers seeking to quit, including those who smoke menthol cigarettes and would be impacted by these public health measures. The FDA will work with partners in other federal agencies to make sure the support is there for those who are trying to quit. Smokers interested in quitting today should visit smokefree.gov (<https://smokefree.gov>) or call 1-800-QUIT-NOW to learn about cessation services available in their state.

The FDA also remains focused on its regulatory oversight of e-cigarettes and other electronic nicotine delivery systems (ENDS). The Center for Tobacco Products recently [provided an update \(/tobacco-products/ctp-newsroom/perspective-fdas-progress-review-tobacco-product-applications-submitted-sept-9-2020-deadline\)](#) on its ongoing work of conducting the premarket review of ENDS and other tobacco product applications, and has issued warning letters to ENDS product manufacturers and retailers who continue to sell products that are illegally on the market. The FDA has also made a significant investment in a multimedia e-cigarette public education campaign. The campaign targets nearly 10.7 million youth aged 12-17 who have ever used e-cigarettes or are open to trying them, and highlights information about the potential risks of e-cigarette use.

Background on Today's Actions

Menthol Product Standard

Today, the FDA granted a citizen petition requesting that the agency pursue rulemaking to prohibit menthol in cigarettes, affirming its commitment to proposing such a product standard.

The 2009 Tobacco Control Act (TCA) did not include menthol in its ban on characterizing flavors in cigarettes, leaving menthol cigarettes as the only flavored combusted cigarettes still marketed in the U.S. The law instructed the FDA to further consider the issue of menthol in cigarettes.

Since then, the FDA sought input from an [independent advisory committee as required by the TCA \(https://wayback.archive-it.org/7993/20170404143901/https://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/TobaccoProductsScientificAdvisoryCommittee/ucba2c1c-17b0-4900-9000-000000000000\)](#) (<http://www.fda.gov/about-fda/website-policies/website-disclaimer>), and further demonstrated its interest by issuing an [Advance Notice of Proposed Rulemaking \(https://www.federalregister.gov/documents/2013/07/24/2013-17805/menthol-in-cigarettes-tobacco-products-request-for-comments\)](#), undertaking an [independent evaluation \(https://www.fda.gov/media/86497/download\)](#) and supporting broader research efforts—all to better understand the differences between menthol and non-menthol cigarettes and the impact of menthol on population health.

In the U.S., it is estimated that there are nearly 18.6 million current smokers of menthol cigarettes. But use of menthol cigarettes among smokers is not uniform: out of all Black smokers, nearly 85% smoke menthol cigarettes, compared to 30% of White smokers who smoke menthols. In addition, among youth, from 2011 to 2018, declines in menthol cigarette use were observed among non-Hispanic White youth but not among non-Hispanic Black or Hispanic youth.

Cigar Flavor Product Standard

After the 2009 statutory ban on flavors in cigarettes other than menthol, use of flavored cigars increased dramatically, suggesting that the public health goals of the flavored cigarette ban may have been undermined by continued availability of these flavored cigars.

Flavored mass-produced cigars and cigarillos are combusted tobacco products that can closely resemble cigarettes, pose many of the same public health problems, and are disproportionately popular among youth and other populations. In 2020, non-Hispanic Black high school students reported past 30-day cigar smoking at levels twice as high as their White counterparts.

Nearly 74% of youth aged 12-17 who use cigars say they smoke cigars because they come in flavors they enjoy. Among youth who have ever tried a cigar, 68% of cigarillo users and 56% of filtered cigar users report that their first cigar was a flavored product. Moreover, in 2020, more young people tried a cigar every day than tried a cigarette.

Related Information

- [Statement by HHS Secretary Xavier Becerra on FDA Tobacco Actions on Menthol Cigarettes and Flavored Cigars \(https://www.hhs.gov/about/news/2021/04/29/statement-hhs-secretary-xavier-becerra-fda-tobacco-actions-menthol-cigarettes-flavored-cigars.html\)](#).

###

The FDA, an agency within the U.S. Department of Health and Human Services, protects the public health by assuring the safety, effectiveness, and security of human and veterinary drugs, vaccines and other biological products for human use, and medical devices. The agency also is responsible for the safety and security of our nation's food supply, cosmetics, dietary supplements, products that give off electronic radiation, and for regulating tobacco products.

Inquiries

Media:

✉ [Alison Hunt \(mailto:alison.hunt@fda.hhs.gov\)](mailto:alison.hunt@fda.hhs.gov)

☎ 202-308-5496

Consumer:

☎ 888-INFO-FDA

[More Press Announcements \(/news-events/newsroom/press-announcements\)](#)



CITY OF PORTLAND
Health and Human Services

MEMORANDUM

TO: Kristen Dow, Director of Health and Human Services
Tina Pettingill, Deputy Director of Health and Human Services
Bob Fowler, Public Health Director
Bridget Rauscher, Chronic Disease Prevention Manager

FROM: Kirsten Goodrich, Public Health Division, Tobacco Prevention Program

DATE: October 7, 2021

SUBJECT: Full Ban of All Flavored Tobacco Products

Introduction

The information contained in this memo is in response to the request for information pertaining to a full ban of flavored tobacco products, including e-cigarettes, in the City of Portland.

Background:

According to the National Youth Tobacco Survey released in September 2021, nearly 85% of young people using e-cigarettes are using flavored products. In 2009, all cigarette flavors, except for menthol, were banned across the United States, as part of the Family Smoking Prevention and Tobacco Control Act. Effective July, 2010, Maine banned the sale of flavored cigars. The Centers for Disease Control and Prevention (CDC) reported between 2011-2020, after the cigarette flavor ban, youth smoking rates declined at a steady rate, indicating that flavor bans have been a successful public health strategy.

Since 2009, laws banning all flavored tobacco products, with the inclusion of menthol, have been heavily on the rise as such restrictions have been shown to reduce the risk of nicotine addiction among youth. In April 2021, the FDA announced its intention to ban menthol flavoring in cigarettes, addressing health impacts to communities of color and LGBTQ+ individuals of all ages who are more likely to use these products. According to the CDC, African American adults have the highest percentage of menthol cigarette use compared to other racial and ethnic groups. Additionally, a report from the National LGBTQ Young Adult Tobacco Project, 71% of LGBTQ youth who smoke cigarettes use menthol cigarettes.

In Cumberland county, the 2019 Maine Integrated Youth Health Survey (MIYHS) reported that 45% of high school students have tried an e-cigarette at least once and 29% of high school students reported having used an electronic vapor product at least once in the past 30 days.* While youth use of combustible tobacco products (cigarettes) has declined for nearly two

decades, schools around the state have seen and reported a dramatic increase in youth electronic cigarette use. This is demonstrated by MIYHS data that shows youth e-cigarette use nearly doubling from 15.3% in 2017 to 28.7% in 2019. *Portland specific data not available.

As of February 2020, the majority of flavored e-cigarettes (including JUUL) are no longer legally sold in the United States due to FDA guidance that prohibits all sales of cartridge-based e-cigarettes not flavored with menthol or tobacco. Unfortunately, the guidance continues to permit the sale of menthol-flavored cartridges, and fails to restrict reusable cartridges and disposable devices.

Recommendations

We recommend a full flavor ban for all tobacco products, inclusive of mint and menthol, for the City of Portland.

Failure to adopt a full flavor ban by the FDA has resulted in a wave of states and municipalities taking action. States and localities across the country are taking appropriate steps to restrict the sale of flavored tobacco products. [Bangor, Maine](#) is currently considering this ban for all flavored tobacco products with the ordinance unanimously passing through committee. In recent years, while youth smoking rates have decreased, tobacco companies have begun enticing a new generation of young consumers with candy-flavored e-cigarette products. There are currently more than 15,000 flavors of e-cigarettes on the market today. The FDA recently estimated that more than two million U.S. middle and high school students reported currently using e-cigarettes in 2021, with more than 8 in 10 of those youth using flavored e-cigarettes.

Five states and over 310 localities have moved forward with full flavor tobacco bans. A ban on all flavored tobacco products would exceed the current restrictions on all other tobacco and combustible products. Tobacco use remains the leading cause of death and disease in this country with over 480,000 deaths per year. Previous studies have shown flavors play a major role in youth initiation and continued use of tobacco products. Banning the sale of all flavored tobacco products, including mint and menthol, within the City of Portland is a key step in reducing youth use and promoting health equity.

Enforcement

An ordinance would ban the sale, display, marketing, and advertising of flavored tobacco products. Such a ban would apply to all retailers within the City of Portland. In looking at Bangor and around the country, most ordinances impose a progressive fine on retailers. Bangor proposes a fine of up to \$100 for the first violation within a twenty-four month period and a fine of up to \$1,000 for each subsequent offense within that twenty-four month period. The Public Health Division recommends a progressive fine that would align with similar municipal bans.

Enforcement would be the responsibility of Portland's Public Health Director, similar to our Tobacco 21 ordinance (Chapter 17) which states "The City of Portland's Public Health Division Director or his or her designee(s) shall have the primary responsibility for enforcement of this section and may conduct random, unannounced inspections at locations where tobacco products are sold to test and ensure compliance with this ordinance. (d) A violation of this section shall be a civil violation subject to the general penalty provisions of section 1-15 of this

Code." Under that section, each violation is punishable by a minimum fine of \$100 and a maximum fine of \$500.

Efficacy-Related Sources

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Caccamo, S. (January, 2020). *FDA Finalizes Enforcement Policy on Unauthorized Flavored Cartridge-based E-cigarettes that Appeal to Children, Including Fruit and Mint*. U.S. Food and Drug Administration.
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Carr, D., Musburger, P. (October, 2019). *It's Time To Eliminate All Flavored Cigarettes, Not Just the Electronic Kind*. Stat News. <https://www.statnews.com/>

The Centers for Disease Control and Prevention. (2015).
https://www.cdc.gov/tobacco/data_statistics/fact_sheets/health_effects/tobacco_related_mortality/index.htm

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<https://www.fda.gov/news-events/press-announcements/fda-commits-evidence-based-actions-aimed-saving-lives-and-preventing-future-generations-smokers>

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<http://dx.doi.org/10.15585/mmwr.mm6623a1>

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Prieur, N. (December, 2018). *National Adolescent Drug Trends in 2018. Vaping Surges: Largest Year-to-Year Increase in Substance Use Ever Recorded in the U.S. for 10th and 12th Grade Students*. Institute for Social Research.
<https://isr.umich.edu/news-events/news-releases/national-adolescent-drug-trends-in-2018>

Results from the Annual National Youth Tobacco Survey. (September 2021.)

<https://www.fda.gov/tobacco-products/youth-and-tobacco/results-annual-national-youth-tobacco-survey>

Youth E-cigarette Use Remains Serious Public Health Concern amid Covid-19 Pandemic.

(September, 2021). U.S. Food and Drug Administration.

www.fda.gov/news-events/press-announcements/youth-e-cigarette-use-remains-serious-public-health-concern-amid-covid-19-pandemic.



October 29, 2021

The Honorable Kate Snyder, Mayor
City of Portland
389 Congress Street
Portland, ME 04101

Dear Mayor Snyder;

I write to you today in reference to the proposal before the Portland City Council, from Portland's Health and Human Services and Public Safety Committee, which would ban the sale of flavored tobacco products by Portland retail establishments. On behalf of the Maine Energy Marketers Association (MEMA), I strongly encourage the Council to reject this well-meaning, but short-sighted proposal.

MEMA is a trade association based in Brunswick, Maine and composed of approximately 300-member companies, including 70% of Maine's 1,300 convenience stores – small businesses which sell more than 1 billion gallons of gasoline and diesel fuel each year and employ approximately 10,000 Mainers who – for the last 18 months - have been on the front lines of the COVID-19 pandemic providing the citizens of Portland and our state with essential goods and services during these unprecedented times.

While on the surface the “Flavor Ban” – as it is known – may sound like good policy, history tells a very different story. A century ago, “Prohibition” failed miserably as illegal alcohol sales flourished and ultimately led to the repeal of the 18th Amendment to the U.S. Constitution. Today, with the legalization of marijuana, we have seen first-hand that prohibition of these products for people over 21 does not work and that, ultimately, adults should be free to make their own decisions.

Lastly, the proposal before you would cause great harm to these retailers who struggle daily to comply with existing regulations, find employees, and simply deal with the devastating effects of the pandemic. The men and women who own and operate these critically important businesses depend on these sales to create regular traffic in their establishments and go to painstaking efforts to ensure that tobacco products do not get into the hands of underaged customers.

Again, on behalf of MEMA, I respectfully urge the Portland City Council to vote against this proposal.

A handwritten signature in black ink that reads "Charles E. Summers, Jr." with a stylized flourish at the end.

Charles E. Summers, Jr., President/CEO
Maine Energy Marketers Association

Fwd: Portland, ME- Flavored Tobacco Products Ban

1 message

Jon Jennings <jpj@portlandmaine.gov>

Fri, Oct 29, 2021 at 6:35 PM

To: Adam Harr <ash@portlandmaine.gov>, Kristen Dow <kjd@portlandmaine.gov>

----- Forwarded message -----

From: **Nick Mavodones** <nmm@portlandmaine.gov>

Date: Fri, Oct 29, 2021 at 3:16 PM

Subject: Fwd: Portland, ME- Flavored Tobacco Products Ban

To: Danielle West-Chuhta <dwest@portlandmaine.gov>, Jon Jennings <jpj@portlandmaine.gov>

----- Forwarded message -----

From: **Jasmine McKinney** <jasmine.mckinney@swedishmatch.com>

Date: Fri, Oct 29, 2021 at 3:15 PM

Subject: Portland, ME- Flavored Tobacco Products Ban

To: ksnyder@portlandmaine.gov <ksnyder@portlandmaine.gov>, bsr@portlandmaine.gov <bsr@portlandmaine.gov>, sthibodeau@portlandmaine.gov <sthibodeau@portlandmaine.gov>, tchong@portlandmaine.gov <tchong@portlandmaine.gov>, azarro@portlandmaine.gov <azarro@portlandmaine.gov>, mdion@portlandmaine.gov <mdion@portlandmaine.gov>, pali@portlandmaine.gov <pali@portlandmaine.gov>, nmm@portlandmaine.gov <nmm@portlandmaine.gov>, afournier@portlandmaine.gov <afournier@portlandmaine.gov>

Dear members of the Portland City Council:

The ordinance the Council is considering banning all flavored tobacco products is well intended and admirable in its goal. However, I think that the scope of the ordinance goes too far and will actually have unintended consequences. The banning of all flavored tobacco products will in effect take some products off the shelves that actually help smokers quit using cigarettes. Specifically I'm referring to smokeless tobacco products and flavored non-tobacco nicotine products.

A blanket flavor ban is contrary to the scientific evidence that currently exists. The U.S. Food and Drug Administration's Office of Science has recognized that some flavors in tobacco products are not likely to appeal to youth. In a process that approved the marketing of certain flavored smokeless tobacco products, the Office of Science stated:

- The proposed products are reported to have flavors such as mint, wintergreen, or tobacco character with citrus. These proposed flavors are consistent with traditionally available [smokeless tobacco] flavors and are not novel flavors that likely increase appeal to youth. Additionally, in that ruling the FDA stated that the smokeless tobacco product called snus is low risk. FDA assessed the risk posed to the individual as well as the population as a whole, and judged that the products met the standard in the 2009 US Tobacco Control Act. FDA also considered the fact that the products come in mint and wintergreen flavors. It is significant that the Swedish Match snus products are currently determined by FDA to be "appropriate to the protection of the public health", and that these products are flavored, and are smokeless.

A complete ban on all flavors is overbroad in at least two ways. First, a complete ban on flavors is not targeted to flavors that "increase appeal to youth" and will only affect legal, adult users of tobacco products who will simply patronize stores in neighboring cities or turn to the Internet as a source for their preferred

tobacco products. Second, it applies the ban equally to all types of tobacco products. Some products (such as smokeless tobacco) are less likely to be used by youth.

Smokeless Tobacco Products are Less Harmful and Should Not be Restricted

In 2002 the Royal College of Physicians of London, one of the oldest and most prestigious medical societies in the world, issued a report called "Protecting Smokers, Saving Lives," which stated, "As a way of using nicotine, the consumption of non-combustible [smokeless] tobacco is on the order of 10–1,000 times less hazardous than smoking, depending on the product." A blanket flavor ban would take large portions of these products off the market, leaving adult tobacco users to choose only more harmful products like cigarettes.

As a matter of public health policy, the FDA has taken an approach to encourage harm reduction in the consumption of tobacco products. A recent (July 28, 2017) announcement from the FDA Commissioner focused on the need to view tobacco and nicotine products from a continuum of risk perspective. The continuum, according to the FDA Commissioner, ranges from cigarettes, the most dangerous form of nicotine delivery, at one end, to medicinal nicotine products at the other end. Recognizing that some risk comes from the use of any product, there remain compelling arguments that some products are less harmful and adult consumers should be able to choose these products. However, if those products are removed from the shelves because they are frequently flavored, those options are not available to adult consumers. Prohibiting the sale of less harmful products is a byproduct of blanket flavor bans. The interest of public health is not advanced when a total flavor ban removes all flavored product options from the marketplace for adult tobacco users to choose from, especially when the FDA has stated that some flavors do not “increase appeal to youth.”

The impact of a comprehensive tobacco products flavor ban in San Francisco among young adults: Could increase cigarette consumption

According to a June 2020 study from Addictive Behavior Reports which was funded by the National Institute of Drug Abuse of the National Institutes of Health. In the study they reported moderate usage rate drops in the 18-24 years and the 25—34 years old respectively. The findings suggest that comprehensive local flavor bans, by themselves, cannot sharply reduce the availability or use of flavored tobacco products among residents and may actually increase the amount of cigarette smoking which all tobacco control advocates would agree is the most deadly form of tobacco consumption.

Youth usage in California

According to the California Department of Public Health, only 1.7% of California teens have tried smokeless tobacco a single time in a period of 30 days.

Source: California Department of Public Health, California Tobacco Control Program. California Student Tobacco Survey, 2015-2016. Sacramento, CA: California Department of Public Health; February 2017.

According to the Los Angeles County Public Health, only 0.4% have reported using smokeless tobacco products.

Source: County of Los Angeles Public Health 2017-18 California Student Survey

I hope you will take these facts into consideration when you are deliberating this ordinance and exclude smokeless tobacco from the flavor ban.

Respectfully,

Jasmine McKinney

Staff Attorney

Swedish Match North America

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Nick Mavodones City Council At-Large [389 Congress Street Portland ME 04101](#) (207) 874-8685
nmm@portlandmaine.gov Sent from Gmail Mobile

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Jon P. Jennings, ICMA-CM, MPA
City Manager
[City of Portland](#)
389 Congress Street
[Portland, ME 04101](#)
(207) 874-8689 Office
jpj@portlandmaine.gov
www.portlandmaine.gov

Fwd: Proposed Flavored Tobacco Product Ban

1 message

Jon Jennings <jpj@portlandmaine.gov>

Fri, Oct 29, 2021 at 6:35 PM

To: Adam Harr <ash@portlandmaine.gov>, Kristen Dow <kjd@portlandmaine.gov>

----- Forwarded message -----

From: **Nick Mavodones** <nmm@portlandmaine.gov>

Date: Fri, Oct 29, 2021 at 3:17 PM

Subject: Fwd: Proposed Flavored Tobacco Product Ban

To: Danielle West-Chuhta <dwest@portlandmaine.gov>, Jon Jennings <jpj@portlandmaine.gov>

----- Forwarded message -----

From: **Charlie Summers** <csummers@maineenergymarketers.com>

Date: Fri, Oct 29, 2021 at 2:08 PM

Subject: Proposed Flavored Tobacco Product Ban

To: ksnyder@portlandmaine.gov <ksnyder@portlandmaine.gov>

CC: bsr@portlandmaine.gov <bsr@portlandmaine.gov>, sthibodeau@portlandmaine.gov

<sthibodeau@portlandmaine.gov>, tchong@portlandmaine.gov <tchong@portlandmaine.gov>,

Azarro@portlandmaine.gov <Azarro@portlandmaine.gov>, mdion@portlandmaine.gov <mdion@portlandmaine.gov>,

pali@portlandmaine.gov <pali@portlandmaine.gov>, nmm@portlandmaine.gov <nmm@portlandmaine.gov>,

afournier@portlandmaine.gov <afournier@portlandmaine.gov>, Megan Diver <mdiver@maineenergymarketers.com>

Dear Mayor Snyder,

Attached, for the Council's consideration, please find a letter on behalf of the Maine Energy Marketers Association (MEMA) outlining our position on the pending proposal before the Council to ban flavored tobacco products within the City of Portland. If you, or any Council member, should have any questions or wish further comment please do not hesitate to contact me.

Sincerely,

Charlie Summers
President & CEO



Maine Energy Marketers Association

csummers@maineenergymarketers.com

T: 207-729-5298

25 Greenwood Rd.

Brunswick, ME 04011-0249

MaineEnergyMarketers.com | mtec4me.com

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nmm@portlandmaine.gov Sent from Gmail Mobile

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Jon P. Jennings, ICMA-CM, MPA

City Manager

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[Portland, ME 04101](#)

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jpj@portlandmaine.gov

www.portlandmaine.gov



Portland City Council Flavor Ban 10.29.21.pdf

124K

Fwd: testimony request

1 message

Jon Jennings <jpj@portlandmaine.gov>

Thu, Oct 28, 2021 at 12:57 PM

To: Adam Harr <ash@portlandmaine.gov>, Kristen Dow <kjd@portlandmaine.gov>

----- Forwarded message -----

From: **Nick Mavodones** <nmm@portlandmaine.gov>

Date: Thu, Oct 28, 2021 at 12:49 PM

Subject: Fwd: testimony request

To: Danielle West-Chuhta <dwest@portlandmaine.gov>, Jon Jennings <jpj@portlandmaine.gov>

----- Forwarded message -----

From: **Jon Shaer** <jon@necsema.net>

Date: Thu, Oct 28, 2021 at 12:23 PM

Subject: testimony request

To: council@portlandmaine.gov <council@portlandmaine.gov>

Councilors-

I'm writing to you this afternoon on behalf the 37 convenience stores in Portland to request the Health and Human Services and Public Safety committee allow testimony at their November 9, 2021 meeting on a proposal to ban the sale of flavored tobacco in Portland. It only recently came to our attention that the committee took testimony at their October 12th meeting. However, nobody in opposition to the proposal was in attendance (in person or virtually) to provide the committee with information as to why they should oppose a ban. It is our understanding that since the committee already allowed public testimony that it does not need to allow it again. This is an important issue for our members, so we hope you will require the committee to take a second round of testimony.

It is distressing that this is now the second Maine city, Bangor being the first, to hold a flavored tobacco hearing that was seemingly made known to proponents in advance of any public posting. All we ask is that the committee have the opportunity to hear testimony that can help inform a well-rounded consideration.

Respectfully and with appreciation,

Jon

Jonathan Shaer, Executive Director

New England Convenience Store & Energy Marketers Association, Inc. (NECSEMA)

<1044 Central Street, Suite 203, Stoughton, MA 02072>

Mobile: 774-406-1997 | Office: 781-297-9600 ext. 3 | Fax: 781-297-9601

jon@necsema.net | www.necsema.net | [Join NECSEMA](#)



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Proposed Portland Flavor Ban 1 view



brandi.cushman@cnbrown.com <brandi.cushman@cnbro... Nov 15, 2021, 9:08:11 AM
to council@portlandmaine.gov, publiccomment@portlandmaine.gov

Good morning council members.

My name is Brandi Cushman and I am the Director of Purchasing for C. N. Brown Company. We own and operate two Big Apple Convenience Stores in the City of Portland.

I hope that you will take a few minutes to read our concerns with this proposed flavor ban in the attached document.

I appreciate your time.

Thank you,

Brandi Cushman

Director of Purchasing and Merchandising

C. N. Brown Company

P.O. Box 200

1 C. N. Brown Way

South Paris, ME 04281

☎: 207-743-4200 ext. 3102

📠: 207-743-8357

✉: brandi.cushman@cnbrown.com

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When you think something is more important than a Customer.....Think Again





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Portland City Council
City Hall
389 Congress Street
Portland, ME 04101

RE: Portland City Ordinance Ending the Sale of Flavored Tobacco Products

Portland City Council-

Thank you for taking the time to read C. N. Brown Company's concerns with the proposed city ordinance ending the sale of flavored tobacco products.

My name is Brandi Cushman and I am the Director of Purchasing and Merchandising and the Category Manager of tobacco for C. N. Brown Company. We own and operate the Big Apple convenience stores at 2 Park Avenue and 16 Washington Ave. in Portland employing a total of 18 associates. Those are 18 local jobs we have created.

I am writing in opposition of this city ordinance, an ordinance that will dramatically decrease the operating revenue and profitability of many stores within the city, will affect jobs, and do nothing to keep these products that you propose to ban out of the hands of your youth as it is intended.

Zero Tolerance

We have absolutely no interest in selling tobacco to the youth in your city or anywhere else. We have training, policies, and procedures in place to ensure, to the best of our ability, that tobacco products do not get into the hands of your youth. In fact, we take this so seriously that in the rare instance an employee is found in violation of the law, and our internal training and policies regarding underage tobacco sales, they are immediately terminated. Retailers like us are on the front-line protecting young people in your city and throughout the State of Maine and we take that responsibility very seriously.

Goes Too Far

It is stated that this ordinance is about protecting youth, however, this policy is looking to ban many adult-preferred products including menthol cigarettes, mint and wintergreen smokeless tobacco and flavored cigars. The CDC's 2020 National Youth Tobacco Survey shows that high school-aged use for ENDS/vapor is 19.6% (down from 27.5% in 2019), cigarettes use at 4.6% (down 15.8% since 2011), smokeless use at 3.1% (down 7.9% since 2011) and cigar use at 5% (down 11.6% since 2011). This shows that the most preferred products by youth (although it has declined significantly) are ENDS/vapor products, yet the city is looking to ban ALL flavored tobacco products.

Federal Action

The FDA is diligently working through the Pre-Market Tobacco Application (PMTA) process with vapor products and has already removed more than 6,000,000 of these products from the market by denying their PMTA application. The only products the FDA will allow to remain on the market are those that they have determined are “appropriate for the protection of public health”. The FDA is using a science based approach to ensure that vapor products that meet their standards are available to adult tobacco consumers.

Doesn't Eliminate Access

Local tobacco bans are not going to protect your youth. If this ordinance is passed, flavored tobacco and ENDS/vapor users, including youth illegally obtaining such products, will simply go to the next city/town to get the products they want. The only people that will be negatively affected by this ordinance are your legal, licensed, tax paying local businesses who will not only lose the sale of these legal products to adult tobacco consumers, but also all of the ancillary sales these customers take with them.

The majority of youth are getting these products via adult tobacco consumers, including parents. Instead of continually attacking retailers on this issue, let's put some responsibility on the youth access issue where it lies.

With alcohol there are numerous laws on the books in regards to Illegal Possession by a Minor, Illegal Transportation by a Minor, and Furnishing to a Minor. If youth access is truly the concern of this council, these are the same laws that need to be in place and enforced for tobacco products. (I have attached a listing of these laws.) Stop making retailers shoulder all of the burden and all of the consequences of the youth access issue.

At the same time, in the rare instance that an associate at a retail establishment fails a sting because **they choose** to ignore the age verification prompt of the POS system as well as all policies and training procedures of that retail establishment, that associate should receive some form of consequence from the city and/or state, not solely the retailer. Retailers do everything in their power to make sure an illegal sale to a minor does not occur but we cannot control an associate who chooses to ignore all of the retailer's precautions.

We believe that these issues should be debated where they belong, at the state level and with the FDA. Allow the FDA, with its resources, to determine which products are safe and which are not so that adult tobacco consumers are not forced to travel across city limits to purchase legal products and therefore hurt businesses within the city of Bangor.

We strongly encourage that you vote no on the city ordinance ending the sale of flavored tobacco products.

Thank you.

A Flavored Tobacco Ban is Bad Policy -- Please Oppose 2 views



MEGAN TURBIDE <Mturbide76@gmail.com>

Dec 8, 2021, 2:21:40 PM

to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,
MEGAN TURBIDE
170 Portland Ave
Old Orchard Beach, ME 04064-1293



Olivia Curtis <ocurtis1832@gmail.com>

Dec 13, 2021, 4:37:39 PM

to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Please oppose this extreme proposal.

Sincerely,

Olivia Curtis
16 Adelaide Rd
Apt A
Old Orchard Beach, ME 04064-2227



Heather Brooks <heatherbrooks024@gmail.com>
to publiccomment@portlandmaine.gov

Dec 15, 2021, 12:33:45 PM

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living-- instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Heather Brooks
36 Maggie Ln
Portland, ME 04103-6502



to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,
Phyllis Nimer
749 Diabolo Rd
Danville, CA 94526



Katie Wilson <katiewils0nn@icloud.com>
to publiccomment@portlandmaine.gov

Dec 17, 2021, 6:55:03 PM

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Katie Wilson
25 Munjoy S
Portland, ME 04101-4310



Duane Tower <duanetower11@gmail.com>
to publiccomment@portlandmaine.gov

Dec 18, 2021, 2:53:45 PM

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Duane Tower
4816 Briarcliff Sq
Apt 13
Honeoye, NY 14471-9680



Duane Tower <duanetower11@gmail.com>
to publiccomment@portlandmaine.gov

Dec 18, 2021, 2:56:12 PM

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living-- instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,
Duane Tower
4816 Briarcliff Sq
Apt 13
Honeoye, NY 14471-9680

Protect Portland Children from Tobacco Addiction 1 view



Deb Smith <executivedirector.mahperd@gmail.com>

Nov 9, 2021, 3:42:13 PM

to council@portlandmaine.gov, publiccomment@portlandmaine.gov

Dear Portland City Council Health & Human Services and Public Safety Committee

Chair Councilor Tae Chong, and Councilor Belinda Ray, and Councilor Mark Dion

I am Deb Smith a resident of Portland and the Executive Director of the Maine Association for Health, Physical Education, Recreation, and Dance (MAHPERD). The MAHPERD Board of Directors signed on to the Flavors Hook Kids Campaign in Maine in 2021. The MAHPERD Board, and I are supportive of the ordinance to end the sale of Flavored Tobacco Products in Portland.

The use of tobacco products remains the nation's number one cause of preventable death and in Maine, nearly 1 in 5 adults smoke cigarettes, the highest rate in the Northeast. In recent years, overall youth tobacco use in Maine has skyrocketed, largely driven by the youth e-cigarette use epidemic and now 1 in 2 Maine high school students and 1 in 6 middle school students have used e-cigarettes.

Tobacco companies are targeting youth with flavored tobacco products. Products that come in array of kid friendly candy and fruit flavors such as mint, cherry, grape jelly, cotton candy, piña colada, and cinnamon roll, all sold in colorful packaging that is designed to attract tweens and teens. Nationwide, nearly 81% of youth ages 12 to 17 who had ever used a tobacco product reported that the first product they used was flavored. Tobacco companies use flavor to hook a new generation of kids on its deadly products. Flavors hide the bad taste of tobacco and make it easier for kids to try. Menthol has the additional quality of soothing the irritation of combustible cigarettes, which is why so many young people start smoking using menthol cigarettes.

We must do everything in our power to keep our communities healthy and safe and we applaud the Portland City Council for making sure that Portland residents are healthy and safe against the harms from tobacco with the ordinance.

Sincerely,

Deb Smith
201 Bradley Street
Portland, ME 04102
Executivedirector.mahperd@gmail.com

--

Deb Smith
Executive Director, Maine AHPERD



Engage • Educate • Inspire

NECSEMA comments on proposed flavored tobacco ban in Portland, ME

0 views



Havens, Jonathan A. <Jonathan.Havens@saul.com> Nov 22, 2021, 3:21:13 PM
to ksnyder@portlandmaine.gov, council@portlandmaine.gov, publiccomment@portlandmaine.gov

Dear Mayor Snyder and Members of the Portland City Council:

On behalf of our client, the New England Convenience Store and Energy Marketers Association (NECSEMA or the Association), I am submitting the attached comments regarding the proposed ordinance that would ban the sale of flavored tobacco products in Portland, Maine.

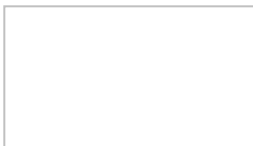
I would ask that you include these comments in the Councilor's agenda packet for when the City Council meets to discuss the proposed flavored tobacco ban.

Thank you for your consideration of these comments.

Sincerely,

Jonathan Havens

Outside Counsel to NECSEMA



Jonathan A. Havens

500 E. Pratt Street | Suite 900 | Baltimore, MD 21202
1919 Pennsylvania Ave., NW | Suite 550 | Washington, D.C. 20006
O: 410.332.8757 | M: 301.404.0674 | F: 410.332.8179
Jonathan.Havens@saul.com | www.saul.com | [LinkedIn](#) | [Twitter](#)

Click  for an interactive look at the latest from our Cannabis Law Team.

"Saul Ewing Arnstein & Lehr LLP (saul.com)" has made the following annotations:

+~~~~~+

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+~~~~~+



November 22, 2021

Mayor Kate Snyder
Members of the Portland City Council
City of Portland
389 Congress Street
Portland, ME 04101

Re: Comments on proposed flavored tobacco ban in Portland, ME

Dear Mayor Snyder and Members of the Portland City Council:

On behalf of our client, the New England Convenience Store and Energy Marketers Association (NECSEMA or the Association), I am submitting these comments regarding the proposed ordinance that would ban the sale of flavored tobacco products in Portland, Maine. I would ask that you include these comments in the Councilor's agenda packet for when the City Council meets to discuss the proposed flavored tobacco ban. I am outside counsel to NECSEMA, and advise the Association on various state and federal regulatory matters. Prior to entering private practice, I served as a regulatory counsel with the U.S. Food and Drug Administration's (FDA or the Agency) Center for Tobacco Products (CTP). Prior to starting law school, I served as a legislative aide in the U.S. Senate and U.S. House of Representatives.

As you know, the proposed ban would prohibit in Portland the sale and consumption of flavored tobacco products, including any smell or taste relating to fruit, menthol, or candy. NECSEMA opposes the proposed flavor ban for numerous reasons, including: (1) flavored products that the U.S. Food and Drug Administration (FDA or the Agency) has authorized for marketing would be banned under the ordinance; (2) the Maine Legislature considered such a ban last session and will likely do so again this session; and (3) local tobacco-related bans are ineffective. In short, the federal government and the State are equipped to handle how best to regulate flavored tobacco products, and NECSEMA urges you to let them do so.

The primary focus of these comments is to alert you to the fact that banning flavored tobacco products in Portland would undermine FDA's robust regulation of the same. By law, any flavored tobacco product that FDA allows on the market would have included a determination by the Agency that such product is "appropriate for the protection of public health"¹ and/or "appropriate to promote

¹ 21 U.S.C. § 387j(c)(4).

public health.”² When reviewing medical products, FDA uses a “safe and effective” standard. However, this standard does not apply to tobacco products. Instead, when considering a tobacco product marketing application, the Agency uses an arguably more rigorous standard, the “public health” standard, that requires FDA to consider “the risks and benefits of the tobacco product to the population as a whole, including users and nonusers.”³

More specifically, per the language in the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act), in finding that the marketing of a tobacco product for which a marketing application has been submitted is appropriate for the protection of public health, FDA *must* consider:

- (A) The increased or decreased likelihood that existing users of tobacco products will stop using such products; and
- (B) The increased or decreased likelihood that those who do not use tobacco products will start using such products.⁴

To get a sense of what a marketing application requires, consider the following elements, which a PMTA must contain:

- (A) Full reports of all information, published or known to, or which should reasonably be known to, the applicant, concerning investigations which have been made to show the health risks of such tobacco product and whether such tobacco product presents less risk than other tobacco products;
- (B) A full statement of the components, ingredients, additives, and properties, and of the principle or principles of operation, of such tobacco product;
- (C) A full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of, such tobacco product;
- (D) An identifying reference to any tobacco product standard under 21 U.S.C. § 387g which would be applicable to any aspect of such tobacco product, and either adequate information to show that such aspect of such tobacco product fully meets such tobacco product standard or adequate information to justify any deviation from such standard;
- (E) Such samples of such tobacco product and of components thereof as FDA may reasonably require;
- (F) Specimens of the labeling proposed to be used for such tobacco product; and
- (G) Such other information relevant as the Agency may require.

When one considers the breadth and depth of these requirements, it is no surprise that PMTA

² *Id.* at § 387k(g)(2)(A)(i).

³ FDA, “A New Standard of Effective Regulation,” <https://www.fda.gov/tobacco-products/rules-regulations-and-guidance/rules-and-regulations> (last updated Oct. 4, 2021).

⁴ Family Smoking Prevention and Tobacco Control Act, June 22, 2009, Pub. L. 111-31, 123 Stat. 1776, 1816.

submissions can easily exceed one million pages.

As the City of Portland considers the measure before it, I suspect one question will be, “If we do not ban the sale of flavored tobacco products, how will the health of Portland residents be protected?” The answer to that question is that FDA’s rigorous review of any product that is the subject of an Agency marketing order will have been evaluated thoroughly with regard to the risks and benefits of the product to the population as a whole, including tobacco users and nonusers. Moreover, with regard to such products, FDA will have already considered: (1) the increased or decreased likelihood that current tobacco users will stop using such product; and (2) the increased or decreased likelihood that nonusers will start using such product. In short, the Agency’s review standard ensures that granting a marketing order for such product is appropriate for the protection of public health.

Proof of the rigor of FDA’s tobacco product review standard is that on October 21, 2021, the Agency for the very first time authorized the marketing of three new electronic nicotine delivery system (ENDS) products.⁵ A week later, FDA authorized the marketing of four smokeless tobacco products, all of them mint flavored.⁶ To provide some context:

- The Agency on August 26, 2021 announced that it denied marketing applications for approximately 55,000 flavored ENDS products for “failing to provide evidence they appropriately protect public health.”⁷
- Earlier that month, FDA on Aug. 9, 2021 issued a Refuse to File (RTF) letter to JD Nova Group LLC, in which the Agency notified the company that their PMTAs that are associated with approximately 4.5 million of their products did not meet the filing requirements for a new tobacco product seeking a marketing order.⁸

Clearly, the robust standard that tobacco products must meet in order to receive a marketing order from FDA is serving to protect the public health. Rather than believing that the proposed flavor ban is the only way to protect Portland residents, you can rest assured that allowing only those flavored tobacco products that receive an Agency marketing order is a more than adequate measure to protect the health of your constituents.

⁵ FDA, “Premarket Tobacco Product Marketing Granted Orders,” <https://www.fda.gov/tobacco-products/premarket-tobacco-product-applications/premarket-tobacco-product-marketing-granted-orders> (last updated Oct. 25, 2021).

⁶ *Id.*

⁷ FDA, Press Release – “FDA Denies Marketing Applications for About 55,000 Flavored E-Cigarette Products for Failing to Provide Evidence They Appropriately Protect Public Health,” Aug. 26, 2021, <https://www.fda.gov/news-events/press-announcements/fda-denies-marketing-applications-about-55000-flavored-e-cigarette-products-failing-provide-evidence>.

⁸ FDA, Press Release – “FDA Issues Refuse to File (RTF) Letter to JD Nova Group LLC,” Aug. 9, 2021, https://www.fda.gov/tobacco-products/ctp-newsroom/fda-issues-refuse-file-rtf-letter-jd-nova-group-llc/?utm_content=landingpage&utm_medium=email&utm_source=govdelivery&utm_term=stratcomms.

Mayor Snyder and Portland City Council Members

November 22, 2021

Page 4

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan A. Havens", written over a light gray rectangular background.

Jonathan A. Havens
Outside Counsel to NECSEMA

ad in MA newspapers 0 views



Jon Shaer <jon@necsema.net>

Nov 28, 2021, 8:26:20 PM

to Kate Snyder, council@portlandmaine.gov, publiccomment@portlandmaine.gov

Good evening, Mayor Snyder and Councilors,

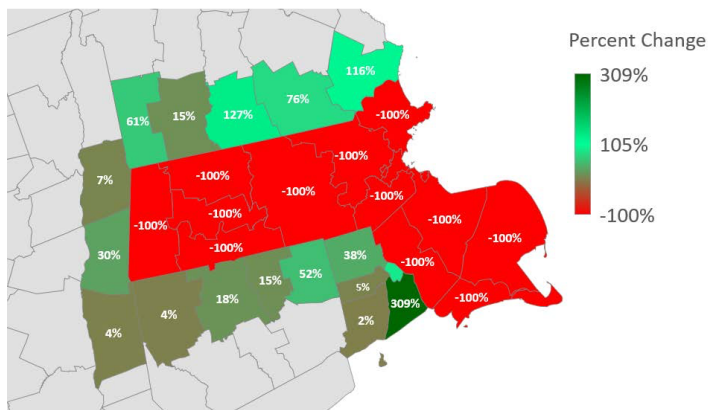
As we approach the first of two readings on the proposal to ban flavored tobacco, I want to share two images that help illustrate the important point that local bans do not work.

The first is an advertisement that appears in the Boston Herald and Boston Globe almost every day since the Massachusetts flavored tobacco ban began on 6/2020 and is likely running in other papers as well. Foods Plus is just over the MA border and runs this same ad which informs MA residents that menthol and other flavored tobacco remain available to them just over the border in Plaistow, NH. This store is spending hundreds of thousands of dollars advertising. It's safe to say that if it wasn't working, they wouldn't continue to spend the money. Imagine how much they're making!?



Unless every town within reasonable proximity to Portland enacts the same ban, then the ban is ineffective in limiting access to the products. That is why this issue should be handled, at minimum, in the state legislature. In truth, even a state ban would be ineffective since there isn't any way New Hampshire will enact a ban. Therefore, it really needs to be addressed at the federal level. A local-only ban impacts one group – the 50 legal retailers Portland has licensed to responsibly sell tobacco products. And they've done it at a 97% FDA-verified compliance rate.

This second image is a heat map of menthol cigarette sales 12 months following the ban. I think the image speaks for itself and further makes the point that products continue to be sold and come back into the voided market. In this case, Portland.



Respectfully,

Jon

Jonathan Shaer, Executive Director

New England Convenience Store & Energy Marketers Association, Inc. (NECSEMA)

1044 Central Street, Suite 203, Stoughton, MA 02072

Mobile: 774-406-1997 | Office: 781-297-9600 ext. 3 | Fax: 781-297-9601

jon@necsema.net | www.necsema.net | Join NECSEMA



FW: PLEASE include my comments to the packet for the meeting where the Flavored Tobacco Ban will receive a first reading

1 view



Julie Parker <PortlandCon@cigaretshopper.com>

Nov 12, 2021, 10:25:22 AM

to publiccomment@portlandmaine.gov, council@portlandmaine.gov

From: Julie Parker

Sent: Friday, November 12, 2021 9:30 AM

To: Chris Beaulier <Chris@cigaretshopper.com>

Cc: Julie Parker (julieparker286@gmail.com) <julieparker286@gmail.com>

Subject: PLEASE include my comments to the packet for the meeting where the Flavored Tobacco Ban will receive a first reading

To whom this may concern,

I'm a voter and Portland resident and manage the Cigaret Shopper on Congress Street. I want to oppose the ordinance banning the sale of flavored tobacco and vapor products in Portland. If this ban is passed, I will have to travel outside of the city and give another town my tax dollars. I would prefer to keep my money in the city I live and work in. This city is for small businesses and if this passes the city will lose a lot of the small businesses that are struggling to stay open. Congress Street use to be so full of people and businesses and now there are more for lease signs on vacant retail space do you really want to add more to that?

We as an adult's have the right to make our own choices in life and you are now trying to make it, so we do not have that right. I have lived in this city for 27 years and I have been working on Congress Street the whole time and have been watching the struggles of every person in the downtown district. The homeless, the mentally ill, the elderly the blue-collar workers and corporate employees do not have places to really shop for there needs on Congress Street. By taking flavored tobacco and vape products will not only hurt the store I manage it will hurt downtown just as much.

This city would lose so much tax dollars that it would hurt everyone that is still trying to afford to live in the city. In the meeting on the 9th, I sat in the zoom meeting and listened to you say that the city will not have money to help the homeless if you do not get the federal funding you need. Isn't this a more important situation you should be dealing with. And with me saying that you stop the sales of all the products you are trying to ban is this really going to help? I can answer that, and I know you can as well.

To me I feel you should be also more concerned about the crime's that are happening in this city, the illegal drug activities, rent control, the roads, and getting more businesses to come back to the downtown area.

Also, in the same meeting I listened to a school nurse talk about a middle school child STEALING their parents vape device and taking it to school. Well, no offense but that child should be taught at home about tobacco. Hold the parents accountable not everyone else!!!! Remember Maine does have the best grade for not selling to minors so why punish us for something that is obviously not the store's fault.

Thank you,

Julie Parker

Cigaret Shopper

579 Congress Street

Portland, Maine

A Flavored Tobacco Ban is Bad Policy -- Please Oppose 1 view



Tara Florentine <tflo02@att.net>
to publiccomment@portlandmaine.gov

Jan 8, 2022, 8:54:51 AM (4 days ago)

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,
Tara Florentine
2739 Rockford Rd
Shelby, NC 28152-9606

A Flavored Tobacco Ban is Bad Policy -- Please Oppose

Public Comment inbox



Joseph Rowe <rowej280@gmail.com>

6:40 AM (9 hours ago)

to publiccomment

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Joseph Rowe

37 Casco St

Apt 205

Portland, ME 04101-2932

A Flavored Tobacco Ban is Bad Policy -- Please Oppose

Public Comment inbox



Richard Hoyt <richard.t.hoyt@gmail.com>
to publiccomment

Thu, Jan 13, 7:10 PM (21 hours ago)

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,
Richard Hoyt
796 Brighton Ave
Portland, ME 04102-1016

Flavored tobacco ban ordinance 0 views



Anthony Scott <psavanthony@yahoo.com> Jan 17, 2022, 9:35:27 PM (12 hours ago)
to publiccomment@portlandmaine.gov

Councilors,

I wanted to send you a couple studies recently published to reinforce the truth behind some of the statements I've made to councilors and you're likely hearing from opponents of the Flavored tobacco vape ban.

The first article I want to point you towards is found in a press release by the National Institute of Health on December 15th 2021. It was the Monitoring the Future survey done by researchers at the University of Michigan. See below for link to article.

The survey found that there was a substantial decline of substance use of several substances over the last couple years.

I would like to point out below from the survey that the rate of alcohol use and Marijuana use among youth is higher for the 12th graders than vaping rates, but these products remain to be sold. These products have been known to cause many problems for our youth far greater than vaping can but yet vapes continue to be targeted. I would also like to add that the vaping industry has had many new regulations over the last two years and currently in progress of other regulatory guidelines, which should be given more time to evaluate how it will impact the vaping rates among youth before we jump to drastic measures of an outright ban.

Moving the age to purchase tobacco to 21, Restrictions on shipping vape products (PACT act), tax increases, PMTA process, and marketing restrictions are all ways in which the vape industry has been regulated in the last two years to decrease these rates. As you can see below it appears to be working and this demonstrates there are other means to accomplish the overall shared goal of lowering the youth vaping rates. Let's have a conversation on how we can lower access to these products and continue to lower vaping rates while allowing access to adults.

- **Alcohol:** The percentage of students who reported using alcohol within the past year decreased significantly for 10th and 12th grade students and remained stable for eighth graders.
 - **Eighth graders:** 17.2% reported using alcohol in the past year in 2021, remaining steady compared to 20.5% in 2020 (not a statistically significant decrease)
 - **10th graders:** 28.5% reported using alcohol in the past year in 2021, a statistically significant decrease from 40.7% in 2020
 - **12th graders:** 46.5% reported using alcohol in the past year in 2021, a statistically significant decrease from 55.3% in 2020
- **Marijuana:** The percentage of students who reported using marijuana (in all forms, including smoking and vaping) within the past year decreased significantly for eighth, 10th, and 12th grade students.
 - **Eighth graders:** 7.1% reported using marijuana in the past year in 2021, compared to 11.4% in 2020

- **10th graders:** 17.3% reported using marijuana in the past year in 2021, compared to 28.0% in 2020
- **12th graders:** 30.5% reported using marijuana in the past year in 2021, compared to 35.2% in 2020
- **Vaping nicotine:** Vaping continues to be the predominant method of nicotine consumption among young people, though the percentage of students who reported vaping nicotine within the past year decreased significantly for eighth, 10th, and 12th grade students.
 - **Eighth graders:** 12.1% reported vaping nicotine in the past year in 2021, compared to 16.6% in 2020
 - **10th graders:** 19.5% reported vaping nicotine in the past year in 2021, compared to 30.7% in 2020
 - **12th graders:** 26.6% reported vaping nicotine in the past year in 2021, compared to 34.5% in 2020

<https://www.drugabuse.gov/news-events/news-releases/2021/12/percentage-of-adolescents-reporting-drug-use-decreased-significantly-in-2021-as-the-covid-19-pandemic-endured>

The Second study is done by Abigail S Friedman PHD of Department of Health Policy and Management, Yale School of Public Health. I have attached the study published in Jamapediatrics below for your consideration. The study considers the San Francisco ban on flavored tobacco products and its association with smoking rates among minor high school students compared to students in other districts without a flavor ban. It found that the San Francisco flavor ban was associated with more than doubled odds of recent smoking among underage high school students. This should raise concern that chances of an increase in cigarette use will happen not just for youth but adults as well if a flavor ban is enacted.

I hope you all have a great holiday and I would still like to connect with more of you soon. Please consider my open invitation to meet and discuss this topic.

Thank you
 Anthony Scott
 Portland Smoke and Vape

FW: Flavor ban 0 views



Brett Scott <brett@smokershaveninc.com> Jan 18, 2022, 11:49:46 AM (23 hours ago)
to Publiccomment@portlandmaine.gov

Hello,

I am writing as the owner of Smokers Haven, a retailer and distributor in the state of Maine selling flavored e-cigarettes, and a member of the Maine Vapers Association.

Considering a flavor ban is an immense decision that will affect the people of Portland. It is easy for someone that is not a smoker to say, "Just stop smoking", but nicotine is a highly addictive chemical. Think about a person's daily coffee, tea, or energy drink. Most people cannot function without their morning cup, but caffeine is considered "not addictive scientifically speaking."^[1] In terms of cigarettes, the addictive part is the nicotine. But, for people to get that nicotine, there are other harmful chemicals they inhale in the process of using traditional combustible tobacco products. According to the FDA "There are more than 7,000 chemicals in cigarette smoke. More than 70 of those chemicals are linked to cancer."^[2] Flavored electronic nicotine devices help people transition from traditional cigarettes to a less harmful nicotine deliverance system. "E-cigarettes have the potential to benefit adult smokers if used as a complete substitute for regular cigarettes and other smoked tobacco products"^[3]. As a retailer, we hear the stories first-hand. It is not uncommon to hear, I smoked for 30 years, switched to vaping, and can finally breathe again. We also often hear about the benefits of being able to taste and smell again, as well as coughing less, being able to take full breaths of air, not smelling like cigarettes, and so much more. For the people of Portland, I ask that you listen to real stories of how vaping has helped people live healthier lives. I welcome anybody to our stores to listen to the customers.

The FDA is already doing substantial testing to prove these products are a benefit to public health. One may conclude the primary objective of this legislation appears to be limiting youth access. The State of Maine has recently made many changes to combat underage youth access. The age to purchase tobacco is now 21. In addition, online sales direct to the customer have been banned. Both of these initiatives were followed thereafter in country-wide legislation. After the changes, statistics for the overall youth surveys have demonstrated declining usage. The most recent National Youth Tobacco Survey shows a decrease of more than 27% youth use of e-cigarettes in 2020 compared to 2019. Past 30-day electronic cigarette use for middle school students was down over 55% from the 2019 survey as well as high school student usage down over 28% in the same time period. The overall reduction is 1.73 million fewer youth using tobacco products than last year. ^[4] That is a huge reduction in youth access to see in one year, and at the time of the survey, the online shipping ban was not in effect, an additional measure that we have yet to see the statistical benefit, which may also play a large role in additional youth access reduction.

Please keep in mind who the large companies are that are proposing compromises to this legislation. Compromises through crafting very specific legislation are used to attack the small, local businesses and families while protecting the products sold in convenience stores such as JUUL. JUUL has been at the center of the vaping epidemic and the root of the publicized vaping issue. Their easily disguised products and higher nicotine

concentration have brought a wrath of bad publicity to the industry. JUUL is owned by Altria, a massive publicly traded tobacco company that also owns Marlboro cigarettes and is worth \$80 billion. They have the money and political connections to write legislation that will benefit their [\\$80 billion company](#). It is local specialty mom and pop businesses, that this is all their business does, that will be the compromises, eliminated from the industry, and ultimately close their doors.

We are small, local, Maine specialty shops that have a healthier alternative. We offer a way to quit traditional tobacco. We offer choices in flavor and nicotine level. It allows for people to find a flavor that works for their preferences. Most people choose flavors over tobacco as a way to quit cigarettes. The tobacco flavors make it very easy to go back to cigarettes. Adults use flavors and they work to quit traditional tobacco. We also offer nicotine levels which allows people to progressively step down in nicotine level, all the way to no nicotine. That is not something that is available in cigarettes or electronic nicotine delivery systems owned by cigarette companies, such as JUUL. Without careful consideration, the big tobacco companies will be the only companies continue in the industry using money, connections, and policy compromises to do so, while the local Maine businesses will be unable to.

Preventing underage youth access is and a high priority for Maine and nationally as a country. As retailers, we also welcome any methods to prevent youth access. Youth usage has tarnished a small, locally owned industry that is here with a goal to help people make healthier choices and live longer lives by switching from traditional combustible tobacco to flavored electronic nicotine delivery systems. We would love to see a 100% elimination of youth access as it has discredited the benefit adult smokers have received from using these products. Some ideas include requiring retailers to set sales limits per transaction, day, week, or month. As well as scanning and tracking drivers' licenses on what is being bought, which can be provided to local municipalities upon request. We, as local businesses, are looking to work with you directly on reducing underage access while finding a solution that keeps our doors open. I am asking everyone to consider meeting with me, or other members of the group, to discuss a true compromise that considers public safety, public health, and the small businesses of Maine.

[1] [https://archives.drugabuse.gov/blog/post/caffeine-really-addictive#:~:text=While%20caffeine%20produces%20a%20small,not%20addictive%20\(scientifically%20speaking\)](https://archives.drugabuse.gov/blog/post/caffeine-really-addictive#:~:text=While%20caffeine%20produces%20a%20small,not%20addictive%20(scientifically%20speaking))

² <https://www.fda.gov/tobacco-products/products-ingredients-components/chemicals-cigarettes-plant-product-puff>

³ https://www.cdc.gov/tobacco/basic_information/e-cigarettes/pdfs/Electronic-Cigarettes-Infographic-508.pdf

⁴ https://www.cdc.gov/tobacco/data_statistics/fact_sheets/youth_data/tobacco_use/index.htm

Thank you,

Brett Scott

President

Office – [603-513-1852](tel:603-513-1852) Ext. 406

www.SmokersHavenInc.com

[1] [https://archives.drugabuse.gov/blog/post/caffeine-really-addictive#:~:text=While%20caffeine%20produces%20a%20small,not%20addictive%20\(scientifically%20speaking\)](https://archives.drugabuse.gov/blog/post/caffeine-really-addictive#:~:text=While%20caffeine%20produces%20a%20small,not%20addictive%20(scientifically%20speaking))

[2] <https://www.fda.gov/tobacco-products/products-ingredients-components/chemicals-cigarettes-plant-product-puff>

[3] https://www.cdc.gov/tobacco/basic_information/e-cigarettes/pdfs/Electronic-Cigarettes-Infographic-508.pdf

[4] https://www.cdc.gov/tobacco/data_statistics/fact_sheets/youth_data/tobacco_use/index.htm

Big Tobacco vs S...



ahsanrana88 <ahsanrana88@yahoo.com>

7:39 AM (4 hours ago)

to publiccomment@portlandmaine.gov

Hi,

My name is Muhammad Ahsan Ashraf and I own a convenience store at 885 Brighton ave Portland maine with the name of Three ds variety, I am writing regarding the proposed flavor ban in Portland, as I want to show you my concern my store is situated is right on the border between portland and westbrook, the proposed flavor ban is counter productive as there will be no ban in westbrook, south portland, falmouth and in surrounding cities, customers will move from portland to westbrook and other cities. Which will result in killing out business my store is the only livelihood I have for me and my family. Also like to share my personal experience in Massachusetts my cousins use to own convenience store their store is shut down due to this ban and they moved to different state. My kind request request to you is please reconsider your proposed ban and save us from closing our business.

Thanks

Muhammad Ahsan Ashraf
Three ds variety

Protects

Big Tobacco



Corporate Greed

Destroys

Small Businesses



Little Guy



donald lingar <90776439ers@gmail.com>
to publiccomment@portlandmaine.gov

Jan 16, 2022, 9:39:36 PM (2 days ago)

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,
donald lingar
214 Gold Ave
Kellogg, ID 83837-2625



Steve Marzza <steve@darkharbortattoo.com> Jan 18, 2022, 10:07:04 AM (yesterday)
to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Steve Marzza
459 Saco St
Westbrook, ME 04092-2028



Craig Durant <cdurant@gmail.com>
to publiccomment@portlandmaine.gov

Jan 18, 2022, 10:12:50 AM (24 hours ago)

Dear Portland City Council,

As your constituent, and local business manager, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Craig Durant
1 Exchange St
Portland, ME 04101-5123



Mohamed Mohamed <rocboyidris@gmail.com>
to publiccomment@portlandmaine.gov

Jan 18, 2022, 10:41:23 AM (23 hours ago)

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Mohamed Mohamed
21 Chestnut St
Portland, ME 04101-4973



Caity Cook <caitymarie007@icloud.com> Jan 18, 2022, 11:28:25 AM (23 hours ago)
to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Caity Cook
105 Gould Rd
Dayton, ME 04005-7406



Rianna Tuttle <pinkmusic95@gmail.com> Jan 18, 2022, 11:29:06 AM (23 hours ago)
to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Rianna Tuttle
12 Pottersville Rd
Windham, ME 04062



Dave Discatio <mjd32@msn.com>
to publiccomment@portlandmaine.gov

10:11 AM (2 hours ago)

Dear Portland City Council,

As your constituent, and local business owner, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Dave Discatio
665 Congress St
Portland, ME 04101-3302



Peter Larsen <moransmarket@gmail.com>
to publiccomment@portlandmaine.gov

10:49 AM (1 hour ago)

Dear Portland City Council,

As your constituent, and local business owner, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Peter Larsen
1576 Forest Ave
Portland, ME 04103-1314



Lisa Walters <qshop473@gmail.com>
to publiccomment@portlandmaine.gov

11:32 AM (1 hour ago)

Dear Portland City Council,

As your constituent, and local business owner, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Lisa Walters
473 Stevens Ave
Portland, ME 04103-2635



Chris Jackson <psavchris@yahoo.com>
to publiccomment@portlandmaine.gov

Jan 18, 2022, 11:30:45 AM (23 hours ago)

Vaping flavors is effective for adults.

Hello, and thank you for taking the time to read this. My name is Chris and I'm a small business owner here in Portland Maine. I would first like to take the time to explain why my brother and I got into this industry. We are both former smokers who tried everything in our power to stop smoking. We tried taking the pill, gum, patches and everything in between to quit and everytime it was the same result. We always found ourselves smoking again and again. Vaping has been out for more than a decade and about 8 years ago I decided to give it a shot. I first tried vaping on a tobacco flavored e-liquid and quickly realized tobacco flavored products only acted as a trigger and made me want to smoke traditional combustibles. So, I gave a strawberry flavored product a try and was surprised by the results. It seemed to work well and didn't create the urge to smoke cigarettes.

The longer I stayed away from cigarettes and continued vaping the better I felt. My sense of smell and taste came back better than ever. I was able to breathe much better and snore less at night which resulted in a better nights sleep. Vaping flavored products had a profound health impact on my life and soon I couldn't wait to share my success story with others. So, my brother and I opened up a small business in Portland Maine and soon got thousands of other smokers to make the switch. Nothing has brought so much happiness into my life than seeing other people on the right step in recovery weather it be from substance abuse or nicotine. We started this business to save lives and help others and that's exactly what we have done.

Vaping has been one of the only ways to get an oral fixation like smoking but allows you to do so in less and less nicotine until you are finally down to 0mg of nicotine. The ultimate goal of vaping is to decrease your nicotine dependency until you're able to get off of nicotine all together. So after about four years of vaping and no nicotine dependency I finally quit vaping. After I stopped vaping I was curious to see if there would be any health differences like there was when I quit smoking cigarettes. After a year and a half I have yet to see or feel any differences with my health.

Unfortunately for adults minors find the flavors to be attractive too.

But, where do we draw the line? Should we ban flavored alcohol? THC infused edibles such as chocolate bars and nurds rope candy? Perhaps we should get rid smart phones and social media because the youth abuse these products and platforms as well. Flavored alcohol has certainly attracted the youth. We know how bad cigarettes are yet they are still legal to sell. Why haven't you tried to ban these products? Sounds a bit drastic but in a sense that's exactly what we have here. Vaping is the single most effective harm reduction tool a smoker has to quit. Vaping on flavors are extremely important when it comes to quitting smoking. I am fearful for my customers because I know how important flavors are and without them I believe you will see an explosion of traditional cigarette use and many vapers relapsing.

To make my point clear vaping does not come without some sort of risk. Although it has been proven to be 97% safer to smoking it can be habit forming. I do not believe inhaling anything other than clean air into our lungs, eating well and exercising will prolong or life expectancy. But vaping is certainly better than smoking and one step closer to living a more full healthier life free of addiction. For those exact reasons I started vaping and opened up a business.

It saddens me to see a room full of such smart individuals voting with emotions versus factual data on such a controversial topic that will ruin so many businesses and force many vapers to go back to smoking. I urge you to reconsider this ordinance for many reasons. I fully understand that you feel obligated to try and curve the youth using these products. But all this bill will do is push these problems to your surrounding cities and neighbors. Perhaps you would consider determining what products the youth are using and making tougher laws regarding the sale of these products. For starters I believe these products should be sold in 21+ stores keeping them out of sight to the minors. There could be a limit to how many of these products an individual could purchase during a single day. We as store owners could keep track of who is buying what in each store to help determine who is actually furnishing these products to minors. I believe harsher fines for those found furnishing these products may deter some. And for those found underage using these products there should be some sort of repercussions such as community service and or some sort of class room training. We should be exhausting all means of education and enforcement before we start to ban products that have helped so many in our community.

I would like for you to consider stores and owners such as myself as a resource you can turn to and ask complicated questions on such a controversial issue. I believe if we work together on these issues we can find common ground and both sides would benefit. As far as an outright ban on these products no one will win and you will only push consumers to other cities, helping surge an unregulated black market and more at home methods of obtaining and creating these products. When one door closes another will open and I firmly believe its best if we all tackle these issues together instead taking a chance of closing this door and creating another unknown issue all together. Please feel free to reach out to me ask any questions you may have.

Email- psavchris@yahoo.com

Phone-207-641-5114

Public Comment Order 138-21/22 0 views



Christopher B. Hudgins <chris@alfakherus.com>

11:59 AM (9 minutes ago)

to publiccomment@portlandmaine.gov

Please see attached public comment submitted by the National Hookah Community Association.
Address is:

P.O. Box 5256 S. Mission Rd, Suite 703

Bonsall, Ca 92003



Chris Hudgins

Director, U.S. Corporate & Regulatory Affairs

[703-350-5964](tel:703-350-5964)

www.alfakher.com



Preserving Hookah Culture & Protecting Hookah Tradition across the USA

January 19, 2022

Portland, Maine City Council
City Hall
389 Congress Street
Portland, ME 04101

Re: Order 138-21/22 Amendment to Portland City Code Chapter 17 Re: Sale of Flavored Tobacco Products Prohibited

Dear Councilmembers:

The National Hookah Community Association (NHCA) brings together, and serves as the voice of, hookah producers, distributors, sellers, lounge owners, consumers, and community members who support the preservation of hookah's cultural traditions. We are writing to request that you follow the lead of other jurisdictions, including the state of California, and exempt hookah from the flavored tobacco ban (Order 138-21/22) currently being considered.

Hookah is an important cultural practice that has existed for centuries, originating in the Middle East and India. Today, a broad cross-section of immigrants in the U.S. from around the world enjoy hookah as a centerpiece for cultural, business, and social gatherings. Hookah is widely used by Middle Eastern, Armenian, Turkish, East African, Indian, Persian, Indonesian, and other minority immigrant citizens. Hookah lounges across the country have come to serve as safe gathering places for many diverse ethnic and religious communities. Despite the importance of this social practice and tradition, NHCA members continue to find that many policymakers are often unfamiliar with hookah, its practice, and its community.

NHCA fully supports efforts to eliminate youth access and usage of tobacco products, including hookah. Hookah is unlikely to be used or consumed by youth for many reasons. Hookah water pipes are several feet tall, not easily concealed, and the setup for use is a lengthy process. Lounges that offer hookah are restricted to of-age customers, preventing teens from accessing the product. Recent research by the Centers for Disease Control and Prevention (CDC) found that just 2.1% of middle and high school students used hookah in the past 30 days, five times less than the number of teens or youth who vape.

Shisha, the product used in hookah, is a combination of tobacco and a sugar substance such as honey or molasses, and the total product is only comprised of approximately 15% tobacco. As has been the practice for hundreds of years, hookah is, by nature, a flavored product. Unfortunately, noble efforts to address the teen vaping epidemic by **banning flavored tobacco also would result in the ban of ALL hookah.**



Preserving Hookah Culture & Protecting Hookah Tradition across the USA

A ban on hookah would not only eliminate this important cultural practice for many U.S. citizens, but could also shutter many small, independent, and minority owned businesses. Many of these businesses serve as community gathering places for immigrant populations in cities across the country. Many hookah users are part of religious or ethnic populations that already face discrimination. Eliminating this cultural practice would make many feel as though they are misunderstood and targeted as an outsider by lawmakers and regulators.

We ask that you do not vote to shutter minority and immigrant owned business. Please include an exemption for hookah in Order 138-21/22.

Sincerely,

National Hookah Community Association

A Flavored Tobacco Ban is Bad Policy -- Please Oppose

Public Comment inbox



donald lingar <90776439ers@gmail.com>

to publiccomment

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase the cost of these products.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

donald lingar

214 Gold Ave

Kellogg, ID 83837-2625

From: Jonathan Shaer - NECSEMA <jon@necsema.net>
Date: Tuesday, January 11, 2022 at 1:26 PM
To: "council@portlandmaine.gov" <council@portlandmaine.gov>
Subject: debunking study findings

Councilors-

I'd like to bring to your attention concerns I have with a recent American Cancer Society press release titled, *American Cancer Society Releases Findings on Association of Cigarette Sales with Comprehensive Menthol Flavor Ban in Massachusetts* (link: <http://pressroom.cancer.org/menthol>). The study ignores the significant migration of product sales to NH and RI, and is selective in comparison states while making claims of the ban's successful impact. I fear that without the proper context and complete picture, the findings are quite misleading.

The release claims:

- Sales of all cigarettes in Massachusetts declined by up to 33% after the state instituted a ban on menthol-flavored cigarettes.
- The Massachusetts ban led to a roughly 300% drop in sales of packs of menthol-flavored cigarettes in the state by July of last year.
- Over the same period, cigarette sales in 33 states that did not institute a menthol flavor ban fell by 8%, while sales of menthol-flavored cigarettes declined by 3%.
- "We learn from Massachusetts that a menthol flavor ban effectively reduces both menthol and overall cigarette sales," study co-author Samuel Asare told UPI in an email.

On its face, you might say... wow, it works. But with only a little effort, you can see how this study is bunk. Attached is a press release we felt compelled to issue in response but following are some reasons why the findings should be dismissed.

The report declares sales of menthol cigarettes in MA dropped. Of course, sales fall when you ban 1/3 of in-state volume. But it completely ignores the fact that almost all the sales migrated to NH and RI as publicly available excise tax data demonstrates. Furthermore, NielsenIQ sales data is not a reliable source for this information, and it is compared to only 27 other states rather than 49 + DC. Why? Do the other 33 states not support their findings? Does Nielsen not have data there? Some other reason?

ACS and other will likely prop this up as "proof". But I hope you will dismiss it or, at the very least, ask ACS how the study accounts for a nearly 90% increase in NH/RI sales and 33 states not used in the study?

Respectfully,

Jon

Jonathan Shaer, Executive Director

New England Convenience Store & Energy Marketers Association, Inc. (NECSEMA)

1044 Central Street, Suite 203, Stoughton, MA 02072

Mobile: [774-406-1997](tel:774-406-1997) | Office: [781-297-9600](tel:781-297-9600) ext. 3 | Fax: [781-297-9601](tel:781-297-9601)

jon@necsema.net | www.necsema.net | [Join NECSEMA](#)

FOR IMMEDIATE RELEASE

January 6, 2022



Media contact:

Dave Wedge

617-799-0537

davidmwedge@gmail.com

THE AMERICAN CANCER SOCIETY (ACS) PUBLISHES MISLEADING REPORT

Engineered ACS findings ignore tax stamp sales data, which irrefutably demonstrate most menthol cigarette sales migrated to bordering states, to claim that the Massachusetts menthol ban led to a reduction in cigarette sales

STOUGHTON, Mass. (January 6, 2022) – The American Cancer Society (ACS) promoted findings yesterday in The Journal of the American Medical Association that Massachusetts’ ban on menthol cigarettes led to a sharp decline in cigarette sales in the Commonwealth, implying decreased in-state sales are equivalent to a decline in Massachusetts cigarette smoking rates. The findings, as asserted by ACS, completely ignore that an overwhelming majority of menthol cigarette sales immediately migrated to Rhode Island and New Hampshire where Massachusetts consumers made their purchases following implementation of the ban.

The New England Convenience Store and Energy Marketers Association (NECSEMA) previously published data unequivocally demonstrating the migration of sales from Massachusetts to surrounding New England states utilizing publicly available and easily verifiable state Department of Revenue tax stamp data. This data undermines the recent ACS report which attempts to paint a failed public health experiment as a success.

Since the implementation of the Massachusetts menthol ban, NECSEMA regularly released tax stamp data during the first year of the ban that demonstrated an overwhelming increase in the volume of menthol cigarette sales in Rhode Island and New Hampshire: Here are the facts:

- In the twelve months following the ban, menthol cigarettes sales skyrocketed by over 126% on average in the Rhode Island and New Hampshire counties bordering Massachusetts. These six counties saw an increase of over 23 million packs of menthol cigarettes.
- Statewide, Rhode Island saw an increase of over 43% in menthol cigarette sales and New Hampshire’s statewide increase was over 79%.
- Total cigarette tax stamp sales fell in Massachusetts by nearly 24%, during the same time period, and total cigarette tax stamp sales increased by over 22% in New Hampshire and 18% in Rhode Island.

To mislead the public about tobacco policy, especially in The Journal of the American Medical Association, does a grave disservice to public health and the credibility of the ACS.

“The report published by the ACS is absurd. It is not surprising that in-state menthol cigarette sales declined when the state banned the legal sale of those products. However, to promote misleading findings by omitting significant facts is both irresponsible and dangerous as other states and some cities consider a similar policy. Moreover, it undermines the Food and Drug Administration’s substantial investments in evidence-based research to determine the appropriate path forward for certain nicotine and tobacco products,” said Jonathan Shaer, Executive Director of the New England Convenience Store & Energy Marketers Association. “When organizations release findings about public policies that purport to provide improvements to public health while ignoring widely available government data, it undermines public trust and ignores the public health potential for evidence-based tobacco and nicotine policies that will actually improve health outcomes.”

To speak with Jonathan Shaer, please contact Dave Wedge at davidmwedge@gmail.com or 617-799-0537.

###

From: Jonathan Shaer - NECSEMA <jon@necsema.net>
Date: Friday, January 7, 2022 at 10:54 AM
To: "council@portlandmaine.gov" <council@portlandmaine.gov>
Subject: my editorial

Good morning, Councilors. Back in May, I penned an editorial that was picked up the Maine Wire about LD 1550 – a state bill that sought to ban flavored tobacco. As I've explained before, the bill came out of committee with a split report: one in support of a complete flavored tobacco ban, the other a flavored vape-only ban with a pmtpa/mrtp exemption. The sponsors chose to carry the bill into the 2022 session recognizing their preferred version was unlikely to pass.

The editorial is an easy-to-read summary of the process and issue, in general.

<https://www.themainewire.com/2021/05/debunking-the-myths-of-maines-proposed-flavored-tobacco-ban/>

Respectfully,

Jon

Jonathan Shaer, Executive Director

New England Convenience Store & Energy Marketers Association, Inc. (NECSEMA)

1044 Central Street, Suite 203, Stoughton, MA 02072

Mobile: [774-406-1997](tel:774-406-1997) | Office: [781-297-9600](tel:781-297-9600) ext. 3 | Fax: [781-297-9601](tel:781-297-9601)

jon@necsema.net | www.necsema.net | [Join NECSEMA](#)

From: Jonathan Shaer - NECSEMA <jon@necsema.net>
Date: Wednesday, January 5, 2022 at 2:35 PM
To: "council@portlandmaine.gov" <council@portlandmaine.gov>
Subject: Explaining LD1550

Councilors-

Happy new year. I hope you've found the information I have been sending to be helpful for your understanding of the proposal to ban flavored tobacco. Following is more information very relevant to your personal contemplations.

Allow me to explain what happened with LD1550, the flavored tobacco ban bill debated in the Maine state legislature last session, and why it never came up for a vote. I believe this is very important to understand if you hope a Portland ban will lead to a state ban.

Last session, three tobacco related bills were proposed: [LD1550](#) which sought to ban the sale of flavored tobacco, [LD1423](#) which sought to increase the excise tax on a pack of cigarettes from \$2 to \$4 per pack and double the excise tax on all Other Tobacco Products (OTP), and LD1693 which was both a flavor ban and a tax increase – this last bill never saw the light of day. Another tobacco-related proposal that didn't get any traction was the Governor's *Part 2 Budget* which was a flavored tobacco ban with a \$32 million draw on the federal stimulus money the state had received.

LD1550 was voted out of committee as a *divided report* with the Majority Report supporting a full ban while the Minority Report would have only banned flavored vape products that did not receive a PMTA approval. As the weeks passed and legislators learned about the issue, the FDA's PMTA process, and the enormous difference between the fiscal note of LD1550 (\$32 million in first year) vs. Minority Report (\$2.1 million in first year) the Minority Report gained a lot of support. Then, in mid-June, LD1423 came up for a vote and failed 67-73. At this point, it was clear LD1550 was unlikely to pass so the sponsors opted to carry it over to 2022. If any confidence existed that LD1550 would pass then it would have been called for a vote. But that never happened.

I strongly believe LD1550 has even less of a chance in 2022 because so much has happened: Youth vape rates have fallen 60%, the FDA is removing almost every flavored vape product from the market via their PMTA process, the USPS is no longer shipping e-cigarettes and, perhaps most notably, there is a full year of data demonstrating how the ban in Massachusetts has been an abject failure. None of which existed in 2021 which is why we believe LD1550 stands less a chance next year than it did last year. So, supporting a local ban will very likely mean putting Portland on an island.

Respectfully,

Jon

Jonathan Shaer, Executive Director

New England Convenience Store & Energy Marketers Association, Inc. (NECSEMA)

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jon@necsema.net | www.necsema.net | [Join NECSEMA](#)

From: Jonathan Shaer - NECSEMA <jon@necsema.net>
Date: Monday, December 20, 2021 at 9:33 AM
To: "council@portlandmaine.gov" <council@portlandmaine.gov>
Subject: NIH Study

Councilors-

The *Monitoring the Future* (MTF) survey released its 2021 results the week before last. The MTF is funded by the National Institute of Health and conducted by the University of Michigan, and measures drug and alcohol use and related attitudes among adolescent students nationwide.

The results are significant as it relates to your consideration of a ban on the sale of all flavored nicotine products in Portland.

Vaping continues to be the predominant method of nicotine consumption among young people, though the percentage of students who reported vaping nicotine within the past year decreased significantly for eighth, 10th, and 12th grade students.

- **8th graders:** 12.1% reported vaping nicotine in the past year in 2021, compared to 16.6% in 2020
- **10th graders:** 19.5% reported vaping nicotine in the past year in 2021, compared to 30.7% in 2020
- **12th graders:** 26.6% reported vaping nicotine in the past year in 2021, compared to 34.5% in 2020

*These percentages are for use at any point during the prior 12 months, whereas the National Youth Tobacco Survey (NYTS) is any use over the past 30th days. We prefer the NYTS numbers, but both are showing significant reductions in underage use.

The first sentence corroborates what we've been saying all along that it is vaping, not all the other traditional tobacco products, that attract youth. Yet, the ban you are considering bans everything. Also, worth noting is that 12th graders are drinking (46.5) and using marijuana (30.5%) at greater rates than 12th graders are vaping nicotine. Yet, we continue to demonize one product over others.

<https://www.nih.gov/news-events/news-releases/percentage-adolescents-reporting-drug-use-decreased-significantly-2021-covid-19-pandemic-endured>

I hope you all have a wonderful holiday season, and I look forward to connecting in 2022 on this important issue and any others that cause our paths to cross.

Respectfully,

Jon

Jonathan Shaer, Executive Director

New England Convenience Store & Energy Marketers Association, Inc. (NECSEMA)

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jon@necsema.net | www.necsema.net | [Join NECSEMA](#)

From: Jonathan Shaer - NECSEMA <jon@necsema.net>
Date: Tuesday, December 14, 2021 at 9:05 AM
To: "council@portlandmaine.gov" <council@portlandmaine.gov>
Subject: Denver veto

Councilors-

Last week, the Mayor of Denver, CO vetoed an ordinance passed by the city council to ban the sale of flavored tobacco. The council vote was not unanimous, and the ordinance was a bit different from the one Portland is considering. I wish to draw your attention to the letter Mayor Hancock sent to the city council explaining his reasoning. I believe you'll recognize some of the themes.

<https://www.denvergov.org/files/assets/public/mayor/documents/2021-12-10-mayor-hancock-letter-to-city-council-cb21-1182.pdf>

As I've said time and again, this is truly an issue that belongs with the Maine state legislature. I recognize you don't wish to harm your local retailers nor treat your legal-aged adults unfairly, but if Portland passes the ban and the state legislature does not then that is exactly what would occur.

Respectfully,

Jon

Jonathan Shaer, Executive Director

New England Convenience Store & Energy Marketers Association, Inc. (NECSEMA)

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jon@necsema.net | www.necsema.net | [Join NECSEMA](#)

From: Jonathan Shaer - NECSEMA <jon@necsema.net>
Date: Friday, December 10, 2021 at 7:56 AM
To: "council@portlandmaine.gov" <council@portlandmaine.gov>
Subject: 2 important points

Councilors-

There are a couple issues that I fear are misunderstood and/or under-appreciated. The first is the importance of the FDA's PMTA process. It cannot be overstated how important it is for you to completely understand the process and the end result. The second is which products the ban would actually outlaw – spoiler alert: it's a lot more than just vape. Please take 5 minutes and read below and attached.

Pre-Market Tobacco Application Process (PMTA)

Attached is a letter I asked Attorney Jonathan Havens write to the Portland City Council. It is succinct and provides insight into this rigorous FDA process. I include this because it is a terrific summary of the FDA's PMTA process from an attorney who is a former regulatory counsel with the FDA and counsels his clients on regulatory, compliance, and enforcement matters related to products regulated by the FDA, FTC and CPSC.

By law, every nicotine product marketed after February 15, 2007 must receive an order from the FDA permitting the ongoing marketing of the product. The order is called a PMTA authorization. For the FDA to issue a PMTA marketing order, the agency must determine that the manufacturer has demonstrated that marketing of the new tobacco product would be appropriate for the protection of the public health.

The FDA's deadline was September 20, 2021. The FDA still has some products it needs to evaluate, but only a handful will be issued PMTA orders effectively decimating the category. In other words, the days of thousands of flavors and devices are over. Anyone using the term *unicorn tears* from this point forward is either uninformed or trying to pray on past emotions.

Products

Attached is a flavored products inventory report that Chris from Cigaret Shopper has provided. Almost every product in the "Vape and Vape Devices" category will be pulled from shelves in just a matter of time once the FDA releases its list of unauthorized products. Every other product on the list is a *traditional tobacco* product. Per CDC data, these traditional products have low single digit youth user appeal. They are adult products. **Every product on this entire spreadsheet would be banned** if the ordinance passes. Maine's flavored tobacco profile happens to be quite large: Menthol cigarettes account for about 18% of state cigarette volume, about 89% of Maine's snuff volume is flavored, 71% of Maine's e-cigarette volume is flavored product and 60% of Maine's cigar volume is flavored.

Best,

Jon

Jonathan Shaer, Executive Director

New England Convenience Store & Energy Marketers Association, Inc. (NECSEMA)

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From: Jonathan Shaer - NECSEMA <jon@necsema.net>
Date: Tuesday, November 9, 2021 at 6:21 AM
To: Belinda Ray <bsr@portlandmaine.gov>, Tae Chong - City number <tchong@portlandmaine.gov>, "mdion@portlandmaine.gov" <mdion@portlandmaine.gov>
Cc: "council@portlandmaine.gov" <council@portlandmaine.gov>
Subject: flavored tobacco ban comments

Pease accept these written comments to complement the verbal testimony I plan to give this evening. Once again, thank you for opening this hearing for additional public comment on the proposed flavored tobacco ban.

Jon

Jonathan Shaer, Executive Director

New England Convenience Store & Energy Marketers Association, Inc. (NECSEMA)

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November 9, 2021

Portland City Council
Health and Human Services & Public Safety Committee
Portland City Hall
389 Congress St.
Portland, ME 04101

Chairman Chong, Councilmember Ray and Councilmember Dion,

Thank you for accepting additional public testimony at your hearing this evening. This is a very important issue to 50 businesses in your city, its 38 convenience stores and a significant number of adults evidenced by the volume of flavored tobacco these stores sell. Allowing additional testimony is particularly important considering the number of inaccuracies and biased information presented to your committee by the local tobacco control coordinator at the last hearing (i.e. the number of states with a ban is one, not five as you were told).

I will not waste your time defending flavored tobacco, and I hope you will not succumb to tactics which attempt to demonize the companies that manufacture and sell them. Those schemes are irrelevant and only serve as smoke and mirrors to the real questions: What is the purpose of a local ban, and will a local ban be effective?

If the purpose is to prevent youth from initiating nicotine use, then a local ban will be ineffective because you have not closed access of the products to minors, Portland retailers have a 97% FDA-verified compliance rate and the only products youth are statistically using, electronic nicotine delivery systems (ENDS), have all effectively been banned by the FDA via their Pre-Market Tobacco Application (PMTA) process.

If the purpose is to send a signal to the state legislature that Portland is in favor of a statewide ban, then a local ban will be equally ineffective since the state will likely take a more measured approach as it was prepared to last session (even before the PMTA process began) and only leave Portland businesses disadvantaged adults inconvenienced by its more sweeping ban.

Everyone claims this policy is intended to protect youth. If that is the case, then there is no empirical or statistical reason why menthol cigarettes, wintergreen smokeless and the varieties of pipe tobacco should be banned. The only product shown to demonstrate any modern-day youth appeal is ENDS (aka vape). The statistics are clear and come right from the CDC's National Youth Tobacco Survey¹ which shows that in 2020 high school-aged use for ENDS was 19.6% (down from 27.5% in 2019), cigarettes use at 4.6% (down 15.8% since 2011), smokeless use at 3.1% (down 7.9% since 2011) and cigar use at 5% (down 11.6% since 2011). In fact, the 2021 early data shows ENDS use has fallen again

¹ CDC Tobacco Data Statistics *Estimates of Current Tobacco Use Among Youth*
https://www.cdc.gov/tobacco/data_statistics/fact_sheets/youth_data/tobacco_use/index.htm

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Stoughton, MA 02072
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to 11.3% - a 60% drop in two years. As you can see, there are stark difference in the various products' youth appeal rates.

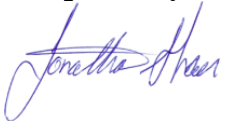
The Maine state legislature took the time to understand these facts and didn't allow emotion to dictate their decision on LD 1550. Had the bill not been pulled by the sponsors, the legislature \ likely would have passed an alternative that only banned flavored ENDS and included an PMTA authorized products exemption.

Understanding PMTA is absolutely critical as you consider this proposed ban. By September 2020, every ENDS product had to submit an application to the FDA to remain on the market. Since then, the FDA has acted on nearly 7,000,000 flavored ENDS/vapor applications and granted only 22 authorizations. The only products that will remain available are those the FDA has determined are "appropriate for the protection of public health". This is a science-based process, not an emotional one, and I would hope Portland would want these products available to legal adults if they FDA authorizes them. I was shocked your local tobacco control coordinator did not include any mention of this process in her presentation.

A local ban will not stop youth who are already knowingly breaking the law and it will not hurt the tobacco manufacturers since their products will continue to be sold, just not in Portland. Look no further than Massachusetts which saw virtually all the products come back into the state via New Hampshire and Rhode Island, coupled with a migration to traditional tobacco and vape. It will only hurt your local retailers. These local retailers are the only face to face gatekeepers for age-restricted tobacco and have a 97% compliance rate. Out of the 169 inspections since 2018 there have only been 5 violations. They are doing their job!

I implore you to oppose this proposed by-law. It is misguided as a targeted approach to reduce youth nicotine access and initiation, it ignores the science-based work of the FDA, it overreaches to impact Portland's adults, and will do nothing to reduce use or access while only serving to damage legal, licensed, tax-paying businesses in your city and the jobs those businesses provide and the families those jobs provide for.

Respectfully submitted,



Jonathan Shaer
Executive Director
Jon@necsema.net
781-297-9600 x3

1044 Central Street, Suite 203
Stoughton, MA 02072
(781) 297 – 9600

Letter to the Council 0 views



Dee Kerry <dee.kerry@maineaap.org>
to publiccomment@portlandmaine.gov

Jan 27, 2022, 1:55:47 PM (6 days ago)

Please accept the attached letter from the Maine Chapter of the American Academy of Pediatrics.

Regards,
Dee

--

Dee A. Kerry, Executive Director
she/her ([Why pronouns matter](#))

American Academy of Pediatrics, Maine Chapter
'Maine AAP'
Physical Address: 30 Association Drive
Mailing Address: PO Box 190
Manchester, ME 04351
cell: [207-620-0806](tel:207-620-0806)
MMA: [207-622-3374](tel:207-622-3374) - fax: [207-622-3332](tel:207-622-3332)

Join us on Social Media: <https://linktr.ee/maineaap>

Maine Chapter

INCORPORATED IN MAINE

American Academy of Pediatrics

DEDICATED TO THE HEALTH OF ALL CHILDREN®



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*Resident Board Representatives

**Medical Student Representatives

Dee Kerry, BS Ed

Executive Director

30 Association Drive, Box 190

Manchester, ME 04351

office: 207-480-4185

<http://www.maineaap.org>

January 27, 2022

Distinguished members of the Portland City Council, I am writing today on behalf of the Executive Leadership of the Maine Chapter of the American Academy of Pediatrics.

The tobacco industry has a long tradition of marketing tobacco products that appeal to new users and young people. In recent years, they have introduced and marketed flavored tobacco products including e-cigarettes, cigars, smokeless tobacco and hookahs. With their colorful packaging and appealing sweet flavors, today's flavored tobacco products resemble popular candy brands and are marketed directly to youth. These products are often placed near candy displays in retail stores. There are now over 15,000 flavored tobacco products on the market.

Flavored tobacco products undermine Maine's efforts to reduce youth tobacco use. E-cigarettes are not an FDA-approved cessation method and are an enticement for youth who may not otherwise have started smoking a traditional tobacco product. For individuals looking for support to quit smoking, vaping, or other tobacco use, there are many products to help and resources such as the Maine QuitLink at 1-800-QUIT-NOW which provides free support and coaching and is evidenced-based and very effective.

We know from the Maine Integrated Youth Health Survey that one in four Maine high school students now uses e-cigarettes – a rate that has nearly doubled in the past two years. The adolescent brain is very vulnerable and susceptible to nicotine dependence and addiction very quickly. The danger to a child's developing lungs is also significant. These products, delivering flavored nicotine and aerosol mist, contain at least 6 types of toxic chemicals including nicotine, benzene, carbonyls, particulates, and trace metals, to name a few. These chemicals cause the lungs to become inflamed and can trigger or worsen conditions such as asthma and weaken the lung's ability to heal from conditions such as bronchitis and pneumonia. Over time, using these products can lead to more serious illness such as emphysema or cancer of the mouth, esophagus, and lungs.

As physician's serving children and families in Maine, we are extremely concerned with the growing rate of addiction among youth and young adults. We are strongly in favor of policies to end the sale of flavored tobacco products and encourage you to take the bold step to pass the city-wide ordinance to eliminate the sale of these products which threaten the health and well-being of Maine's children and young adults.

Respectfully submitted,

Dee Kerry

Executive Director

Proposed Flavor Tobacco Ban 0 views



Gus Lipin <guslipin@gmail.com>
to publicComment@portlandmaine.gov

Jan 19, 2022, 6:50:53 PM (13 days ago)

Dear Councilors,

I own the 1041 Brighton Ave Shopping Plaza and write you today regarding the proposed flavor tobacco ban being discussed.

Portland Smoke and Vape has been a tenant in the Plaza since 2017 and has been a great addition to our location. They draw a significant amount of traffic into the plaza and we hope to keep them as a tenant. They have been great tenants to work with and look out for the best interests of my property which I value as their landlord.

This ordinance not only impacts the businesses it targets by limiting their products and overall revenue, but also impacts business owners that lease out their locations to businesses should the business close or move locations due to a local ordinance. This ordinance fails to accomplish the goals it sets out to accomplish as these customers can travel or walk a short distance to a surrounding town/city and purchase these products. This ordinance also puts unnecessary strain on local business owners and their staff after such a turbulent couple years we've had with Covid. I see this ordinance as the City being unfriendly to its local businesses. We should be supporting our local businesses and finding better solutions with them to a problem rather than an outright ban on a product that has helped many people get off something so harmful as cigarettes.

I hope that you take these comments into consideration when you're working through your decision and I urge you to oppose this ordinance.

Thank you,
Gus Lipin
The All American Family LLC

End the sale of flavored tobacco 0 views



Matt Wellington <mwell12358@gmail.com> Jan 26, 2022, 9:46:30 AM (7 days ago)
to City Officials

Dear City Officials,

Maine kids are using tobacco products at rates higher than the national average, and flavors are luring them into what often ends up being a lifetime addiction. There is an ordinance that you are currently considering that would ban the sale of flavored tobacco products in Portland, and I would like you to support the effort and vote yes on the proposal.

Driven by thousands of flavors from gummy worm and cotton candy to mint and mango, 2 million U.S. kids are vaping – including more than 1 in 4 Maine high school students, a rate that has nearly doubled in the past two years. An overwhelming majority of them say flavors are the reason why.

Meanwhile, menthol makes it easier to start smoking and harder to quit. In fact, half of youth smokers ages 12-17 use menthol cigarettes. And due to targeted tobacco industry marketing, 85% of Black smokers use menthols.

Cities have long been leaders in efforts to reduce tobacco use in Maine and in other states across the country. Bangor just passed an ordinance to end the sale of all flavored tobacco products. Portland should join them and set an example for the state to follow.

Every day that flavored tobacco products are on the market, our kids are at risk. Let's put their health above Big Tobacco's profits. Please do everything you can to end the sale of ALL flavored tobacco products in our city without delay and vote yes on the proposed ordinance that would put Portland's kids first.

Sincerely,
Matt Wellington
14 Monument St.
Portland, ME 04101



Julia Panepinto <juliapanepinto@gmail.com> Jan 26, 2022, 9:53:00 AM (7 days ago)
to City Officials

Dear City Officials,

Maine kids are using tobacco products at rates higher than the national average, and flavors are luring them into what often ends up being a lifetime addiction. There is an ordinance that you are currently considering that would ban the sale of flavored tobacco products in Portland, and I would like you to support the effort and vote yes on the proposal.

I have seen too many friends and family's fall victim to nicotine addictions to their introduction with flavored products. We have to get rid of this option that draws SO MANY new smokers in!

Driven by thousands of flavors from gummy worm and cotton candy to mint and mango, 2 million U.S. kids are vaping – including more than 1 in 4 Maine high school students, a rate that has nearly doubled in the past two years. An overwhelming majority of them say flavors are the reason why.

Meanwhile, menthol makes it easier to start smoking and harder to quit. In fact, half of youth smokers ages 12-17 use menthol cigarettes. And due to targeted tobacco industry marketing, 85% of Black smokers use menthols.

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Every day that flavored tobacco products are on the market, our kids are at risk. Let's put their health above Big Tobacco's profits. Please do everything you can to end the sale of ALL flavored tobacco products in our city without delay and vote yes on the proposed ordinance that would put Portland's kids first.

Sincerely,
Julia Panepinto
87 Sherwood St.
Portland, ME 04103



BJ McCollister <bjmccollister@gmail.com> Jan 26, 2022, 10:19:48 AM (7 days ago)
to City Officials

Dear City Officials,

Maine kids are using tobacco products at rates higher than the national average, and flavors are luring them into what often ends up being a lifetime addiction. There is an ordinance that you are currently considering that would ban the sale of flavored tobacco products in Portland, and I would like you to support the effort and vote yes on the proposal.

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Cities have long been leaders in efforts to reduce tobacco use in Maine and in other states across the country. Bangor just passed an ordinance to end the sale of all flavored tobacco products. Portland should join them and set an example for the state to follow.

Every day that flavored tobacco products are on the market, our kids are at risk. Let's put their health above Big Tobacco's profits. Please do everything you can to end the sale of ALL flavored tobacco products in our city without delay and vote yes on the proposed ordinance that would put Portland's kids first.

Sincerely,
BJ McCollister
61 Rosemont Ave
Portland, ME 04103



Julia Panepinto <juliapanepinto@gmail.com> 9:51 AM (7 hours ago)
to City Officials

Dear City Officials,

Maine kids are using tobacco products at rates higher than the national average, and flavors are luring them into what often ends up being a lifetime addiction. There is an ordinance that you are currently considering that would ban the sale of flavored tobacco products in Portland, and I would like you to support the effort and vote yes on the proposal.

Driven by thousands of flavors from gummy worm and cotton candy to mint and mango, 2 million U.S. kids are vaping – including more than 1 in 4 Maine high school students, a rate that has nearly doubled in the past two years. An overwhelming majority of them say flavors are the reason why.

Meanwhile, menthol makes it easier to start smoking and harder to quit. In fact, half of youth smokers ages 12-17 use menthol cigarettes. And due to targeted tobacco industry marketing, 85% of Black smokers use menthols.

Cities have long been leaders in efforts to reduce tobacco use in Maine and in other states across the country. Bangor just passed an ordinance to end the sale of all flavored tobacco products. Portland should join them and set an example for the state to follow.

Every day that flavored tobacco products are on the market, our kids are at risk. Let's put their health above Big Tobacco's profits. Please do everything you can to end the sale of ALL flavored tobacco products in our city without delay and vote yes on the proposed ordinance that would put Portland's kids first.

Sincerely,
Julia Panepinto
87 Sherwood St
Portland, ME 04103

Tobacco Flavor Ban 138-2122 0 views



ahsanrana88 <ahsanrana88@yahoo.com>
to publiccomment@portlandmaine.gov

1:09 PM (4 hours ago)

City Council,

It's my understanding that the Portland City Council is proposing a ban on menthol cigarettes, flavored dip and flavored cigars for adults 21 and older. As a retailer that owns a business in Portland, I'm extremely disappointed that you will stop me from selling an adult product to my customers. If you pass this, my customers will simply drive to Westbrook less than 1 mile away to obtain their adult product of their choice. Furthermore, you will depreciate the value of my business.

To me, this is common sense. Prohibition doesn't work. Please vote no on the flavor ban.

Thank you,

Ahsan Ashraf

3 D's Variety

Brighton Ave, Portland

Sent from my Verizon, Samsung Galaxy smartphone



M Adnan <adnan_akhtar2911@yahoo.com>
to publiccomment@portlandmaine.gov

1:17 PM (3 hours ago)

City Council,

It's my understanding that the Portland City Council is proposing a ban on menthol cigarettes, flavored dip and flavored cigars for adults 21 and older. As a retailer that owns a business in Portland, I'm extremely disappointed that you will stop me from selling an adult product to my customers. If you pass this, my customers will simply drive to Westbrook less than 1 mile away to obtain their adult product of their choice. Furthermore, you will depreciate the value of my business.

To me, this is common sense. Prohibition doesn't work. Please vote no on the flavor ban.

Thank you,

Muhammad Akhtar

3 D's Variety

Brighton Ave, Portland

Sent from my iPhone

Reply all

Reply to author

Forward

Kevin McBride <bookgod2@gmail.com>
to publiccomment@portlandmaine.gov

Jan 19, 2022, 1:25:23 PM

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Kevin McBride
231 New Gorham Rd
Westbrook, ME 04092-2138



Chynna Blaney <clm61416@gmail.com>
to publiccomment@portlandmaine.gov

Jan 20, 2022, 9:20:13 AM (13 days ago)

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Chynna Blaney
1230 Congress St
Portland, ME 04102-2129



James Verville <jverville@live.com>
to publiccomment@portlandmaine.gov

Jan 27, 2022, 8:11:01 AM (6 days ago)

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

James Verville
358 Schellinger Rd
Poland, ME 04274-6128



Lillian Hurst <lilliylhurst@gmail.com>
to publiccomment@portlandmaine.gov

Jan 28, 2022, 3:09:18 AM (5 days ago)

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,
Lillian Hurst
1901 Union St
Apt 225
Lafayette, IN 47904-2681



Samantha Hester <owenssamantha97@gmail....> Jan 30, 2022, 1:05:56 PM (3 days ago)
to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,
Samantha Hester
217 Beaverdale Rd NE
Dalton, GA 30721-8014



Jason Tschamler <xdurablemammalx@gmail.c...> Feb 1, 2022, 9:22:04 AM (yesterday)
to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Jason Tschamler
25 Colonial Rd
Portland, ME 04102-2009



Karysajean Matson <mommyoftobabies2019@icloud.com> 2:20 PM (2 hours ago)
to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living-- instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Karysajean Matson
164 Washburn Ave
Apt 3
Portland, ME 04102-2826



PEACEFOODMARKET <peacefoodmarket@gmail.com>
to publiccomment

10:04 AM (1 hour ago)

Abdulkadir mohamed
peace food market chestnut street
Dear Portland City Council,

I am a first generation immigrant that has come to America and came to this country to start a better life for my family. I have worked very hard to build my business to where it is today. Between my own two children that remain in Africa combined with my daughters 4 children of her own, the success of my business is vital to my family's survival. I am worried that the Portland City council is considering an ordinance to ban all flavored tobacco products as it is a large part of the sales in my store. I do not sell alcohol or tobacco products to anyone under 21.

I listened to the workshop on Wednesday night, and it was said that underage get their flavored tobacco products from their friends. But they will be able to get these same products in the towns next to Portland. I do not think this law solves for the issue you are stating and only hurts the retailers in Portland.

I have friends in Massachusetts that own stores and they banned all flavors a few years ago. All of their business went to New Hampshire. People here only have to drive to South Portland or Westbrook. What does that accomplish?

Please do not pass this ban. You will hurt local businesses and you will crush my American dream.

Thank you for your time.

**'ahsanrana88' via Public Comment**

to publiccomment

12:16 PM (2 hours ago)

Portland City Council,

My name is Muhammad Ashraf, I writing to you as a resident of Portland and small business operator of Three D's Variety on Brighton Ave. I am disappointed to hear that the City of Portland is considering a ban on menthol cigarettes, flavored dip, and flavored cigars. I urge you to oppose this measure.

With only two employees available to run our store, we have been working tirelessly to keep our doors open and stocked with the essential items our customers need. This is not the right time to pass this type of legislation and now more than ever we need your help to remain open and help small businesses like ours to get back on their feet. My hope is that city council members focus on more important things during an economic crisis than compounding the economic hardship convenience store operators like myself are currently facing.

My family has owned multiple convenience stores between Maine and New Hampshire, and I know that all the business we lose will move right to Westbrook or South Portland. I know the business is simply going to move over the city border.

My family in MA who own small businesses like mine have been trying to sell their stores because they cannot make ends meet any longer. Unfortunately, due to the legislation passed in MA, they cannot find anyone to buy the store. This leaves my family members in even deeper financial hardship. Please do not put me in the difficult situation I have watched my family go through.

This proposal will do irreversible harm to Portland's small businesses at a time when they are most vulnerable. It would jeopardize a significant portion of my revenue and quite frankly, could force my business to close its doors. A ban on these products would put hundreds of Portland jobs at risk. Menthol cigarettes account for nearly 18% of all cigarette sales in Maine. For moist smokeless tobacco, flavored products are nearly 87% of sales in our state. Now more than ever, I'm looking to our lawmakers to make the right decisions to help small businesses get back on their feet. We pay taxes, create jobs, and support the local economy. This ban would not only hurt our business, but it could also have devastating effects in our community. We are an essential business and have played an important role in taking care of our community.

The ban on all flavored tobacco products, including menthol cigarettes, makes no sense. It will multiply the existing illegal market in Portland, reward criminal smugglers, and cost Portland businesses, workers, and taxpayers thousands of dollars.

I urge you to vote against this flavor ban.

Thank you for your consideration,

Ahsan Ashraf

Three D's Variety



charya mean <charya.mean@gmail.com>
to publiccomment

11:34 AM (15 minutes ago)

Charya Mean
Sokreth Yean
Riverton Gas & Convenience – Forest Ave

Portland City Council,

Thank you for taking the time to read my letter. I am writing to you today in hopes that we will not make the mistake that the entire state of Massachusetts has made. As you know, they were the first state to pass this legislation in the country, back in 2019. In 2021, Massachusetts already introduced legislation to repeal that decision. Why? All this decision did was set back MA financially, and pushed millions of dollars in tax revenue to neighboring states. One speaker from Wednesday's meeting mentioned that flavored cigarettes were banned in 2009, except menthol, and underage use declined year over year. So, why are you trying to ban menthol cigarettes if the data is showing positive each year? The underage issue at hand is e-cigarettes. Why not focus solely on flavored e-cigs and leaving cigarettes, dip and cigars – that have declined in underage use for years - alone? This is what Massachusetts is acting on. They realized that the issue at hand was about vape...not traditional tobacco. Massachusetts has proposed a bill that would repeal the decision on traditional tobacco, but allow vape products to remain off the market. We believe this is a proper compromise and could help with the safety of our children while keeping the businesses in Portland alive.

Lastly, when I listened to your workshop on Wednesday night there was one more concerning topic. It was said that underage get their flavored tobacco products from their friends. How will this change if it's only a five minute ride to South Portland or Westbrook? You're only hurting local businesses in your community that have been abiding the law. My store is on the Westbrook/Portland line and if this bill passes, it may cause catastrophic effects on my business that may make it close to impossible to remain open.

To me, this is common sense. Prohibition didn't work with alcohol and it won't work with tobacco. Please **vote no** on the flavor ban ordinance.

Thank you for your consideration.

Sincerely,

Charya and Sokreth



David Discatio <dmdiscatio@gmail.com>
to publiccomment@portlandmaine.gov

Thu, Feb 3, 5:31 PM (17 hours ago)

Portland City Council,

I am concerned to learn that the Portland City council is considering an ordinance to ban ALL flavored tobacco products that will not solve for the underage usage of e-cigarette use and will devalue many law abiding businesses in Portland.

I listened to your workshop on Wednesday night and was very concerned at what I heard. It was said that underage get their flavored tobacco products from their friends. How will this change if it's only a five minute ride to South Portland, Falmouth or Westbrook? You're only hurting local businesses in your community that have been abiding the law.

One speaker also said that flavored cigarettes were banned in 2009, except menthol and underage use declined year over year. So, why are you trying to ban menthol cigarettes if the data is showing positive each year? The underage issue at hand issue is e-cigarettes. Why not focus solely on flavored e-cigs and leaving cigarettes, dip and cigars – that have declined in underage use for years - alone?

It's also my understanding that Massachusetts who has a similar band on flavor tobacco products is in the works of trying to reverse the band because data has shown that state residents are going to their bordering states to buy these products, as well as other items – such as gas, clothing products, visiting restaurants, etc.

Many customers have already told me that they would have to leave to go to South Portland, Westbrook, Falmouth to buy these products as well other things.

Please support your local businesses and keep our Portland residents in Portland, as well as tourist for the upcoming tourist season.

To me, this is common sense. Prohibition didn't work with alcohol and it won't work with tobacco. Please **vote no** on the flavor ban ordinance.

Thank you for your consideration.
Sincerely,

David Discatio
Owner- Joe's Super Variety
665 Congress Street

**'Hilary Schneider' via Public Comment**

Thu, Feb 3, 5:30 PM (17 hours ago)

to publiccomment@portlandmaine.gov

Attached and pasted below, please find comments of the American Cancer Society Cancer Action Network in support of Order 138-21/22 Amendment to Portland City Code Chapter 17 Re: Sale of Flavored Tobacco Products Prohibited:

February 3, 2022

Dear Mayor Snyder and Honorable members of the Portland City Council:

My name is Hilary Schneider, and I am the Regional Director of Government Relations for Atlantic/Northeast States for the American Cancer Society Cancer Action Network (ACS CAN). In this role, I also serve as the Government Relations Director that oversees our advocacy efforts in Maine. ACS CAN is the nonprofit, nonpartisan advocacy affiliate of the American Cancer Society and supports evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem. As the nation's leading advocate for public policies that are helping to defeat cancer, ACS CAN ensures that cancer patients, survivors, and their families have a voice in public policy matters at all levels of government.

On behalf of ACS CAN, I urge your strong support of the proposed ordinance to end the sale of all flavored tobacco products in Portland, including menthol cigarettes.

Maine law currently prohibits the sale of flavored cigars, however, the way the law was written allows for some exemptions and has created some enforcement challenges. Current efforts to end the sale of all flavored tobacco products build on and account for lessons learned from more than a decade of experience with Maine's law, as well as laws and ordinances across the nation, a more substantial body of evidence, increased awareness of such evidence, and new products introduced since the time when Maine's existing law was passed and last amended.

Tobacco use remains the largest preventable cause of disease and premature death in the United States and Maine. According to the U.S. Surgeon General, smoking is a known cause of a dozen cancers: cancer of the oropharynx, larynx, lung/trachea/bronchus, esophagus, stomach, liver, pancreas, kidney, cervix, bladder, colon, and acute myeloid leukemia.^[i] In fact, smoking is responsible for an estimated 30 percent of cancer deaths in Maine – that was 1,016 cancer deaths in 2017.^[ii] Maine has the 6th highest rate of smoking-related cancer cases in the nation and the 11th highest rate of smoking-related cancer deaths.^[iii]

In Maine, nearly 1 in 6 adults smoke cigarettes, the highest rate in the Northeast.^[iv] In recent years, overall youth tobacco use in Maine has skyrocketed with 33% of high school students using some form of tobacco product in the last 30 days.^[v] More than one in 15 Maine high school students smoke cigarettes.^[vi] One in 13 male high school students, including more than 1 in 10 high school male seniors, smoke cigars in Maine.^[vii] One in 2 Maine high school students and 1 in 6 middle school students have used e-cigarettes.^[viii] Nearly 30 percent of high school students are current users of e-cigarettes, nearly doubling from 15% in 2017.^[ix]

Studies have found that e-cigarette use increases the risk of youth and young adults using cigarettes.^[x] The former head of the FDA during the Trump Administration, Scott Gottlieb, M.D. labeled the use of e-cigarettes by teenagers as an epidemic.^[xi] What is driving the massive surge in tobacco use among youth? Flavored tobacco. Fruit and candy flavored products like cotton candy, fruit punch, menthol and mint are driving Big Tobacco's comeback attempt.

Flavors are a marketing weapon used by tobacco manufacturers to target youth and young people to a lifetime of addiction. Altering tobacco product ingredients and design, like adding flavors, can improve the ease of use of a product by masking harsh effects, facilitating nicotine uptake, and increasing a product's overall appeal.^[xii] Candy, fruit, mint and menthol flavorings in tobacco products are a promotional tool to lure new, young users, and are aggressively marketed with creative campaigns by tobacco companies.^[xiii] Products with flavors like cherry, grape, cotton candy, and gummy bear are clearly not aimed at established, adult tobacco users and years of tobacco industry documents confirm the intended use of flavors to target youth.^[xiv] Furthermore, youth report flavors a leading reason they use tobacco products and perceive flavored products as less harmful.^{[xv], [xvi]}

Flavors in tobacco products are frequently listed as one of the top three reasons youth use e-cigarettes. ^[xvii], ^[xviii] Data from the 2016-2017 PATH study, the largest national longitudinal study looking at tobacco use and its effects, found that among teens who use e-cigarettes, 97 percent regularly used a flavored product. ^[xix] Also, among those teens who had ever tried an e-cigarette, 96 percent used a flavor product for the first time. Among all students who currently use e-cigarettes, 83% used flavored e-cigarettes, including 85% of high school users and 74% of middle school users. ^[xx] Kids whose first tobacco product was flavored are more likely to become current tobacco users than those whose first product was tobacco flavored. ^[xxi] Youth perceive fruit-flavored and menthol-flavored e-cigarettes as less harmful than tobacco-flavored e-cigarettes. ^[xxii] Among exclusive users of e-cigarettes, use of mint or menthol flavored e-cigarettes went up from 16 percent in 2016 to 57 percent in 2019, while candy-, dessert- and other sweet-flavors decreased. ^[xxiii] Among young adults who reported using e-cigarettes every or some days in 2013-2014, 92 percent used a flavored product. ^[xxiv]

Smokeless tobacco companies have a long history of using flavorings, such as mint, cherry, apple, and honey, and other product manipulation to gradually get new, young users addicted to “starter” products, keep them using, and shift them on to more potent smokeless tobacco products. In 2019, 48 percent of middle and high school students who used smokeless tobacco had used a flavored product in the last month. ^[xxv] According to another study, more than 70 percent of teens who had ever used smokeless tobacco used a flavored product the first time. ^[xxvi]

For waterpipe or hookah use, more than 31.2 percent of current middle and high school users used a flavored product in 2019. ^[xxvii] What's troubling, is that the flavorings used in waterpipe tobacco, the sweet aromas and use of water make users misperceive this practice as safer than cigarette smoking. ^[xxviii] In fact, hookah tobacco and smoke are as dangerous as cigarettes, and contain carcinogens and other substances that can cause cancer and other diseases. ^[xxix] An hour-long waterpipe or hookah session typically involves 200 puffs of smoke, whereas smoking a single cigarette typically involves 20 puffs of smoke. ^[xxx], ^[xxxi]

Long before cigarette companies started adding fruit, candy, and alcohol flavorings to cigarettes, they were manipulating levels of menthol to addict new, young smokers. Menthol acts to mask the harsh taste of tobacco with a minty flavor and by reducing irritation at the back of the throat with a cooling sensation. Additionally, menthol may enhance the delivery of nicotine. Knowing that youth who experience less negative physiological effects of smoking are more likely to continue smoking regularly, the tobacco industry has spent decades manipulating its menthol brand-specific product line to appeal to youth and African Americans. The tobacco companies have a long and sordid history of predatory marketing of menthol cigarettes especially to Black Americans. While menthol cigarettes were introduced to the market in the 1930s, their use greatly expanded in the 1950s when aggressive marketing to African Americans began. ^[xxxii] A recent study estimated that, from 1980 to 2018, menthol cigarettes were responsible for 10.1 million extra people who smoke, 378,000 premature deaths and 3 million life years lost in the U.S. This amounts to nearly 10,000 premature deaths and over 265,000 new people who smoke each year over the 38-year period. ^[xxxiii]

Recognizing the danger that flavors in cigarettes have in attracting and addicting new people who smoke, especially youth, the Family Smoking Prevention and Tobacco Control Act (TCA) of 2009 prohibited the use of characterizing flavors, except for menthol and tobacco, in cigarettes. To understand a consequence to limiting the flavor prohibition to only cigarettes and exempting menthol flavoring, an analysis evaluated youth tobacco use before and after the prohibition. ^[xxxiv] The analysis found a decrease in the likelihood of being a person who smokes (17.1 percent) and fewer cigarettes smoked (59 percent) associated with the flavor prohibition, but also a 45 percent increase in the probability that the youth who smokes used menthol cigarettes. Furthermore, the flavor prohibition was associated with increases in both cigar use (34.4 percent) and pipe use (54.6 percent). This suggests that youth who smoke, in the absence of comprehensive sales restrictions on all flavors and all products, are substituting with menthol cigarettes or cigars and pipe tobacco, for which the federal flavor prohibition does not apply.

The aggressive use of flavors and marketing tactics by the tobacco industry, rapid increased use of flavored products by youth and young adults, and under regulation of these products requires action to protect youth and young adults, and the public health at-large. While the FDA's announcement earlier this year to prohibit menthol cigarettes and all flavors in cigars is an important step forward, it will take quite some time to be implemented as the process of finalizing the rules takes place. Moreover, the FDA's announcement falls short of what is needed by not covering all tobacco products. We know from past experience that when products are excluded, the tobacco industry will do everything in its power to capitalize on loopholes and some people who are addicted to tobacco will switch to excluded products. If we do not ensure the policy solutions include all tobacco products, all flavors, and all tobacco retailers then the policy will directly fail to protect those who the tobacco industry has most aggressively targeted – our youth and young adults, communities of color, the LGBTQ community, low-income communities and people with mental and behavioral health conditions.

For the above reasons, ACS CAN urges you to support the proposed ordinance to end the sale of all flavored tobacco products in Portland.

Sincerely,
Hilary Schneider

Hilary Schneider (she/her/hers), MPP
Regional Government Relations Director
207.888.9826 | m: 207.522.1332

American Cancer Society Cancer Action Network, Inc.
fightcancer.org | 1.800.227.2345

Submission for City Council - February 7th

Public Comment inbox



Jeff Bennett <jeffbennett15@gmail.com>

1:15 PM (35 minutes ago)

to publiccomment

Hello,

I would like to submit the attached testimony in support of the proposed ordinance to end the sale of all flavored tobacco products.

Thank you in advance and I look forward to Monday's meeting.

Jeff

--

Jeff Bennett
45 Torrey St
Portland, Maine

"Courage is being scared to death, but saddling up anyway." John Wayne



Mayor Snyder and honorable members of the Portland City Council. My name is Jeff Bennett and I am a resident of Torrey Street in Portland. I am a National Volunteer Team Ambassador for the American Cancer Society Cancer Action Network (ACS CAN) and a cancer survivor. ACS CAN is the nonprofit, nonpartisan advocacy affiliate of the American Cancer Society and supports evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem. ACS CAN works to ensure that individuals affected by cancer have a voice in public policy matters at all levels of government.

On behalf of ACS CAN and on behalf of myself, I would like to speak in strong support of the proposed ordinance to end the sale of all flavored tobacco products.

Tobacco use remains the largest preventable cause of disease and premature death in the United States and Maine. Smoking can cause cancer in almost any part of your body and then block your body from fighting it.ⁱ According to the U.S. Surgeon General, smoking is a known cause of cancer of the oropharynx, larynx, lung/trachea/bronchus, stomach, liver, pancreas, kidney, cervix, bladder, colon, and acute myeloid leukemia.ⁱⁱ Poisons in cigarette smoke can weaken the body's immune system, making it harder to kill cancer cells. When this happens, cancer cells keep growing without being stopped.ⁱⁱⁱ Smoking is responsible for an estimated 30 percent of cancer deaths in Maine – that was 1,016 cancer deaths in 2017.^{iv} Maine has the 6th highest rate of tobacco-related cancer cases in the nation and the 11th highest rate of tobacco-related cancer deaths.^v

In Maine, nearly 1 in 5 adults smoke cigarettes, the highest rate in the Northeast.^{vi} In recent years, overall youth tobacco use in Maine has skyrocketed with nearly 1 in 3 high school students using some form of tobacco product in the last 30 days.^{vii}

In Maine:

- More than one in 15 high school students smoke cigarettes.^{viii}
- One in 13 male high school students, including more than 1 in 10 high school male seniors, smoke cigars.^{ix} One in 2 high school students and 1 in 6 middle school students have used e-cigarettes.^x
- Nearly 30 percent of high school students are current users of e-cigarettes, nearly doubling from 15% in 2017.^{xi}

What is driving the massive surge in tobacco use among youth? Flavored tobacco. Fruit and candy flavored products like cotton candy, fruit punch, menthol and mint are driving Big Tobacco's comeback attempt. Products with flavors like cherry, grape, cotton candy, and gummy bear and creative marketing campaigns leveraging social media influencers are clearly not aimed at established, adult tobacco users; years of tobacco industry documents confirm the intended use of flavors to target youth.^{xii,xiii} Tobacco industry efforts have worked as intended - youth report flavors a leading reason they use tobacco products, they perceive flavored products as less harmful,^{xiv,xv} and youth and young adults who use e-cigarettes are more likely to use cigarettes,^{xvi} as well as cigars, little cigars or cigarillos^{xvii} when compared to peers who had never used e-cigarettes.

Federal action to-date has fallen short of what is needed by not covering all tobacco products. We know from experience that when products are excluded, the tobacco industry will do everything in its power to capitalize on loopholes and some people who are addicted to tobacco will switch to excluded products. If we do not ensure the policy solutions include all tobacco products, all flavors, and all tobacco retailers, then the policy will

directly fail to protect those who the tobacco industry has most aggressively targeted – our youth and young adults, communities of color, the LGBTQ community, low-income communities and people with mental and behavioral health conditions.

For me, the devastating effects of tobacco use is a personal issue, as it is for too many of us. My wife lost her father to lung cancer one year after our marriage. Tony was just 56 years old and began smoking at the age of 17. Tony was the father-in-law I never knew.

I take great pride in calling the city of Portland home. Portland is a community that looks after itself. I cannot think of a much better way to continue to demonstrate this than through our public health policies. By supporting this proposed ordinance, you are standing up to an industry whose profits rely on continuing to addict new generations of tobacco users and instead are choosing to protect our youth and young adults who are the future of our city and state by reducing the toll of tobacco and cancer on their lives and the lives of their loved ones.

Thank you for the opportunity to comment and it is my hope that you will support this policy.

ⁱ U.S. Department of Health and Human Services. [A Report of the Surgeon General. How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking-Attributable Disease](#). Atlanta: 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, 2010.

ⁱⁱ U.S. Department of Health and Human Services. *The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General*. Atlanta: 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, 2014.

ⁱⁱⁱ U.S. Department of Health and Human Services. [A Report of the Surgeon General. How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking-Attributable Disease](#). Atlanta: 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, 2010.

^{iv} American Cancer Society Cancer Action Network. State-Specific Smoking-Related Cancer Cases and Deaths, 2017, updated 12/3/2020. <https://www.fightcancer.org/sites/default/files/State-Specific%20Smoking-Attributable%20Cancer%20Cases%20and%20Deaths%20Factsheet%20FINAL%2012.11.20.pdf>

^v Ibid.

^{vi} Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Division of Population Health. BRFSS Prevalence & Trends Data [online]. 2019. [accessed Feb 09, 2021].

^{vii} Ibid.

^{viii} Maine CDC, 2019 Maine Integrated Youth Health Survey (MIYHS), <https://data.mainepublichealth.gov/miyhs/>.

^{ix} Ibid.

^x Ibid.

^{xi} Maine CDC, 2017 and 2019 Maine Integrated Youth Health Survey (MIYHS), <https://data.mainepublichealth.gov/miyhs/>

^{xii} Delnevo, C, et al., "Preference for flavoured cigar brands among youth, young adults and adults in the USA," Tobacco Control, epub ahead of print, April 10, 2014. King, BA, et al., "Flavored-Little-Cigar and Flavored-Cigarette Use Among U.S. Middle and High School Students," Journal of Adolescent Health 54(1):40-6, January 2014

^{xiii} Carpenter CM, Wayne GF, Pauly JL, Koh HK, Connolly GN. New cigarette brands with flavors that appeal to youth: tobacco marketing strategies. Health Affairs. 2005; 24(6): 1601-1610

^{xiv} Ambrose et al. Flavored tobacco product use among U.S. youth aged 12-17 years, 2013-2014. JAMA, 2015; 314(17): 1871-3.

^{xv} Huang L-L, Baker HM, Meernik C, Ranney LM, Richardson A, Goldstein AO. Impact of non-menthol flavours in tobacco products on perceptions and use among youth, young adults and adults: a systematic review. Tobacco Control 2016.

^{xvi} U.S. Department of Health and Human Services. *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. National Academies of Sciences, Engineering, and Medicine. 2018. Public health consequences of e-cigarettes. Washington, DC: The National Academies Press. Berry KM, Fetterman JL, Benjamin EJ, et al. Association of Electronic Cigarette Use With Subsequent Initiation of Tobacco Cigarettes in US Youths. JAMA Netw Open. 2019;2(2):e187794

^{xvii} Hair EC, Kreslake JM, Mowery P, Pitzer L, Schillo B, Vallone DM, A longitudinal analysis of e-cigarette use and cigar, little cigar or cigarillo initiation among youth and youth adults: 2017–2019, Drug and Alcohol Dependence, Volume 226, 1 September 2021, 108821.

**'karen norbs1' via Public Comment**

to publiccomment@portlandmaine.gov

10:22 AM (1 hour ago)

Karen Norberg
Dyer's Variety - 45 Portland St.
138-2122

Portland City Council,

I listened to your workshop on Wednesday night and you explained that when flavored cigarettes were banned in 2009, except menthol and mint, underage use dramatically declined. So, why are you trying to ban menthol cigarettes? The issue is e-vapor use. Why not focus solely on banning flavored vape product and leaving the rest of the categories alone?

Another point that stood out to me on Wednesday's call was where underage get tobacco products. It was said that underage get tobacco products from peers. What is stopping a minor from getting their product in another town and providing it to friends? You made it clear it was not from retailers, yet all the penalties are focused on the retail community.

You are only punishing retailers in your community that are good standing business owners that abide by the law. My customers will simply cross the town line and buy their products

To me, this is common sense. Prohibition didn't work with alcohol and it won't work with tobacco. Please **vote no** on the flavor ban ordinance.

Thank you for your consideration.

Sincerely,
Karen Norberg
Dyers Variety

Lani Graham <lgraham207@gmail.com>

8:33 AM (2 hours ago)

to publiccomment

Please find attached my comments to the Portland City Council regarding the proposed ban on flavored tobacco products. Thank you for considering this.

Lani Graham, MD, MPH

PO Box 10368

Portland, Me. 04104

lgraham207@gmail.com

To: Portland City Council

From: Lani Graham, MD, MPH, Former Maine Chief Public Health Officer and Former Portland Resident

Date: 2/7/22

In Support of the Proposed Portland City Ban of Flavored Tobacco Products

It has come to my attention that the Portland City Council is once again considering taking the lead on addressing the extreme danger of unregulated tobacco products to the youth of this city. There are few actions that Portland councilors could now take to enhance the future health of Portland youth than a ban on flavored tobacco products. Flavored tobacco products are the number one action that the tobacco industry has adopted to addict youth to tobacco before they have even left high school. Younger customers for an addictive product are highly prized. Every day that these products are on the market they beckon youth to take up a product to which they will ultimately become addicted. Now is the time to bring that process to a halt.

I am proud to say that I was a Portland resident and Portland property owner from 1986-2009, more than 20 years. During that time, I was fortunate enough to be part of some landmark courageous decisions made by your Predecessors to protect Portland youth. I was Chair of a Committee called "Citizens for a Healthy Portland" that sought to ban smoking in Portland restaurants due to the exposure of wait staff to a Class A carcinogen, and the adverse modeling to youth of smoking as a lifestyle choice rather than the addiction it is. The courage of that Council made Portland a leader for the entire state. Now, thanks to Portland, it is unthinkable to see people smoking in restaurants. At the time, the tobacco industry mobilized its troops to make the Portland Council back down. It was going to cause restaurants to close. It was bad for the international business. Mom and Pop stores would lose money and close without the money tobacco provided to them. Wouldn't it be better to wait for state or federal action rather than put the city of Portland out in front? But the Portland Council stood firm. The health of its citizens was not to be traded for tobacco dollars. In the end the issue went to Referendum and the citizens of Portland exonerated the Council's decision. They agreed, 2:1 that health came first. And as it turned out, the restaurants that expressed the greatest fears that they would have to close their doors remain among the most successful in Portland today. And Mainers all over the state can be grateful to Portland for taking the lead in this action.

You are likely to hear many of the same arguments against instituting a ban against flavored tobacco products, especially about menthol. And once again the Portland Council can stand for the health of Portland youth. I'm sure you will hear from those who have made it central to their professional lives to protect children from tobacco how truly dangerous these products are, so I won't go into all of that.

I congratulate you for taking up this vital public health issue, thank you for your attention and hope that Portland will once more be a health leader.

American Heart Association Support of Elimination of Flavors

Public Comment inbox



'Allyson Perron' via Public Comment

9:08 AM (58 minutes ago)

to publiccomment@portlandmaine.gov

Please see our attached testimony supporting the ordinance to end the sale of flavored tobacco. Please let me know if you have any questions.

Allyson



Allyson Perron Drag
Government Relations Director
American Heart Association
300 5th Avenue Suite 6 | Waltham | MA |
02451-8750
O 781.373.4522 | M 857.540.9686



Support of Ending the Sale of Flavored Tobacco Products Ordinance

Dear Portland City Council,

The American Heart Association (AHA) is the nation's oldest and largest voluntary organization dedicated to fighting heart disease and stroke, whose mission is to be a relentless force for a world of longer, healthier lives. As part of the mission, we are working towards the tobacco endgame – ending tobacco use and nicotine addiction in the U.S., which we believe is within site; that is why we are supportive of **the ordinance to *End the Sale of Flavored Tobacco Products in Portland***.

The use of tobacco products remains the nation's number one cause of preventable death. Tobacco use is responsible for nearly 1 in 5 deaths nationwide and in Maine, nearly 1 in 5 adults smoke cigarettes, the highest rate in the Northeast.ⁱ More than one in 15 Maine high school students smoke cigarettes.ⁱⁱ In recent years, overall youth tobacco use in Maine has skyrocketed, largely driven by the youth e-cigarette use epidemic. One in 2 Maine high school students and 1 in 6 middle school students have used e-cigarettes.ⁱⁱⁱ Nearly 30 percent of high school students are current users of e-cigarettes, nearly doubling from 15% in 2017.^{iv}

Tobacco companies are targeting youth with flavored tobacco products. This year they will spend an estimated \$40.8 million in Maine marketing their addictive and deadly products.^v Products that come in array of kid friendly candy and fruit flavors such as cherry, grape jelly, cotton candy, piña colada, cinnamon roll, popcorn, and appletini, all sold in colorful packaging that is designed to attract tweens and teens. In fact, there are nearly 15,000 different flavors of e-cigarettes on the market.^{vi} Nationwide, nearly 81% of youth ages 12 to 17 who had ever used a tobacco product reported that the first product they used was flavored.^{vi}

You are going to hear a lot from the opposition that Massachusetts made a mistake and that you should not make the same one. From the start in Massachusetts with bipartisan support, everyone agreed there would be revenue loss, but as a state it was decided that to put our health of our residents over profits from deadly products because the biggest beneficiaries of the law would be future generations who do not start smoking because they are not bombarded with menthol ads and other flavored products in stores. Maine will see the benefits of protecting the health of all residents and survive the loss of revenue because the health benefits will far outweigh any loss.

You will hear that e-cigarettes are 95% safer than traditional cigarettes. That 95% number is often pushed by pro-vaping advocates, but it simply isn't true. An article published in the American Journal of Public Health comprehensively assesses why the 95% figure is not grounded in scientific evidence. E-cigarettes can harm a user's heart, lungs, and brain; increase the risk of e-cigarette users moving to traditional cigarettes; and pose harm to others from the aerosol emitted from these devices. In addition, we do not know the long-term health consequences of e-cigarette use. They may be less harmful than traditional cigarettes, but they are not safe. They are especially not safe for young people. The high levels of nicotine in e-

cigarettes pose serious risks to kids, such as harming brain development and affecting memory and learning. There is also growing evidence that they pose more immediate dangers, such as damage to their lungs. Tobacco companies have for years and continue to target and hook kids. They intentionally make products that contain high levels of addictive nicotine with enticing flavors. There is no evidence that e-cigarettes prevent youth from using traditional cigarettes—in fact, kids who use e-cigarettes are more likely to use traditional cigarettes as well. That is why all flavored tobacco products, including flavored e-cigarettes, must be taken off the market.

You will hear that adults have used e-cigarettes to quit smoking. No e-cigarette product has been approved by the FDA as a smoking cessation device. The claim that vaping is a better way to quit cigarettes compared to FDA-approved nicotine replacement products simply is not backed up by science. Most research done on this topic to date shows no advantage for e-cigarettes over the use of FDA-approved cessation products such as gum, lozenges, and patches. FDA-approved products have demonstrated success as part of an overall program for quitting that should include medications and counseling to reduce cravings.

Tobacco companies use flavor to hook a new generation of kids on its deadly products. Flavors hide the bad taste of tobacco and make it easier for kids to try. Menthol has the additional quality of soothing the irritation of combustible cigarettes, which is why so many young people start smoking using menthol cigarettes. AHA supports a comprehensive approach to tobacco control aimed at protecting our kids from all tobacco products.

We must do everything in our power to keep our communities healthy and safe and we applaud the Portland City Council for making sure that the residents are healthy and safe against the harms from tobacco with the ordinance. We recognize that the Council will be under extraordinary pressure from the tobacco industry and the vaporist community to put profits above human life by limiting or curtailing elimination on flavored tobacco products. We are asking for you to stand up to the tobacco industry and their allies, by saying No to selling of Menthol Cigarettes and All Other Flavored Tobacco Products, including Flavored E-Juices! Say “No” to the continued predatory marketing of flavored tobacco products generally and to our youth particularly and say “Yes” to the health and welfare of our kids, who are the most vulnerable and say “Yes” to the protection for all residents of Portland. We look forward to working with you on this ordinance.

Sincerely,
Allyson Perron Drag
American Heart Association/ Stroke Association
Government Relations Director

i Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Division of Population Health. BRFSS Prevalence & Trends Data [online]. 2019. [accessed Feb 09, 2021]. URL: <https://www.cdc.gov/brfss/brfssprevalence/>.

ii Maine CDC, 2019 Maine Integrated Youth Health Survey (MIYHS), <https://data.mainepublichealth.gov/miyhs/>.

iii Ibid.

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- iv Maine CDC, 2017 and 2019 Maine Integrated Youth Health Survey (MIYHS), <https://data.mainepublichealth.gov/miyhs/>
- v Campaign for Tobacco Free Kids <https://www.tobaccofreekids.org/problem/toll-us/maine>
- vi Truth initiative <https://truthinitiative.org/sites/default/files/Truth-Flavors-Fact-Sheet.pdf>
- vii US Department of Health and Human Services. [E-cigarette use among youth and young adults: a report of the Surgeon General Cdc-pdf\[PDF–8.47 MB\]](#). Atlanta, GA: US Department of Health and Human Services, CDC; 2016.

Comments Opposing Flavored Tobacco Ban

Public Comment inbox



Christine Cummings <christine@mgfpa.org>

10:25 AM (1 hour ago)

to publiccomment

Good Morning Portland City Councilors -

Attached please find our testimony in opposition to the proposed flavored tobacco ban, co-signed by the Retail Association of Maine. A local flavored tobacco ban will not stop flavored tobacco and ENDS/vapor users from accessing the products; customers will simply seek out these products in neighboring towns. South Portland, Westbrook, Scarborough and others would welcome the increased business and the Portland-based retailers would suffer the economic harm. The Committee should reject this proposal and allow Portland retailers to continue to responsibly sell licensed tobacco products.

Please let us know if you have any questions and thank you for the opportunity to comment.

Christine Cummings, Maine Grocers & Food Producers Association
& Curtis Picard, Retail Association of Maine

Christine Cummings

Executive Director

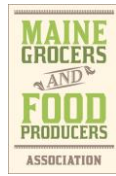
Maine Grocers & Food Producers Association

P.O. Box 5234, Augusta, Maine 04332

mgfpa.org | Office: 207.622.4461



CONNECT. GROW. PROSPER.



February 7, 2022

Portland City Council
389 Congress Street
Portland, ME 04101

Dear Mayor Snyder & Members of the Portland City Council,

The Maine Grocers & Food Producers Association and the Retail Association of Maine urge you to oppose the proposed ban on the sale of all flavored tobacco. Our business trade associations represent Main Street businesses including independently owned and operated grocery stores and supermarkets, general merchandise retailers, and convenience stores and we stand united in our opposition to this proposed ban.

A local flavored tobacco ban will not stop flavored tobacco and ENDS/vapor users from accessing the products; customers will simply seek out these products in neighboring towns. **South Portland, Westbrook, Scarborough and others would welcome the increased business and the Portland-based retailers would suffer the economic harm.** A tunnel-vision approach to banning a product at the local level will result in lost sales both of tobacco products and other commonly purchased goods including food, beverages, and gas typically purchased alongside tobacco items. This policy will cause compounded financial harm to Portland's responsible, tax-paying businesses.

In the utmost of difficult times, when your Portland businesses are facing labor shortages, product supply chain disruptions, and working diligently to keep Mainers safe, it is imperative to not add further complications to their business. Our community grocers and retailers are the backbone of Maine's towns, the first employers of many of Maine's youth and the town's charitable partners for community events - donating to sports leagues and hosting girl scout cookie sales. While it is a laudable effort to deter youth access to flavored tobacco products, statistics prove the strategy is ineffective. Three recent studies conducted by the Yale School of Public Health¹, the University of Memphis School of Public Health, and the Milken Institute School of Public Health have found that a citywide ban on the sale of all flavored tobacco products results in underage youth and young adults (ages 18-34) reverting to smoking cigarettes, causing an even more significant health problem.

Policies addressing product bans should be addressed at the federal and state level to ensure consistency for Maine residents, customers and business owners alike. There are many details to be considered including the remaining inventory and investment on behalf of the retailer. Passing a local, flavored tobacco product ban is premature while placing a burden on your town's citizens and businesses.

The US Centers for Disease Control and Prevention recommends education and cessation. Maine proudly received an "A" grade from the American Lung Association for funding tobacco control programs. Currently, adequate and additional funding for prevention programming is being discussed at the state-level; four bills have been introduced and one has passed out of Committee to appropriate funds for the state's Tobacco Prevention and Control Program.

The Committee should reject this proposal and allow Portland retailers to continue to responsibly sell licensed tobacco products.

Thank you for the opportunity to provide testimony. Please feel free to contact us with any questions.

Christine Cummings, Executive Director,
Maine Grocers & Food Producers Association
PO Box 5234, Augusta, ME 04332
christine@mgfpa.org | 207-622-4461

Curtis Picard, President & CEO,
Retail Association of Maine
45 Melville St., Augusta, ME 04330
curtis@retailmaine.org | 207-623-1149

¹ <https://news.yale.edu/2021/05/25/ban-flavored-vaping-may-have-led-teens-cigarettes-study-suggests>

Feb 7 public comment on order 138

Public Comment inbox



Flo Edwards <floedwards@gmail.com>

5:25 AM (4 hours ago)

to publiccomment

Public comment on order 138 to be included in today's city council agenda from Florence Edwards. I live at 11 Little Rd, Portland, ME 04102.

Feb 7, 2022

To all attendants, The honorable members of the Health and Human Services and Public Safety Committee, and Councilors. My name is Dr. Florence S. Edwards, DDS. I'm a dentist living in Portland and practicing in South Portland, and a board member of EqualityMaine and volunteer at WMPG. I'm here to support the ban on flavored tobacco ordinance in Portland city limits.

Before I was a dentist, I was a child who often spent her time reading Jet magazine. Jet was the pop culture magazine geared toward descendants of American slavery — the majority of Black Americans. In every issue, there were full-page ads of beautiful Black people smoking menthol cigarettes. The tobacco industry's long history of targeting Black Americans with menthol cigarettes is well-documented.

Equally well-documented are the devastating results. Over eighty percent of Black American adults who smoke use menthol cigarettes, and Black Americans die at higher rates than any other racial or ethnic group in the U.S. from tobacco-related diseases.

Following this tried-and-true playbook, the tobacco industry has also preyed upon people who are lesbian, gay, bisexual, trans and queer. In California in the 1990s, the industry's campaign to market to gay men and homeless individuals was called "subculture urban marketing," abbreviated as SCUM.

LGBTQ people smoke at higher rates than the rest of the population. And we're now seeing the effects play out. A recent CDC report on the unequal impact of COVID-19, confirmed that LGBTQ people were more likely to contract and suffer severe symptoms of COVID-19. That's because we suffer disproportionately from asthma, COPD, strokes, heart disease, and hypertension — conditions often caused by tobacco use.

And knowing that the younger generation overwhelmingly chooses flavors, the industry pushes everything from menthol to cotton candy to crème brûlée-flavored tobacco to addict the next generation. There are now over 15,000 flavored tobacco products on the market. We know that these flavors are not meant for adults.

Before I wrap up, I want to mention that I wrote an op-ed about this topic that appeared in the Sun Journal this year. It was too long to include everything from it in my testimony, but I do have a copy I can share. In conclusion, Maine's youth deserve a healthy future free from tobacco and the chronic illnesses associated with its use. I'm asking that you consider a ban on flavored tobacco.

Thank you and I'm happy to answer any questions.

<https://www.sunjournal.com/2021/05/05/dr-florence-edwards-tobacco-industry-uses-menthol-mint-candy-flavors-to-lure-hook-black-brown-lgbtq-youth/>

Warm Regards,
Florence S. Edwards

Order #138 - Public Comment Submission

Public Comment inbox



heat...@mainepublichealth.org

to publiccomment

Fri, Feb 4, 4:21 PM (3 days ago)

Good afternoon:

I am writing to submit my public comment for order #138. Please see the attached. I plan to be in attendance to present my comment, as well.

Thank you,
Heather

--

Heather Drake, MPH

she, her, hers

Membership and Engagement Director

Maine Public Health Association

122 State Street, Augusta, ME 04330

heather.drake@mainepublichealth.org

www.mainepublichealth.org

www.facebook.com/MainePHA

Monday, February 7, 2022

Good evening, members of the Portland City Council:

My name is Heather Drake. I am the Membership and Engagement Director at Maine Public Health Association and live at 8 Linwood Street in Cape Elizabeth. I have worked for 12 years in public health, including in substance use and cancer prevention. I write in support of Order #138 to end the sale of flavored tobacco products.

We know the tobacco industry uses flavors to target young people, people of color, and LGBTQ populations. They also target women. We have seen this unfair targeting unfold with menthol products. A 2011 comprehensive assessment of the tobacco industry marketing¹ found:

- Menthol cigarettes were marketed as, and are perceived by consumers to be, healthier than non-menthol cigarettes.
- The tobacco industry not only markets menthol cigarettes to young people, but women and African-Americans as well,
- Marketing emphasizing menthol attracts consumers who may not otherwise progress to regular smoking, including young, inexperienced users and those who find ‘regular’ cigarettes undesirable.

Women and girls are another important consumer for the tobacco industry which strived to entice women to smoke by [using mainstream beauty and fashion standards to portray smoking as feminine](#), and associated smoking with “women’s freedom, emancipation, and empowerment” as the 2001 [U.S. Surgeon General’s report on women and smoking](#) put it.

These campaigns worked. Research has shown that in addition to a higher prevalence of menthol use among African–American men and women, female smokers of all races used mentholated cigarettes at a higher rate than male smokers.^{2,3,4} I have included at the end of my testimony some example ads that use menthol to target women.

The unfair targeting that has been, and continues to be seen with menthol products, mirrors a similar strategy to what is happening today with e-cigarettes, which are marketed as a “harm reduction” strategy to traditional cigarettes and are perceived to be “safer” and “cleaner” by youth. This strategy is working; most youth don’t view e-cigarettes as tobacco products: 76% believe they are less addictive.⁵ And a 2013-14 study showed most youth who use e-cigarettes first start with a flavored variety.⁶ In fact, 83% of youth who report e-cigarette use, use a flavored variety.⁷

I believe passing this ordinance will prevent youth from starting to use tobacco and will prevent the industry from marketing another product as a healthful alternative to combustible cigarettes – when that’s actually not true. Please support ending the sale of flavored tobacco products. Thank you.



¹Anderson SJ. Marketing of menthol cigarettes and consumer perceptions: a review of tobacco industry documents. *Tob Control*. 2011;20 Suppl 2(Suppl_2):ii20-ii28.

²Lawrence D, Rose A, Fagan P, et al. National patterns and correlates of mentholated cigarette use in the United States. *Addiction* 2010;105(Suppl 1):13–31.

³Cubbin C, Soobader MJ, LeClere FB. The intersection of gender and race/ethnicity in smoking behaviors in menthol and non-menthol smokers in the United States. *Addiction* 2010;105(Suppl 1):32–8.

⁴Fernander A, Rayens MK, Zhang M, et al. Are age of smoking initiation and purchasing patterns associated with menthol smoking? *Addiction* 2010;105(Suppl 1):39–45.

⁵Hawkins KB, Johnson AC, Denzel M, Tercyak KP, Mays D. Adolescents’ awareness and perceptions of e-cigarettes: Implications for intervention and tobacco regulation. *Pediatrics* Sep 2017, 140 (1 Meeting Abstract)132.

⁶Ambrose BK, Day HR, Rostron B, et al. Flavored Tobacco Product Use Among US Youth Aged 12-17 Years, 2013-2014. *JAMA*. 2015;314(17):1871-1873. doi:10.1001/jama.2015.13802

⁷Wang TW, Neff LJ, Park-Lee E, et al. [E-cigarette Use Among Middle and High School Students](#) — United States, 2020. *Morbidity and Mortality Weekly Report*, 2020;69.

Testimony in Support of Order 138-21/22: Am to City Code Chapter 17: Sale of Flavored Tobacco Products Prohibited

Public Comment inbox



Joanne D'Arcangelo <jda@gwi.net>

11:59 AM (15 minutes ago)

to publiccomment

To the Portland City Council:

Please find attached my testimony in Support of **Order 138-21/22 Amendment to Portland City Code Chapter 17 Re: Sale of Flavored Tobacco Products Prohibited**. I will be attending the zoom meeting this evening to present.

Please feel free to contact me if you have questions.

Joanne D'Arcangelo

1414 Forest Ave., #12/District #5

Portland, ME

jda@gwi.net

207-671-7221

Joanne D'Arcangelo
Forest Ave./District #5
Portland, ME
jda@gwi.net
207-671-7221

February 7, 2022

Testimony in Support of Order 138-21/22 Amendment to Portland City Code Chapter 17 Re:
Sale of Flavored Tobacco Products Prohibited.

Mayor Snyder and Members of the City Council –

Thank you for this opportunity to offer support for this important and common sense public health initiative, on behalf of the *Planned Parenthood of Maine Action Fund*, on whose Board I serve. I also come as a former smoker who, as a teenager, began a 20+-year addiction to tobacco and nicotine, thanks to the very effective hook of menthol cigarettes. Back in the '70's, the industry was already skilled at targeting communities like my diverse working class mill town, as well as to women: the combination of the "You've come along way, baby" appeal of the Virginia Slims era, and the cooling, numbing effect of Kools and Newports that made smoking more palatable for young throats and lungs, I was in - hook, line, and sinker.

This new iteration of predatory advertising and strategies targeting communities of color and young people into addiction is nothing new, but it remains just as lethal for people, and just as lucrative for the tobacco industry. The industry has specifically targeted African-Americans and women with menthol marketing that stretches over decades, as this [amazing collection of images](#) from tobacco ad campaigns shows - menthol brands that are "slim" and "mild" and "light" for women.

Let's be clear: this latest approach to pressing sales and longevity of the tobacco industry isn't about the recent vaping epidemic and the thousands of clearly-designed-for-kids flavors. I want to challenge folks, esp. those of my generation, to think about folks they know who started smoking menthols, ended up addicted to nicotine and maybe even got sick or died early as a result. Sadly, there's not many of us who can't name a friend or family member to whom this applies.

If you remain unconvinced, here's a paragraph from the [US CDC](#): "*While fewer people now smoke cigarettes than in years past, the percentage of people who smoke menthol cigarettes is going down more slowly than for non-menthol cigarettes.*¹⁴ *From 2008-2010 and 2012-2014, the percentage of adult smokers smoking menthol cigarettes increased.*⁶ *Furthermore, from 2011-2015, menthol cigarette sales increased while overall cigarette sales decreased.*¹² *As of 2018, sales of menthol cigarettes made up 36% of all cigarette sales in the U.S.—the highest proportion since major tobacco companies were required to report those data.*"¹³

The facts speak for themselves, and I'm pleased and proud that Portland has this opportunity to strike against this predatory strategies, too long uninterrupted. Thank you again for the

opportunity to support Order 138-21/22 Amendment to Portland City Code Chapter 17 Re: Sale of Flavored Tobacco Products Prohibited.

Statement of Planned Parenthood of Maine Action Fund:

Planned Parenthood of Northern New England provides comprehensive reproductive and sexual health care to more than 14,000 people in Maine at four health centers located in Biddeford, Portland, Sanford and Topsham. People turn to us for affordable, high-quality care including wellness exams, birth control, disease testing and treatment, cancer screenings, abortion care as well as a variety of primary care services. We see everyone who comes to us regardless of ability to pay, and in a typical year, we provide more than \$4 million in free and discounted care to our communities in Maine.

As a mission driven health care provider, we fundamentally believe everyone should be able to get affordable, high quality sexual and reproductive health care in their communities, no matter where they live or how much money they make, and we advocate for policies that help make this vision a reality.

Tobacco cessation is an important component of our preventive and wellness care. A majority of our patients are under thirty-five and representative of the demographics targeted by the tobacco industry with these types of products. In our health center, we regularly discuss tobacco use and the health risks. We support our patients in their desire to quit through follow-up care and referrals.

The negative impacts of tobacco use on someone's reproductive health are well documented. Reduction in fertility, changes in hormonal balance and gynecological cancers are all directly associated with tobacco use.

The benefits of enacting a tobacco are significant, spanning the breadth of everyday life for the people of Maine.

Written Testimony - Order 138

Public Comment inbox



Joe Anderson <joeanderson207@gmail.com>

11:05 AM (49 minutes ago)

to publiccomment

Good morning,

I am submitting the attached written testimony in support of Order 138-21/22 Amendment to Portland City Code Chapter 17 Re: Sale of Flavored Tobacco Products Prohibited.

I will also try to be present to provide oral testimony as part of the public comment session.

Thank you,

Joe Anderson

315 Capisic St, Portland, ME 04102

Cell: 207-408-9803

Maine Chapter

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American Academy of Pediatrics

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February 7, 2022

Mayor Snyder and distinguished members of the Portland City Council, my name is Joe Anderson. I am a resident of Portland, a hospital-based pediatrician, and I sit on the Board of the Maine Chapter of the American Academy of Pediatrics. I am writing today to express my support and to urge you to vote in favor of Order 138, which would prohibit the sale of flavored tobacco products in the city of Portland.

As an ex-smoker of 15 years who became hooked as a teenager smoking flavored cigarettes, I can personally attest to how enticing flavored tobacco products can be to young adolescents, often leading to long-term use and addiction. My first cigarette was not a fun, enticing flavor – it was a stale Marlboro on the potato harvester during harvest break from school when I was 15. It was not until a few of my friends and I noticed the new curiously flavored cigarettes sold in brightly colored tins with tempting names like “Twist,” “Crema,” “Izmir Stinger,” and “Mandarin Mint” that I became a more regular smoker. It became a bit of a ritual to pick up a new tin at the convenience store from the cashier who would look the other way before we went out on the weekends.

R.J. Reynolds agreed to stop selling those flavored cigarettes in 2006. Not surprisingly, that was also the first year that electronic cigarettes were introduced in the US. Although the products they market may have changed, the tactics of the tobacco industry have not. Tobacco companies continue to use aggressive advertising in lower-income neighborhoods, in Black and other minority communities, and toward LGBTQ individuals. And they continue to use appealing flavors to entice teens to use their highly addictive products.

The damaging health effects of tobacco use are well-known. Despite this knowledge, tobacco use among Maine youth has risen 25% since 2015, and 29% of high-school students report using e-cigarettes, a rate that has nearly doubled in the past two years. 4 out of 5 kids who have used tobacco started with a flavored product, with names like Cherry Crush, Pop Tart, and Cotton Candy.

The tobacco industry knows that 95% of adult smokers start by age 21, and it's clear that they are continuing to use flavored products and other deceptive practices to target our adolescents and lock in addicted consumers for years to come.

As a pediatrician and resident of Portland, I'm proud that my city has taken the time to consider making improvements to our community to improve the health of our young people, and I urge you to vote in support of this order.

Respectfully,

Joe Anderson, DO
315 Capisic Street
Portland, ME 04102

Order 138-21/22 Public Comments

Public Comment inbox



Lance Boucher <Lance.Boucher@lung.org>

11:35 AM (38 minutes ago)

to publiccomment@portlandmaine.gov

Attached please find comments from the American Lung Association in support of the ordinance (Order 138-21/22) being considered tonight to end the sale of flavored tobacco products. Please let me know if you have any questions.

Best,

Lance

Lance Boucher

Assistant Vice President | State Public Policy | Eastern Division

American Lung Association

122 State Street | Augusta, ME 04333

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Lung HelpLine: 1-800-LUNGUSA

[Lung.org](https://www.lung.org) | Lance.Boucher@Lung.org

Preferred Pronouns: He/Him/His





Good evening Mayor Snyder and members of the Portland City Council. My name is Lance Boucher and I'm the Assistant Vice President, State Public Policy, Eastern Division at the American Lung Association. The Lung Association is the nation's oldest voluntary public health organization with a mission to save lives by improving lung health and preventing lung disease.

The American Lung Association strongly supports measures to end the sale of menthol and all other flavored tobacco products in states and local communities. Indeed, the ordinance before you is a comprehensive proposal that with swift enactment and implementation stands to be one of the most important local public health measures in recent memory.

Nationally and in Maine since the late 1990's, we have been making tremendous progress in reducing cigarette smoking rates to all-time lows. However, this positive news has been tempered by a dramatic increase in youth e-cigarette use and a youth tobacco rate remains higher than the national average with 1 in 3 Maine High School youth using some form of tobacco products.

In 2021, tobacco use is a very present and real issue in Maine impacting too many, especially our most vulnerable populations. The health and financial impact to our state is substantial:

- 2,400 Mainers die due to tobacco annually.
- Tobacco costs Maine more than \$1.7 billion, including \$261 million to the state Medicaid program, every year.ⁱⁱ

Flavors are one of the main reasons kids use tobacco products and have played a big role in the youth vaping epidemic. Research shows that 81% of kids who have ever used tobacco products started with a flavored product. Youth also cite flavors as a major reason for their current use of tobacco products.ⁱⁱⁱ

Recognizing that almost all tobacco users begin their use during their adolescence or young adulthood, tobacco companies have spent billions of dollars marketing their products and making them more attractive to young people. It is well established that flavors are attractive to children and young people. Both the U.S. Surgeon General^{iv} and the National Academy of Sciences, Engineering and Medicine^v have written comprehensive reports on e-cigarettes that discuss the subject. For decades, the tobacco industry has used flavors to attract youth. Indeed, the industry's decades-long conspiracy to deceive the public includes many documents that demonstrate the industry's understanding of the role flavors play in kids starting to use tobacco products. While most flavored cigarettes are prohibited with the notable and unfortunate exception of menthol, the industry is once again using flavored e-cigarettes – as well as cigars – to attract youth – and then addict them. With products claiming to taste like Gummy Bears, Atomic Fireball, Captain Crunch, Apple Juice and a wide variety of

other fruit, candy and sweet flavors, there is no question that these flavors appeal to youth.

The 2021 National Youth Tobacco Survey (NYTS) data painted a grim picture of youth vaping in the U.S. – kids are lured by flavors and are becoming regular users. The NYTS data report more than two million middle and high school students using e-cigarettes in 2021. The American Lung Association is particularly alarmed at the frequency of use by teens: 43.6% of high school students who use e-cigarettes are vaping regularly (20 or more of the past 30 days), and more than 1 in 4 (27.6%) are vaping daily. This regular use underscores how addicted youth have become to e-cigarettes.

The data also showed that almost 85% of middle and high school students who vape reported using flavored e-cigarettes, with the top four flavors being fruit, candy/desserts/other sweets, mint and menthol. Kids continue to follow the available e-cigarette flavors; with the top one being fruit at 72% and close to 30% of youth e-cigarette users report using menthol e-cigarettes.

These numbers are indeed astounding and underscore why localities must act and remove all flavored tobacco products from the market. Our kids cannot wait for state or federal action – the need is now.

I appreciate your attention to addressing the crisis before us and the opportunity to share these comments on behalf of the American Lung Association. We encourage your swift and unanimous approval of this ordinance. With your support we have the opportunity to make sure that our current middle- and high-school aged kids have the opportunity to be the first tobacco-free generation and once again, Portland will lead the way for the State of Maine in addressing the tobacco epidemic.

Order 138-21/22 - Flavored Tobacco Ban - Public Comment - Juul Labs

Public Comment inbox



'Nicholas Carton' via Public Comment

11:27 AM (36 minutes ago)

to publiccomment

Good morning,

Please find my attached public comment for this evening's city council meeting regarding the Flavored tobacco ban for discussion.

Thank you,

Nick

--

Nick Carton

Senior Manager, State Government Affairs (Northeast)

Juul Labs

781.974.9022

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February 7, 2022
Written Testimony of
Nicholas Carton, Senior Manager, Government Affairs
Juul Labs
concerning
**Order 138-21/22 Amendment to Portland City Code Chapter 17 Re: Sale of
Flavored Tobacco Products Prohibited**
Before the Portland City Council
City of Portland, Maine

Mayor Sneyder and Members of the Portland City Council,

On behalf of Juul Labs, Inc. (“JLI”), thank you for the opportunity to submit testimony regarding Order 138-21/22, which would restrict the sale of flavored tobacco products, including menthol vapor products. We are concerned this ordinance would lead to significant negative consequences such as increased or sustained cigarette use, reduced switching to potentially less harmful products, increased cross-border sales, reduced sales tax revenue, and a proliferation in illicit trade.

A growing body of science and evidence indicate that menthol-flavored vapor products can play a critical role in transitioning adult smokers away from cigarettes — particularly menthol cigarette smokers.¹ Critically, the U.S. Food and Drug Administration (“FDA” or “the Agency”) provides extensive federal regulatory oversight of tobacco products, including vapor. FDA has exercised this authority by issuing guidance related to flavored vapor products that removed all non-tobacco, non-menthol flavored cartridge based products until authorized through a premarket tobacco product application (PMTA).² FDA can also regulate nicotine content and delivery of such products through the PMTA process or by establishing a tobacco product standard. The PMTA process is a rigorous, science-based process conducted by career scientists and technical experts, which we believe is the appropriate forum to determine the role vapor and other innovative products can play to transition and completely switch adult smokers from combustible cigarettes.

JLI’s mission is to transition the world’s billion adult smokers away from combustible cigarettes, eliminate their use, and combat underage usage of our products. To succeed in that mission and to

¹ Goldenson, N. et al. Effect of Mentholated Cigarette Smoking on Use of Flavored JL ENDS and Switching Behavior. Society for Research on Nicotine & Tobacco 2020 Annual Conference. March 14 2020; Rostron, B. et al. ENDS Flavor Preference by Menthol Cigarette Smoking Status among US Adults, 2018–2019. *Int. J. Environ. Res. Public Health* **2021**, *18*, 240. <https://doi.org/10.3390/ijerph18010240>.

² U.S. Food and Drug Administration (2020). Guidance for Industry, Enforcement Priorities for Electronic Nicotine Delivery Systems (ENDS) and Other Deemed Products on the Market without Premarket Authorization (Jan. 2020), available at <http://bit.ly/36xpylv>.

preserve the harm-reduction potential of vapor products, we are focused on listening and building constructive relationships with regulators, policymakers, and other stakeholders.

One of the key tenets to these efforts is our commitment to combat underage use of our products through evidence-based interventions. JLI also supports risk-proportionate regulation for vapor and other reduced-risk, noncombustible products. Within this framework, JLI believes that the regulatory balance should be weighted in favor of harm reduction, moving adult smokers *away* from the most harmful tobacco and nicotine products (e.g., combustibles) *towards* potentially less harmful noncombustible alternatives. Robust, informed regulation of tobacco and nicotine products and our category will always be appropriate.

Unfortunately, Order 138-21/22 does not reflect risk-proportionate regulation or combat underage use of vapor products through targeted, evidence-based interventions. For these reasons and those stated in more detail below, we respectfully request that Order 138-21/22 be put aside, and the Council instead engage with stakeholders to develop a thoughtful regulatory approach that: (1) maintains access to potentially less harmful alternatives for adult smokers; (2) aligns with FDA's review process and determinations regarding how vapor products will be available in the U.S. marketplace; and (3) addresses underage use through tailored measures to restrict access, limit appeal, and support enforcement.

FDA Oversight and Regulatory Framework

In 2009, Congress enacted and President Obama signed the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act), providing FDA jurisdiction and extensive authority over tobacco products. Among other requirements, tobacco product manufacturers are required to register and list their products with FDA; submit health information about their products; disclose ingredients; and report on harmful and potentially harmful constituents (HPHCs) in their products. Critically, the Tobacco Control Act created a premarket-review process for new tobacco products, like vapor, through which FDA would evaluate and determine, based on the science and evidence, whether the product is appropriate for the protection of public health. FDA also has authority to issue product standards, or specific requirements or restrictions for certain tobacco products, if appropriate for the protection of public health.

FDA has exercised that authority, including by issuing its guidance related to flavored vapor products in January 2020 which removed all non-tobacco, non-menthol flavored cartridge based products until authorized through a PMTA. As it stated, the Agency's decision sought to strike the public health balance by maintaining vapor products as a potential off-ramp for adults using combustible tobacco while ensuring these products do not provide an onramp to those underage. FDA did so after careful

consideration of the data and made the decision to continue enforcement discretion as to both tobacco- and menthol-flavored vapor products pending PMTA review.

The Agency can also regulate nicotine content and delivery of any new tobacco product, including vapor, through the PMTA process or by setting limits on nicotine levels across tobacco products or on a class of products if determined to be appropriate for the protection of public health.

In July 2020, JLI submitted its PMTAs for the JUUL System to FDA, as well as proactive, data-driven measures to address underage use of our products. We believe our robust submission will help inform the FDA's science-based decision on whether the continued marketing of the JUUL System is appropriate for the protection of public health, accounting for both adult current users of tobacco products and nonusers, especially those who are underage.

FDA has made significant progress in its review of PMTAs, taking action on about 93% of the total timely-submitted applications. As of October 2021, the FDA has issued Marketing Denial Orders for more than 1,181,581 vapor products and issued a Marketing Granted Order for a tobacco-flavored vapor product.³ Applications for products with the largest market share, such as JUUL, remain under review.

Given its scientific expertise and public-health mandate, the FDA is best positioned to assess the role vapor products can play in helping adult smokers move away from combustible cigarettes while also being kept out of the hands of youth.

The Role of Menthol In Vapor and Other Alternative Products

With regard to menthol, it is our bedrock belief that FDA is the body best-positioned to develop and implement policy relating to tobacco products, including on flavors. FDA's careful balancing of combating underage use while promoting harm reduction for adult smokers is supported by ample market and scientific studies.

In an environment in which Tobacco 21 is the law of the land and underage access controls are enforced, we believe menthol-flavored noncombustible products, including vapor, should remain available for adult smokers. While underage use of vapor products remains unacceptably high, it has declined by over 50% from its peak in 2019 following significant public health interventions. According to the 2021 National Youth Tobacco Survey (NYTS), 7.6% of all high school and middle school

³ U.S. Food and Drug Administration, "PMTA Acceptance Phase Metrics (Data as of: 10/06/2021)," <https://www.fda.gov/media/154053/download>; U.S. Food and Drug Administration, "FDA Permits Marketing of E-Cigarette Products, Marking First Authorization of Its Kind by the Agency," October 12, 2021, <https://www.fda.gov/news-events/press-announcements/fda-permits-marketing-e-cigarette-products-marking-first-authorization-its-kind-agency>.

students reported using vapor products in the past 30 days.⁴ In 2021, Fruit was the most common flavor reported, followed by Candy, Mint, and Menthol: 4.6% of all middle and high schoolers were current users of fruit-flavored vapor products, while approximately 2% used menthol-flavored vapor products.⁵ The majority of flavors that students reported using were not sold by Juul Labs at the time of the survey.⁶ While we are encouraged that underage use has declined significantly, additional steps should be taken to reduce underage use of vapor products through evidence-based interventions.

Studies have shown that flavors are important to adult smokers considering alternatives to combustible cigarettes. For example, flavored products can help adult smokers switch and stay switched. Data from nationally-representative surveys and our internal data show that adult menthol cigarette smokers are more likely to use menthol-flavored vapor products.⁷ A study conducted by researchers at FDA's Center for Tobacco Products found that, "[m]enthol cigarette smokers are particularly likely to use menthol/mint-flavored e-cigarettes compared to non-menthol smokers."⁸ The FDA's study reported that 41.4% of smokers who switched to e-cigarettes using menthol flavor had smoked menthol cigarettes whereas, just 21.5% of those who switched using menthol flavor had smoked nonmenthol cigarettes.⁹ To transition and completely switch adult smokers from combustible cigarettes, it is critical that noncombustible alternatives sufficiently appeal to smokers.

Furthermore, the removal of menthol vapor products could have significant negative public health consequences, such as: increased or sustained cigarette use, reduced switching to potentially less harmful products, increased cross-border sales, reduced sales tax revenues, and an increase in illicit trade.¹⁰ Research presented by JLI at the 3rd Scientific Summit on Tobacco Harm Reduction examined the potential consequences of state-level bans on vapor products: the research found that significantly higher than expected cigarette sales occurred — 4.6% in Washington and 5% in Rhode Island.¹¹

⁴ Park-Lee E, Ren C, Sawdey MD, et al. Notes from the Field: E-Cigarette Use Among Middle and High School Students — National Youth Tobacco Survey, United States, 2021. *MMWR Morb Mortal Wkly Rep* 2021;70:1387–1389. DOI: <http://dx.doi.org/10.15585/mmwr.mm7039a4external icon>.

⁵ Park-Lee E. et al. Notes from the Field: E-Cigarette Use Among Middle and High School Students — National Youth Tobacco Survey, United States, 2021. *MMWR Morb Mortal Wkly Rep* 2021;70:1387–1389. DOI: <http://dx.doi.org/10.15585/mmwr.mm7039a4>

⁶ During the data collection for the 2021 survey, the only commercially marketed JUULpod flavors in the United States were Virginia Tobacco and Menthol.

⁷ Goldenson, N. et al. Effect of Mentholated Cigarette Smoking on Use of Flavored JL ENDS and Switching Behavior. Society for Research on Nicotine & Tobacco 2020 Annual Conference. March 14 2020.

⁸ Rostron, B. et al. ENDS Flavor Preference by Menthol Cigarette Smoking Status among US Adults, 2018–2019. *Int. J. Environ. Res. Public Health* 2021, 18, 240. p. 6. <https://doi.org/10.3390/ijerph18010240>.

⁹ Ibid.

¹⁰ See e.g. Ulrik Boesen, "Four Issues with Proposal to Increase Tobacco and Vapor Taxes in Maine," Tax Foundation, January 31, 2022, <https://taxfoundation.org/maine-tobacco-tax-vaping/>

¹¹ Jian, L., Xu, Y., and Prakash, S. The Impact of Banning ENDS Products on Combustible Cigarette Sales: Initial Evidence from U.S. State-Level Policies. 3rd Scientific Summit on Tobacco Harm Reduction, 2020.

There is a crucial balance between effectively reaching adult smokers and restricting access and limiting appeal to those underage. This balance and approach are critical to the effort to reduce the harm caused by cigarettes. Based on their review of the science and evidence, FDA can strike the appropriate balance to provide adult smokers with less harmful alternatives while limiting initiation among nonusers, including those underage.

Conclusion

We are concerned that Ordinance 138-21/22 would lead to adverse consequences in Portland while being an ineffective way to attempt to address underage use of vapor products. We respectfully request that the Council put aside the proposed legislation and engage with stakeholders to develop an evidence-based regulatory approach that: (1) maintains access to potentially less harmful alternatives for adult smokers; (2) aligns with FDA's review process and determinations regarding how vapor products will be available in the U.S. marketplace; and (3) addresses underage use through tailored measures to restrict access and limit appeal. At the very least, we believe any municipal flavor ban should provide an exception for tobacco and menthol flavors, and also provide an exception for any flavored vapor product that receives a market order from FDA after going through the rigorous PMTA process that allows products to be marketed in the U.S. if FDA determines them to be appropriate for the protection of public health.

Sincerely,

Nicholas Carton

Testimony

Public Comment inbox



Flanagan-Burt, Quilla C <Quilla.Flanagan_Burt@tufts.edu>
to publiccomment@portlandmaine.gov

11:12 AM (44 minutes ago)

Portland City Council Members:

Please accept my attached testimony. I will present this tonight at the meeting.

Thank you,

Quilla Flanagan-Burt
Portland, Maine

Sent from my iPhone

February 7, 2022

Esteemed members of the Portland City Council, my name is Quilla Flanigan-Burt. I am a 20 year old Tufts University college student who lives in Portland. I have witnessed firsthand how vaping and e-cigarettes have affected both my friends and family. I often joke we were the generation who were supposed to finally stand up for ourselves against the nicotine industry- that is, we were until they made e-cigarettes and other nicotine products taste like mangos and cotton candy.

For me, there is something particularly sinister about addictive and toxic chemicals wrapped in brightly colored packaging and fruity flavors- at least non flavored cigarettes and tobacco products SMELL like they are bad for you. Flavored nicotine has appealed to kids for just the opposite reason- it tastes and smells good, and if it tastes and smells that good, how can it be that bad for you?

Last fall, I conducted an anonymous survey amongst my friends and peers, gathering 58 responses from Maine kids, both high school and college age who vaped. Out of 58 kids, 49 had tried to quit on their own, but couldn't. Upwards of 40 responded they began vaping as an occasional social event and were now addicted. Reading through responses, I saw the words of kids who were truly struggling.

Out of my 10 question survey, one question asked how many kids that were vaping also smoked regular tobacco cigarettes, 7 out of 58 responded yes, but the majority responded something along the lines of "never, cigarettes are GROSS, DISGUSTING, YUCKY".

The line which stood between vaping and non-flavored tobacco cigarettes was just that- one was gross, disgusting and yucky, and the other was delicious, enticing fun fruit flavors that didn't taste at all like a cigarette. Fruit and menthol flavors make nicotine and chemical inhalation appealing, whereas natural tobacco flavor doesn't. I have heard from numerous friends how grossed out they are to "have to" use a tobacco flavored pod in their juul, or otherwise use tobacco flavored products.

By appealing to taste and smell, it is easier for kids to forget (or never question) how nicotine products affect their health and cause addiction. Please ban the sale of flavored tobacco products to help kids not get hooked! Kids don't think about future consequences and start using these flavored products for fun – and get hooked and end up with damage to their lungs and overall health. We as a community need to help prevent this continuous cycle of addicting another generation of kids. Please ban these dangerous flavored products!

Order 138

Public Comment inbox



Rebecca Boulos <executivedirector@mainepublichealth.org>

9:06 AM (1 hour ago)

to publiccomment

Good morning,

Attached, please find comments on behalf of Maine Public Health Association in support of Order 138.

Thank you,

Becca

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Rebecca J. Boulos, MPH, PhD (*she/her*)

Executive Director

Maine Public Health Association

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**Testimony of Maine Public Health Association In Support of Order 138:
Proposed Ordinance to End the Sale of Flavored Tobacco Products in the City of Portland, Maine**

Portland City Council
Monday, February 7, 2022

Good evening, City Council Members. My name is Rebecca Boulos. I am a resident of South Portland, and executive director of Maine Public Health Association. MPHA is in support of the proposed ordinance to End the Sale of Flavored Tobacco Products in the City of Portland.

MPHA is the state's oldest, largest, and most diverse association for public health professionals. We represent more than 500 individual members and 50 organizations across the state. The mission of MPHA is to improve and sustain the health and well-being of all people in Maine through health promotion, disease prevention, and the advancement of health equity. As a statewide nonprofit association, we advocate, act, and advise on critical public health challenges, aiming to improve the policies, systems, and environments that underlie health inequities – but which also have potential to improve health outcomes for all people in Maine. We are not tied to a national agenda, which means we are responsive to the needs of Maine's communities, and we take that responsibility seriously.

This ordinance would end the sale of flavored tobacco products in Portland, including menthol cigarettes. There are more than 15,000 flavored tobacco products on the market, and they are there to entice kids. The tobacco industry has a long-standing history of targeting people with low-income and behavioral and mental health disorders, LGBTQ+, Black and Brown communities, including tribal populations, and women. With generous support from Maine Cancer Foundation, [we have produced several fact sheets about these marketing strategies and associated health outcomes on our website](#) if you want to learn more about these tactics.

By far, [the most robust and comprehensive review of e-cigarettes conducted to date was published in May 2020 in CHEST by Bozier and colleagues](#).¹ It is worth reading. One of their key findings is that research suggests **smokers do not “quit” with e-cigarettes but rather “switch” to e-cigarettes**. Other noteworthy findings from their work and that of others':

1. **Data are insufficient to support e-cigarettes as a harm reduction strategy.** While e-cigarettes are proposed as a harm reduction tool for tobacco smokers wishing to quit, systematic reviews suggest a lack of clear efficacy of e-cigarettes in smoking cessation.^{2,3} Moreover, in addition to nicotine, e-cigarettes contain several harmful and potentially harmful ingredients, including ultrafine particles that can be inhaled deep into the lungs. There is evidence to suggest that these particles lead to cardiovascular injury, with links to negative effects on resting heart rate, blood pressure and the cells that line the blood vessels.⁴ Bystanders can breathe in this aerosol. E-cigarettes also contain flavorants such as diacetyl, a chemical linked to serious lung disease; volatile organic compounds; and heavy metals, such as nickel, tin, and lead.⁵ While many of the flavorings and humectants used in e-liquids have been approved by the Food and Drug Administration (FDA) for oral consumption, they have not

been approved for inhalation. Thus, their health consequences are not well known when consumed in this manner.² **In other words, the harm from use is not reduced; it's just different.**

2. A recent randomized controlled trial reported that smoking cessation was achieved in more participants using e-cigarettes than in those using conventional Nicotine Replacement Therapy (NRT) – but with the caveat that participants in both groups had regular face-to-face meetings with clinicians.⁶ This form of support is not provided to the majority of those seeking to quit smoking; **medical personnel support and knowledge are not uniformly provided for e-cigarette users.** Furthermore, only 18% of participants using e-cigarettes achieved smoking abstinence, suggesting that e-cigarettes are not the “cure” for tobacco use; and **80% of e-cigarette users who were tobacco abstinent continued to use e-cigarettes 12 months later, suggesting e-cigarettes may promote continued nicotine dependence.**
3. **Despite using e-cigarettes to quit smoking cigarettes, most adults continue to smoke combustibles (“dual use”).** Among adults, 54.6% of current e-cigarette users also smoke cigarettes.⁷ Data from Phillip Morris International show that “dual use of heated tobacco products along with cigarettes is, by far, the most dominant pattern of use, which raises substantial issues about what impact they might have on overall public health. Notably, research has shown that dual use is not associated with reduced cigarette use, but rather increased exposure and poorer health outcomes than using cigarettes or e-cigarettes alone.”⁷ Evidence suggests many e-cigarette users continue to smoke cigarettes,⁸ and the extent of harm minimization, if any, in dual users is unclear. Even more worrisome, e-cigarette use may contribute to relapse of smoking in ex-smokers^{9,10} and may encourage initiation of tobacco use among nonsmokers.⁹
4. **Youth are more likely than adults to use e-cigarettes – and youth use is increasing.** Among U.S. adults, 4.5% are current e-cigarette users,¹¹ compared with 3.6 million U.S. middle and high school students (4.7% and 19.6%, respectively).¹² The prevalence of youth use in Maine is even higher. According to the [2019 Maine Integrated Youth Health Survey](#), there was a near doubling in youth e-cigarette use since 2017 (28.7% vs. 15.3%), with some of the greatest increases seen in Piscataquis (26.6% vs. 6.7%) and Oxford (30.9% vs. 12.3%) counties. [In Cumberland county](#), **29.2% of youth use e-cigarettes and 42.8% of high school students report seeing “a lot” of tobacco advertising in stores.**
5. **Tobacco use may be a gateway drug.** Data suggest relationships between cigarette and alcohol use, and risk for use of illicit drugs, like marijuana, heroin, and cocaine.¹³ In a recent national survey, more than 90% of adult cocaine users smoked cigarettes before they began using cocaine.¹⁴ In a landmark 2011 study, researchers identified a proposed biological mechanism to explain the association:¹⁵ **nicotine reprograms the expression pattern of specific genes associated with addiction**, and ultimately alters the behavioral response to cocaine.
6. **We need to act now.** According to the U.S. Centers for Disease Control and Prevention, as of February 18, 2020, **2,807 cases** of hospitalized e-cigarette, or vaping, product use associated lung injury (EVALI) or deaths were reported by all 50 states, the District of Columbia, and 2 U.S. territories (Puerto Rico, and the U.S. Virgin Islands); and **68 EVALI deaths** have been confirmed in 29 states and the District of Columbia.¹⁶ Furthermore, **youth who use e-cigarettes are 2 times more likely to start smoking cigarettes within 2 years than youth who never used any tobacco product.**¹⁷

The harms of youth initiation of tobacco use far outweigh the potential benefit for the small percentage of e-cigarette users (who could still use unflavored e-cigarettes). For those smokers looking to quit, there are evidence-based, FDA-approved cessation methods available; these would even be more cost-effective given Maine’s strong laws that provide comprehensive and affordable (in most cases no-cost) coverage.

The bottom line: E-cigarettes are not risk-free, even if you’ve never smoked cigarettes. If you do smoke cigarettes and want to quit, approved NRT is the best, healthiest option. With 30% of youth using these products in Cumberland County, it’s clear that current methods to deter use aren’t working.

Ending the sale of all flavored tobacco products is good public health, economic and social policy. Thank you for your consideration and your leadership.

¹Bozier J, Chivers EK, Chapman DG, Larcombe AN, Bastian NA, Masso-Silva JA, et al. The evolving landscape of e-cigarettes: A systematic review of recent evidence. *Chest*. 2020;157(5):1362-90.

²Patil S, Arakeri G, Patil S, et al. Are electronic nicotine delivery systems (ENDs) helping cigarette smokers quit? Current evidence *J Oral Pathol Med*.

³El Dib R, Suzumura EA, Akl EA, et al. Electronic nicotine delivery systems and/or electronic non-nicotine delivery systems for tobacco smoking cessation or reduction: a systematic review and meta-analysis. *BMJ Open*, 7 (2) (2017), Article e012680.

⁴Truth Initiative. E-cigarettes: Facts, stats and regulations. 2019. <https://truthinitiative.org/research-resources/emerging-tobacco-products/e-cigarettes-facts-stats-and-regulations>.

⁵U.S. Surgeon General. Know the risks: E-cigarettes and young people. 2020. <https://e-cigarettes.surgeongeneral.gov>.

⁶Hajek P, Phillips-Waller A, Przulj D, et al. A randomized trial of e-cigarettes versus nicotine-replacement therapy. *N Engl J Med*, 2019;380(7):629-637.

⁷Truth Initiative. E-cigarettes: Facts, stats and regulations. 2019. <https://truthinitiative.org/research-resources/emerging-tobacco-products/e-cigarettes-facts-stats-and-regulations>.

⁸Martinez Ú, Martinez-Loredo V, Simmons VN, et al. How does smoking and nicotine dependence change after onset of vaping? A retrospective analysis of dual users. *Nicotine Tob Res*

⁹McMillen R, Klein JD, Wilson K, Winickoff JP, Tanski S. E-cigarette use and future cigarette initiation among never smokers and relapse among former smokers in the PATH Study. *Public Health Rep*, 134 (5) (2019), pp. 528-536.

¹⁰Gomajee R, El-Khoury F, Goldberg M, et al. Association between electronic cigarette use and smoking reduction in France. *JAMA Intern Med*.

¹¹Cornelius ME, Wang TW, Jamal A, Loretan C, Neff L. [Tobacco Product Use Among Adults – United States, 2019](#). *Morbidity and Mortality Weekly Report*, 2020;69(46): 1736–1742

¹²Wang TW, Neff LJ, Park-Lee E, et al. [E-cigarette Use Among Middle and High School Students — United States, 2020](#). *Morbidity and Mortality Weekly Report*, 2020;69.

¹³Lai S, Lai H, Page JB, McCoy CB. The association between cigarette smoking and drug abuse in the United States. *J Addict Dis*. 2000;19(4):11-24.

¹⁴National Institutes of Health. Why nicotine is a gateway drug. November 21, 2011. <https://www.nih.gov/news-events/nih-research-matters/why-nicotine-gateway-drug>.

¹⁵Levine A, Huang Y, Drisaldi B, Griffin EA, Pollak DD, Xu S, Yin D, Schaffran C, Kandel DB, Kandel ER. Molecular mechanism for a gateway drug: Epigenetic changes initiated by nicotine prime gene expression by cocaine. *Science Translational Medicine*. 2011;107ra109.

¹⁶U.S. Centers for Disease Control and Prevention. Outbreak of lung injury associated with the use of e-cigarette, or vaping, products. February 18, 2020. https://www.cdc.gov/tobacco/basic_information/e-cigarettes/severe-lung-disease.html.

¹⁷Watkins SL, Glantz SA, Chaffee BW. Association of noncigarette tobacco product use with future cigarette smoking among youth in the Population Assessment of Tobacco and Health (PATH) Study, 2013-2015. *JAMA Pediatr*. 2018;172(2):181–187.

Order 138-21/22 Re: Sale of Flavored Tobacco Products Prohibited

External

Public Comment inbox



'Terri McGee' via Public Comment

Sun, Feb 6, 2:23 PM (19 hours ago)

to publiccomment@portlandmaine.gov, terrinabcj1981@gmail.com

February 6, 2022

Members of Portland City Council

KATE SNYDER (MAYOR) MARK N. DION (5)
APRIL FOURNIER (A/L) PIOUS ALI (A/L)
ROBERTO RODRÍGUEZ (A/L) ANNA TREVORROW (1)
VICTORIA L. PELLETIER (2) TAE Y. CHONG (3)
ANDREW ZARRO (4)

Ref: Order 138-21/22 Amendment to Portland City Code Chapter 17
Re: Sale of
Flavored Tobacco Products Prohibited - Sponsored by the
Health & Human
Services and Public Safety Committee, Councilor Tae Chong,
Chair

The National Association of Blacks in Criminal Justice (NABCJ) is a criminal justice solutions organization comprised of criminal justice professionals, students and community leaders dedicated to improving the administration of justice and committed to justice for all. We are concerned and have been diligently involved in matters affecting the communities we serve, and specifically communities of color.

Historically outcomes of a blanket ban as you are proposing on flavored tobacco products have resulted in predictable outcomes such as increased law enforcement action which disproportionately impacts people of color. Whether the drug is legal or illegal, prescribed or purchased underground, any policy directed towards curtailing its impact or use will not make these products or the desire for them disappear. Validation that substance bans simply make using and acquiring said substances more dangerous and riskier is factual.

The National Association of Blacks in Criminal Justice, Inc. is a 501(c) (3) multi-ethnic, nonprofit, non-partisan organization that is committed to the elimination of injustice within the criminal justice system at all levels.

In collaboration with several law enforcement and criminal justice organizations throughout the United States, NABCJ strongly urges the Portland City Council to recognize and review the unintended consequences that will assuredly present

themselves from the creation of a blanket ban on flavored tobacco products and accessories.

Respectfully Submitted,

Terri McGee

Terri McGee

Immediate Past President

National Association of Blacks in Criminal Justice

NATIONAL ASSOCIATION OF BLACKS IN CRIMINAL JUSTICE



The Criminal Justice Solutions Organization
"COMMITTED TO JUSTICE FOR ALL"
Post Office Box 20011-C ■ Durham, NC 27707

February 6, 2022

Members of Portland City Council

KATE SNYDER (MAYOR) MARK N. DION (5)
APRIL FOURNIER (A/L) PIOUS ALI (A/L)
ROBERTO RODRÍGUEZ (A/L) ANNA TREVORROW (1)
VICTORIA L. PELLETIER (2) TAE Y. CHONG (3)
ANDREW ZARRO (4)

**Ref: Order 138-21/22 Amendment to Portland City Code Chapter 17 Re: Sale of
Flavored Tobacco Products Prohibited - Sponsored by the Health & Human
Services and Public Safety Committee, Councilor Tae Chong, Chair**

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In collaboration with several law enforcement and criminal justice organizations throughout the United States, NABCJ strongly urges the Portland City Council to recognize and review the unintended consequences that will assuredly present themselves from the creation of a blanket ban on flavored tobacco products and accessories.

Respectfully Submitted,

Terri McGee

Immediate Past President
National Association of Blacks in
Criminal Justice

cc:

Sherman P. Lea, Jr., President NABCJ	540.797.3148
Gerard Lowe, Vice President NABCJ	614.419.7619
Rose Brown, Secretary, NABCJ	832.654.3629
Dr. George P. Wilson, Sr., Historian	919.423.9626
NABCJ Master File	832.754.8297

s.lea@newhopesupportservices.com
gerardnabcj@gmail.com
rosebrown932@hotmail.com
gwilson@nccu.edu
office@nabcj.org

Order 138 Public Comment

Public Comment inbox



Tess Parks <tess@portlandrecovery.org>
to publiccomment@portlandmaine.gov

11:58 AM (16 minutes ago)

Good Morning,

My name is Tess Parks, and I work for the Portland Recovery Community Center on statewide and local public education and advocacy projects.

Attached is a written testimony prepared by our Executive Director, Leslie Clark, regarding Order 138. We ask that this is submitted into the public record for Order 138 that will be discussed this evening.

Please feel free to reach out if you have any difficulty opening up this attachment.

Thank you,

Tess

Tess Parks, MPPM (she/her/hers)

Recovery Rising Coordinator, Maine Recovery Hub

Portland Recovery Community Center

102 Bishop Street

Portland, ME 04103

Phone: 207-553-2575

Cell: 508-868-0911

www.portlandrecovery.org

www.facebook.com/portlandrecovery





Maine's Recovery Hub

**Written Testimony of Leslie Clark
Order 138 21/22
Amendment to Portland City Code Chapter 17 Re: Sale of Flavored Tobacco Products
Prohibited**

Portland City Council
City Hall
389 Congress Street Portland, ME 04101

Leslie Clark
Executive Director
Portland Recovery Community Center
102 Bishop Street
Portland, Maine 04103

Re: A Ban on the Sale of Flavored Tobacco Products

February 7, 2022

Dear Mayor Snyder and Members of the Portland City Council,

I am writing you today as the Executive Director of Portland Recovery Community Center (PRCC) and as a person in long-term recovery. I support the passing of Order 138 to end the sale of flavored tobacco products in the City of Portland. The board of the PRCC unanimously supports this proposed ban as well.

Portland Recovery Community Center is a recovery community organization. Our mission is to provide support, education and resources for people recovering from and affected by addiction and to spread the message of hope throughout the state of Maine. We serve as the recovery hub in Maine, building a statewide network of recovery community centers and supports.

We are people in recovery, and we care about the issue of addiction. We know what it is like to be addicted – and we know what it takes to recover. As a recovery community organization, we advocate to help Maine communities understand the science of addiction and dispel the misconception that there is any choice or freedom once affected by addiction. In fact, addiction is a chronic and progressive illness that robs an individual of personal choice and freedom.



Maine's Recovery Hub

The tobacco industry and the pharmaceutical industry have targeted our youth and vulnerable populations to create a market fed by addiction. We have been purposefully lied to, manipulated, and targeted. *Today we are fighting back.* We will not sit by while a new generation is prey for the tobacco industry.

As our brothers and sisters are dying in the streets from the opioid epidemic, and we fight every day to save and restore lives destroyed by opioid manufacturers, the Portland City Council is simultaneously debating an amendment that could *prevent* the next generation from being susceptible to the devastating impact of another addiction.

Now, nearly one in three Maine children are using tobacco products – and we know based on national studies that the overwhelming majority of tobacco use starts with flavored products. Banning flavors shouldn't even be a question: we should be protecting the health and well-being of Portland's children.

We recognize that some individuals in recovery may use these flavored products, and it is not an easy issue. **But**, the tobacco industry knows that 95% of adult smokers start by age 21, so flavored products are purposefully being marketed directly to youth in our communities. The tobacco industry has co-opted messages of harm reduction, misconstruing the idea that e-cigarettes can be used as a harm reduction tool for tobacco smokers wishing to quit, further targeting our recovery community. This is an inaccurate representation of how to reduce harm. E-cigarettes are not risk-free, and PRCC knows that other pathways of recovery, such as Nicotine Replacement Therapy are the best, healthiest option if an individual would like to quit smoking cigarettes.

The tobacco industry has a long and lethal history of targeting Black Americans, people with mental illness, LGBTQ, people with low incomes, and other marginalized youth and young adults with predatory advertising of flavored products, lower prices, and sponsorships of events and celebrations. *All of these populations have something in common – a high rate of adverse childhood experiences and traumatic events that predispose us to addiction. The tobacco industry knows this and exploits it.*

Our recovery community doesn't only want to help people find recovery from addiction; we want to help prevent addiction and break the generational cycles. We know that a cornerstone of preventing addiction is preventing early use of tobacco products because addiction as a brain disease develops early and evolves on a continuum. 75% of adults with a substance use disorder



Maine's Recovery Hub

also have a history of cigarette smoking. That is why our board of directors and organization is speaking out on this issue.

We have the opportunity to give our Portland youth and young adults a fair shot at a healthy and productive future, free from tobacco addiction. It's time to end the sale of flavored tobacco products. Help us break barriers to maintaining recovery and help us prevent more youth from tobacco addiction. We urge you to prioritize the health, hope and productivity of Portland kids to live a life free from tobacco addiction and the increased potential for addiction to other substances.

At the heart of the recovery culture is a desire to give back and help others find freedom from addiction, offering the hope and example of our own experiences of recovery. Anyone who has watched a loved one suffer and die from addiction, whether it's from a heroin overdose or a slow and painful death by lung cancer, knows that we would give anything to have prevented the ravages of addiction on our loved ones and our families.

Please help prevent and turn back the tide of destruction on young lives, families, and communities.

Sincerely,
//Leslie M. Clark//

Leslie M. Clark, MSW
Executive Director
Portland Recovery Community Center

Proposed ban on sale of flavored tobacco products

External

Public Comment inbox



Tom Keating <tjkeat@comcast.net>

11:14 AM (46 minutes ago)

to publiccomment, Hilary.Schneider, emily.johnson

Members of the Portland City Council -

I would like to state my strong support of a prohibition in the sale of flavored tobacco products in the city of Portland.

I am a retired medical oncologist and palliative care physician. Over the course of my career, I treated many patients who suffered greatly (many of whom died) from the effects of years of tobacco use. The tobacco industry has identified flavors such as cherry, cotton candy, mint and gummy bear that mask the harsh effects of various tobacco products and added these initially to cigarettes and more recently to products popular with youth such as e-cigarettes in order to increase their appeal. Even before the use of these flavors, menthol has been used to ameliorate the harsh physiologic effects of tobacco. These approaches, unfortunately, have been shown to be successful. A 2019 study found that 4.3 million middle and high school students had used a flavored tobacco product in the past 30 days. Of those students who used a tobacco product, 70 percent used a flavored product. Of African-American smokers, over 85 percent smoke menthol menthol cigarettes. Noting these associations, the federal government prohibited most flavors in cigarettes, but this prohibition was not extended to other tobacco products. Since that time, e-cigarettes have gained considerable popularity among youth, leading to an increase in the use of tobacco by youth to 23 percent.

What we know from decades of research is that tobacco use in all forms is highly addictive due to its nicotine content. The level of nicotine, a powerful stimulant, in e-cigarettes is much higher than in many other tobacco products.

There is much that we do not know currently, due to the lack of long term studies on the use of e-cigarettes. However, the data that we have now suggest that this addiction is likely to have significant health benefits in our youth in the years to come.

I urge the Portland City Council to enact a ban on the sale of all flavored tobacco products this evening.

Thank you -

Thomas J. Keating, MD, MS, MA
166 Pleasant Ave unit #4
Portland, Maine 04103

Sent from my iPad

Proposed Portland Flavor Ban 1 view



brandi.cushman@cnbrown.com <brandi.cushman@cnbro...
to council@portlandmaine.gov, publiccomment@portlandmaine.gov

Nov 15, 2021, 9:08:11
AM

Good morning council members.

My name is Brandi Cushman and I am the Director of Purchasing for C. N. Brown Company. We own and operate two Big Apple Convenience Stores in the City of Portland.

I hope that you will take a few minutes to read our concerns with this proposed flavor ban in the attached document.

I appreciate your time.

Thank you,

Brandi Cushman

Director of Purchasing and Merchandising

C. N. Brown Company

P.O. Box 200

1 C. N. Brown Way

South Paris, ME 04281

☎: 207-743-4200 ext. 3102

📠: 207-743-8357

✉: brandi.cushman@cnbrown.com

www.cnbrown.com

When you think something is more important than a Customer.....Think Again





1 CN Brown Way
PO Box 200
South Paris, ME 04281
Phone: (207) 743-9212
Fax: (207) 743-8357
Toll Free 800-432-4211
cnbrown.com

Portland City Council
City Hall
389 Congress Street
Portland, ME 04101

RE: Portland City Ordinance Ending the Sale of Flavored Tobacco Products

Portland City Council-

Thank you for taking the time to read C. N. Brown Company's concerns with the proposed city ordinance ending the sale of flavored tobacco products.

My name is Brandi Cushman and I am the Director of Purchasing and Merchandising and the Category Manager of tobacco for C. N. Brown Company. We own and operate the Big Apple convenience stores at 2 Park Avenue and 16 Washington Ave. in Portland employing a total of 18 associates. Those are 18 local jobs we have created.

I am writing in opposition of this city ordinance, an ordinance that will dramatically decrease the operating revenue and profitability of many stores within the city, will affect jobs, and do nothing to keep these products that you propose to ban out of the hands of your youth as it is intended.

Zero Tolerance

We have absolutely no interest in selling tobacco to the youth in your city or anywhere else. We have training, policies, and procedures in place to ensure, to the best of our ability, that tobacco products do not get into the hands of your youth. In fact, we take this so seriously that in the rare instance an employee is found in violation of the law, and our internal training and policies regarding underage tobacco sales, they are immediately terminated. Retailers like us are on the front-line protecting young people in your city and throughout the State of Maine and we take that responsibility very seriously.

Goes Too Far

It is stated that this ordinance is about protecting youth, however, this policy is looking to ban many adult-preferred products including menthol cigarettes, mint and wintergreen smokeless tobacco and flavored cigars. The CDC's 2020 National Youth Tobacco Survey shows that high school-aged use for ENDS/vapor is 19.6% (down from 27.5% in 2019), cigarettes use at 4.6% (down 15.8% since 2011), smokeless use at 3.1% (down 7.9% since 2011) and cigar use at 5% (down 11.6% since 2011). This shows that the most preferred products by youth (although it has declined significantly) are ENDS/vapor products, yet the city is looking to ban ALL flavored tobacco products.

Federal Action

The FDA is diligently working through the Pre-Market Tobacco Application (PMTA) process with vapor products and has already removed more than 6,000,000 of these products from the market by denying their PMTA application. The only products the FDA will allow to remain on the market are those that they have determined are “appropriate for the protection of public health”. The FDA is using a science based approach to ensure that vapor products that meet their standards are available to adult tobacco consumers.

Doesn't Eliminate Access

Local tobacco bans are not going to protect your youth. If this ordinance is passed, flavored tobacco and ENDS/vapor users, including youth illegally obtaining such products, will simply go to the next city/town to get the products they want. The only people that will be negatively affected by this ordinance are your legal, licensed, tax paying local businesses who will not only lose the sale of these legal products to adult tobacco consumers, but also all of the ancillary sales these customers take with them.

The majority of youth are getting these products via adult tobacco consumers, including parents. Instead of continually attacking retailers on this issue, let's put some responsibility on the youth access issue where it lies.

With alcohol there are numerous laws on the books in regards to Illegal Possession by a Minor, Illegal Transportation by a Minor, and Furnishing to a Minor. If youth access is truly the concern of this council, these are the same laws that need to be in place and enforced for tobacco products. (I have attached a listing of these laws.) Stop making retailers shoulder all of the burden and all of the consequences of the youth access issue.

At the same time, in the rare instance that an associate at a retail establishment fails a sting because **they choose** to ignore the age verification prompt of the POS system as well as all policies and training procedures of that retail establishment, that associate should receive some form of consequence from the city and/or state, not solely the retailer. Retailers do everything in their power to make sure an illegal sale to a minor does not occur but we cannot control an associate who chooses to ignore all of the retailer's precautions.

We believe that these issues should be debated where they belong, at the state level and with the FDA. Allow the FDA, with its resources, to determine which products are safe and which are not so that adult tobacco consumers are not forced to travel across city limits to purchase legal products and therefore hurt businesses within the city of Bangor.

We strongly encourage that you vote no on the city ordinance ending the sale of flavored tobacco products.

Thank you.

A Flavored Tobacco Ban is Bad Policy -- Please Oppose 2 views



MEGAN TURBIDE <Mturbide76@gmail.com>

Dec 8, 2021, 2:21:40 PM

to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,
MEGAN TURBIDE
170 Portland Ave
Old Orchard Beach, ME 04064-1293



Olivia Curtis <ocurtis1832@gmail.com>

Dec 13, 2021, 4:37:39 PM

to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Please oppose this extreme proposal.

Sincerely,

Olivia Curtis
16 Adelaide Rd
Apt A
Old Orchard Beach, ME 04064-2227



Heather Brooks <heatherbrooks024@gmail.com>
to publiccomment@portlandmaine.gov

Dec 15, 2021, 12:33:45 PM

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living-- instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Heather Brooks
36 Maggie Ln
Portland, ME 04103-6502



to publiccomment@portlandmaine.gov

Dear Portland City Council,

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,
Phyllis Nimer
749 Diabolo Rd
Danville, CA 94526



Katie Wilson <katiewils0nn@icloud.com>
to publiccomment@portlandmaine.gov

Dec 17, 2021, 6:55:03 PM

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Katie Wilson
25 Munjoy S
Portland, ME 04101-4310



Duane Tower <duanetower11@gmail.com>
to publiccomment@portlandmaine.gov

Dec 18, 2021, 2:53:45 PM

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,
Duane Tower
4816 Briarcliff Sq
Apt 13
Honeoye, NY 14471-9680



Duane Tower <duanetower11@gmail.com>
to publiccomment@portlandmaine.gov

Dec 18, 2021, 2:56:12 PM

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Please oppose this extreme proposal.

Sincerely,
Duane Tower
4816 Briarcliff Sq
Apt 13
Honeoye, NY 14471-9680

Protect Portland Children from Tobacco Addiction 1 view



Deb Smith <executivedirector.mahperd@gmail.com>

Nov 9, 2021, 3:42:13 PM

to council@portlandmaine.gov, publiccomment@portlandmaine.gov

Dear Portland City Council Health & Human Services and Public Safety Committee

Chair Councilor Tae Chong, and Councilor Belinda Ray, and Councilor Mark Dion

I am Deb Smith a resident of Portland and the Executive Director of the Maine Association for Health, Physical Education, Recreation, and Dance (MAHPERD). The MAHPERD Board of Directors signed on to the Flavors Hook Kids Campaign in Maine in 2021. The MAHPERD Board, and I are supportive of the ordinance to end the sale of Flavored Tobacco Products in Portland.

The use of tobacco products remains the nation's number one cause of preventable death and in Maine, nearly 1 in 5 adults smoke cigarettes, the highest rate in the Northeast. In recent years, overall youth tobacco use in Maine has skyrocketed, largely driven by the youth e-cigarette use epidemic and now 1 in 2 Maine high school students and 1 in 6 middle school students have used e-cigarettes.

Tobacco companies are targeting youth with flavored tobacco products. Products that come in array of kid friendly candy and fruit flavors such as mint, cherry, grape jelly, cotton candy, piña colada, and cinnamon roll, all sold in colorful packaging that is designed to attract tweens and teens. Nationwide, nearly 81% of youth ages 12 to 17 who had ever used a tobacco product reported that the first product they used was flavored. Tobacco companies use flavor to hook a new generation of kids on its deadly products. Flavors hide the bad taste of tobacco and make it easier for kids to try. Menthol has the additional quality of soothing the irritation of combustible cigarettes, which is why so many young people start smoking using menthol cigarettes.

We must do everything in our power to keep our communities healthy and safe and we applaud the Portland City Council for making sure that Portland residents are healthy and safe against the harms from tobacco with the ordinance.

Sincerely,

Deb Smith
201 Bradley Street
Portland, ME 04102
Executivedirector.mahperd@gmail.com

--

Deb Smith
Executive Director, Maine AHPERD



Engage • Educate • Inspire

NECSEMA comments on proposed flavored tobacco ban in Portland, ME

0 views



Havens, Jonathan A. <Jonathan.Havens@saul.com> Nov 22, 2021, 3:21:13 PM
to ksnyder@portlandmaine.gov, council@portlandmaine.gov, publiccomment@portlandmaine.gov

Dear Mayor Snyder and Members of the Portland City Council:

On behalf of our client, the New England Convenience Store and Energy Marketers Association (NECSEMA or the Association), I am submitting the attached comments regarding the proposed ordinance that would ban the sale of flavored tobacco products in Portland, Maine.

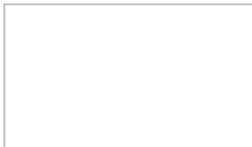
I would ask that you include these comments in the Councilor's agenda packet for when the City Council meets to discuss the proposed flavored tobacco ban.

Thank you for your consideration of these comments.

Sincerely,

Jonathan Havens

Outside Counsel to NECSEMA



Jonathan A. Havens

500 E. Pratt Street | Suite 900 | Baltimore, MD 21202
1919 Pennsylvania Ave., NW | Suite 550 | Washington, D.C. 20006
O: 410.332.8757 | M: 301.404.0674 | F: 410.332.8179
Jonathan.Havens@saul.com | www.saul.com | [LinkedIn](#) | [Twitter](#)

Click  for an interactive look at the latest from our Cannabis Law Team.

"Saul Ewing Arnstein & Lehr LLP (saul.com)" has made the following annotations:

+~~~~~+

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+~~~~~+



November 22, 2021

Mayor Kate Snyder
Members of the Portland City Council
City of Portland
389 Congress Street
Portland, ME 04101

Re: Comments on proposed flavored tobacco ban in Portland, ME

Dear Mayor Snyder and Members of the Portland City Council:

On behalf of our client, the New England Convenience Store and Energy Marketers Association (NECSEMA or the Association), I am submitting these comments regarding the proposed ordinance that would ban the sale of flavored tobacco products in Portland, Maine. I would ask that you include these comments in the Councilor's agenda packet for when the City Council meets to discuss the proposed flavored tobacco ban. I am outside counsel to NECSEMA, and advise the Association on various state and federal regulatory matters. Prior to entering private practice, I served as a regulatory counsel with the U.S. Food and Drug Administration's (FDA or the Agency) Center for Tobacco Products (CTP). Prior to starting law school, I served as a legislative aide in the U.S. Senate and U.S. House of Representatives.

As you know, the proposed ban would prohibit in Portland the sale and consumption of flavored tobacco products, including any smell or taste relating to fruit, menthol, or candy. NECSEMA opposes the proposed flavor ban for numerous reasons, including: (1) flavored products that the U.S. Food and Drug Administration (FDA or the Agency) has authorized for marketing would be banned under the ordinance; (2) the Maine Legislature considered such a ban last session and will likely do so again this session; and (3) local tobacco-related bans are ineffective. In short, the federal government and the State are equipped to handle how best to regulate flavored tobacco products, and NECSEMA urges you to let them do so.

The primary focus of these comments is to alert you to the fact that banning flavored tobacco products in Portland would undermine FDA's robust regulation of the same. By law, any flavored tobacco product that FDA allows on the market would have included a determination by the Agency that such product is "appropriate for the protection of public health"¹ and/or "appropriate to promote

¹ 21 U.S.C. § 387j(c)(4).

public health.”² When reviewing medical products, FDA uses a “safe and effective” standard. However, this standard does not apply to tobacco products. Instead, when considering a tobacco product marketing application, the Agency uses an arguably more rigorous standard, the “public health” standard, that requires FDA to consider “the risks and benefits of the tobacco product to the population as a whole, including users and nonusers.”³

More specifically, per the language in the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act), in finding that the marketing of a tobacco product for which a marketing application has been submitted is appropriate for the protection of public health, FDA *must* consider:

- (A) The increased or decreased likelihood that existing users of tobacco products will stop using such products; and
- (B) The increased or decreased likelihood that those who do not use tobacco products will start using such products.⁴

To get a sense of what a marketing application requires, consider the following elements, which a PMTA must contain:

- (A) Full reports of all information, published or known to, or which should reasonably be known to, the applicant, concerning investigations which have been made to show the health risks of such tobacco product and whether such tobacco product presents less risk than other tobacco products;
- (B) A full statement of the components, ingredients, additives, and properties, and of the principle or principles of operation, of such tobacco product;
- (C) A full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of, such tobacco product;
- (D) An identifying reference to any tobacco product standard under 21 U.S.C. § 387g which would be applicable to any aspect of such tobacco product, and either adequate information to show that such aspect of such tobacco product fully meets such tobacco product standard or adequate information to justify any deviation from such standard;
- (E) Such samples of such tobacco product and of components thereof as FDA may reasonably require;
- (F) Specimens of the labeling proposed to be used for such tobacco product; and
- (G) Such other information relevant as the Agency may require.

When one considers the breadth and depth of these requirements, it is no surprise that PMTA

² *Id.* at § 387k(g)(2)(A)(i).

³ FDA, “A New Standard of Effective Regulation,” <https://www.fda.gov/tobacco-products/rules-regulations-and-guidance/rules-and-regulations> (last updated Oct. 4, 2021).

⁴ Family Smoking Prevention and Tobacco Control Act, June 22, 2009, Pub. L. 111-31, 123 Stat. 1776, 1816.

submissions can easily exceed one million pages.

As the City of Portland considers the measure before it, I suspect one question will be, “If we do not ban the sale of flavored tobacco products, how will the health of Portland residents be protected?” The answer to that question is that FDA’s rigorous review of any product that is the subject of an Agency marketing order will have been evaluated thoroughly with regard to the risks and benefits of the product to the population as a whole, including tobacco users and nonusers. Moreover, with regard to such products, FDA will have already considered: (1) the increased or decreased likelihood that current tobacco users will stop using such product; and (2) the increased or decreased likelihood that nonusers will start using such product. In short, the Agency’s review standard ensures that granting a marketing order for such product is appropriate for the protection of public health.

Proof of the rigor of FDA’s tobacco product review standard is that on October 21, 2021, the Agency for the very first time authorized the marketing of three new electronic nicotine delivery system (ENDS) products.⁵ A week later, FDA authorized the marketing of four smokeless tobacco products, all of them mint flavored.⁶ To provide some context:

- The Agency on August 26, 2021 announced that it denied marketing applications for approximately 55,000 flavored ENDS products for “failing to provide evidence they appropriately protect public health.”⁷
- Earlier that month, FDA on Aug. 9, 2021 issued a Refuse to File (RTF) letter to JD Nova Group LLC, in which the Agency notified the company that their PMTAs that are associated with approximately 4.5 million of their products did not meet the filing requirements for a new tobacco product seeking a marketing order.⁸

Clearly, the robust standard that tobacco products must meet in order to receive a marketing order from FDA is serving to protect the public health. Rather than believing that the proposed flavor ban is the only way to protect Portland residents, you can rest assured that allowing only those flavored tobacco products that receive an Agency marketing order is a more than adequate measure to protect the health of your constituents.

⁵ FDA, “Premarket Tobacco Product Marketing Granted Orders,” <https://www.fda.gov/tobacco-products/premarket-tobacco-product-applications/premarket-tobacco-product-marketing-granted-orders> (last updated Oct. 25, 2021).

⁶ *Id.*

⁷ FDA, Press Release – “FDA Denies Marketing Applications for About 55,000 Flavored E-Cigarette Products for Failing to Provide Evidence They Appropriately Protect Public Health,” Aug. 26, 2021, <https://www.fda.gov/news-events/press-announcements/fda-denies-marketing-applications-about-55000-flavored-e-cigarette-products-failing-provide-evidence>.

⁸ FDA, Press Release – “FDA Issues Refuse to File (RTF) Letter to JD Nova Group LLC,” Aug. 9, 2021, https://www.fda.gov/tobacco-products/ctp-newsroom/fda-issues-refuse-file-rtf-letter-jd-nova-group-llc/?utm_content=landingpage&utm_medium=email&utm_source=govdelivery&utm_term=stratcomms.

Mayor Snyder and Portland City Council Members

November 22, 2021

Page 4

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan A. Havens", written over a light gray rectangular background.

Jonathan A. Havens
Outside Counsel to NECSEMA

ad in MA newspapers 0 views



Jon Shaer <jon@necsema.net>

Nov 28, 2021, 8:26:20 PM

to Kate Snyder, council@portlandmaine.gov, publiccomment@portlandmaine.gov

Good evening, Mayor Snyder and Councilors,

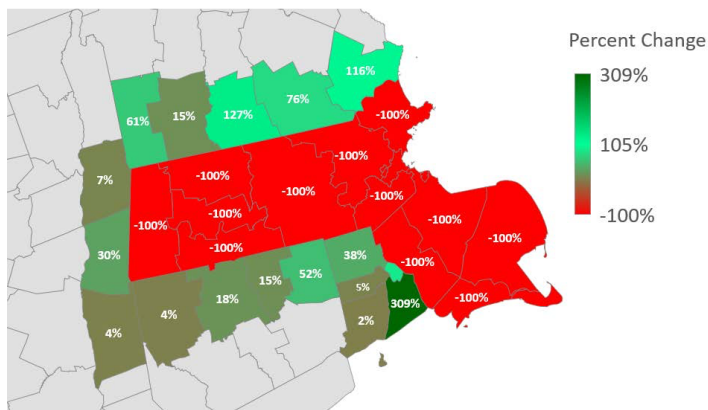
As we approach the first of two readings on the proposal to ban flavored tobacco, I want to share two images that help illustrate the important point that local bans do not work.

The first is an advertisement that appears in the Boston Herald and Boston Globe almost every day since the Massachusetts flavored tobacco ban began on 6/2020 and is likely running in other papers as well. Foods Plus is just over the MA border and runs this same ad which informs MA residents that menthol and other flavored tobacco remain available to them just over the border in Plaistow, NH. This store is spending hundreds of thousands of dollars advertising. It's safe to say that if it wasn't working, they wouldn't continue to spend the money. Imagine how much they're making!?



Unless every town within reasonable proximity to Portland enacts the same ban, then the ban is ineffective in limiting access to the products. That is why this issue should be handled, at minimum, in the state legislature. In truth, even a state ban would be ineffective since there isn't any way New Hampshire will enact a ban. Therefore, it really needs to be addressed at the federal level. A local-only ban impacts one group – the 50 legal retailers Portland has licensed to responsibly sell tobacco products. And they've done it at a 97% FDA-verified compliance rate.

This second image is a heat map of menthol cigarette sales 12 months following the ban. I think the image speaks for itself and further makes the point that products continue to be sold and come back into the voided market. In this case, Portland.



Respectfully,

Jon

Jonathan Shaer, Executive Director

New England Convenience Store & Energy Marketers Association, Inc. (NECSEMA)

1044 Central Street, Suite 203, Stoughton, MA 02072

Mobile: 774-406-1997 | Office: 781-297-9600 ext. 3 | Fax: 781-297-9601

jon@necsema.net | www.necsema.net | [Join NECSEMA](#)



FW: PLEASE include my comments to the packet for the meeting where the Flavored Tobacco Ban will receive a first reading

1 view



Julie Parker <PortlandCon@cigaretshopper.com>

Nov 12, 2021, 10:25:22 AM

to publiccomment@portlandmaine.gov, council@portlandmaine.gov

From: Julie Parker

Sent: Friday, November 12, 2021 9:30 AM

To: Chris Beaulier <Chris@cigaretshopper.com>

Cc: Julie Parker (julieparker286@gmail.com) <julieparker286@gmail.com>

Subject: PLEASE include my comments to the packet for the meeting where the Flavored Tobacco Ban will receive a first reading

To whom this may concern,

I'm a voter and Portland resident and manage the Cigaret Shopper on Congress Street. I want to oppose the ordinance banning the sale of flavored tobacco and vapor products in Portland. If this ban is passed, I will have to travel outside of the city and give another town my tax dollars. I would prefer to keep my money in the city I live and work in. This city is for small businesses and if this passes the city will lose a lot of the small businesses that are struggling to stay open. Congress Street use to be so full of people and businesses and now there are more for lease signs on vacant retail space do you really want to add more to that?

We as an adult's have the right to make our own choices in life and you are now trying to make it, so we do not have that right. I have lived in this city for 27 years and I have been working on Congress Street the whole time and have been watching the struggles of every person in the downtown district. The homeless, the mentally ill, the elderly the blue-collar workers and corporate employees do not have places to really shop for there needs on Congress Street. By taking flavored tobacco and vape products will not only hurt the store I manage it will hurt downtown just as much.

This city would lose so much tax dollars that it would hurt everyone that is still trying to afford to live in the city. In the meeting on the 9th, I sat in the zoom meeting and listened to you say that the city will not have money to help the homeless if you do not get the federal funding you need. Isn't this a more important situation you should be dealing with. And with me saying that you stop the sales of all the products you are trying to ban is this really going to help? I can answer that, and I know you can as well.

To me I feel you should be also more concerned about the crime's that are happening in this city, the illegal drug activities, rent control, the roads, and getting more businesses to come back to the downtown area.

Also, in the same meeting I listened to a school nurse talk about a middle school child STEALING their parents vape device and taking it to school. Well, no offense but that child should be taught at home about tobacco. Hold the parents accountable not everyone else!!!! Remember Maine does have the best grade for not selling to minors so why punish us for something that is obviously not the store's fault.

Thank you,

Julie Parker

Cigaret Shopper

579 Congress Street

Portland, Maine

A Flavored Tobacco Ban is Bad Policy -- Please Oppose 1 view



Tara Florentine <tflo02@att.net>
to publiccomment@portlandmaine.gov

Jan 8, 2022, 8:54:51 AM (4 days ago)

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,
Tara Florentine
2739 Rockford Rd
Shelby, NC 28152-9606

A Flavored Tobacco Ban is Bad Policy -- Please Oppose

Public Comment inbox



Joseph Rowe <rowej280@gmail.com>

6:40 AM (9 hours ago)

to publiccomment

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Joseph Rowe

37 Casco St

Apt 205

Portland, ME 04101-2932

A Flavored Tobacco Ban is Bad Policy -- Please Oppose

Public Comment inbox



Richard Hoyt <richard.t.hoyt@gmail.com>

Thu, Jan 13, 7:10 PM (21 hours ago)

to publiccomment

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Richard Hoyt

796 Brighton Ave

Portland, ME 04102-1016

Flavored tobacco ban ordinance 0 views



Anthony Scott <psavanthony@yahoo.com> Jan 17, 2022, 9:35:27 PM (12 hours ago)
to publiccomment@portlandmaine.gov

Councilors,

I wanted to send you a couple studies recently published to reinforce the truth behind some of the statements I've made to councilors and you're likely hearing from opponents of the Flavored tobacco vape ban.

The first article I want to point you towards is found in a press release by the National Institute of Health on December 15th 2021. It was the Monitoring the Future survey done by researchers at the University of Michigan. See below for link to article.

The survey found that there was a substantial decline of substance use of several substances over the last couple years.

I would like to point out below from the survey that the rate of alcohol use and Marijuana use among youth is higher for the 12th graders than vaping rates, but these products remain to be sold. These products have been known to cause many problems for our youth far greater than vaping can but yet vapes continue to be targeted. I would also like to add that the vaping industry has had many new regulations over the last two years and currently in progress of other regulatory guidelines, which should be given more time to evaluate how it will impact the vaping rates among youth before we jump to drastic measures of an outright ban.

Moving the age to purchase tobacco to 21, Restrictions on shipping vape products (PACT act), tax increases, PMTA process, and marketing restrictions are all ways in which the vape industry has been regulated in the last two years to decrease these rates. As you can see below it appears to be working and this demonstrates there are other means to accomplish the overall shared goal of lowering the youth vaping rates. Let's have a conversation on how we can lower access to these products and continue to lower vaping rates while allowing access to adults.

- **Alcohol:** The percentage of students who reported using alcohol within the past year decreased significantly for 10th and 12th grade students and remained stable for eighth graders.
 - **Eighth graders:** 17.2% reported using alcohol in the past year in 2021, remaining steady compared to 20.5% in 2020 (not a statistically significant decrease)
 - **10th graders:** 28.5% reported using alcohol in the past year in 2021, a statistically significant decrease from 40.7% in 2020
 - **12th graders:** 46.5% reported using alcohol in the past year in 2021, a statistically significant decrease from 55.3% in 2020
- **Marijuana:** The percentage of students who reported using marijuana (in all forms, including smoking and vaping) within the past year decreased significantly for eighth, 10th, and 12th grade students.
 - **Eighth graders:** 7.1% reported using marijuana in the past year in 2021, compared to 11.4% in 2020

- **10th graders:** 17.3% reported using marijuana in the past year in 2021, compared to 28.0% in 2020
- **12th graders:** 30.5% reported using marijuana in the past year in 2021, compared to 35.2% in 2020
- **Vaping nicotine:** Vaping continues to be the predominant method of nicotine consumption among young people, though the percentage of students who reported vaping nicotine within the past year decreased significantly for eighth, 10th, and 12th grade students.
 - **Eighth graders:** 12.1% reported vaping nicotine in the past year in 2021, compared to 16.6% in 2020
 - **10th graders:** 19.5% reported vaping nicotine in the past year in 2021, compared to 30.7% in 2020
 - **12th graders:** 26.6% reported vaping nicotine in the past year in 2021, compared to 34.5% in 2020

<https://www.drugabuse.gov/news-events/news-releases/2021/12/percentage-of-adolescents-reporting-drug-use-decreased-significantly-in-2021-as-the-covid-19-pandemic-endured>

The Second study is done by Abigail S Friedman PHD of Department of Health Policy and Management, Yale School of Public Health. I have attached the study published in Jamapediatrics below for your consideration. The study considers the San Francisco ban on flavored tobacco products and its association with smoking rates among minor high school students compared to students in other districts without a flavor ban. It found that the San Francisco flavor ban was associated with more than doubled odds of recent smoking among underage high school students. This should raise concern that chances of an increase in cigarette use will happen not just for youth but adults as well if a flavor ban is enacted.

I hope you all have a great holiday and I would still like to connect with more of you soon. Please consider my open invitation to meet and discuss this topic.

Thank you
 Anthony Scott
 Portland Smoke and Vape

FW: Flavor ban 0 views



Brett Scott <brett@smokershaveninc.com> Jan 18, 2022, 11:49:46 AM (23 hours ago)
to Publiccomment@portlandmaine.gov

Hello,

I am writing as the owner of Smokers Haven, a retailer and distributor in the state of Maine selling flavored e-cigarettes, and a member of the Maine Vapers Association.

Considering a flavor ban is an immense decision that will affect the people of Portland. It is easy for someone that is not a smoker to say, "Just stop smoking", but nicotine is a highly addictive chemical. Think about a person's daily coffee, tea, or energy drink. Most people cannot function without their morning cup, but caffeine is considered "not addictive scientifically speaking."^[1] In terms of cigarettes, the addictive part is the nicotine. But, for people to get that nicotine, there are other harmful chemicals they inhale in the process of using traditional combustible tobacco products. According to the FDA "There are more than 7,000 chemicals in cigarette smoke. More than 70 of those chemicals are linked to cancer."^[2] Flavored electronic nicotine devices help people transition from traditional cigarettes to a less harmful nicotine deliverance system. "E-cigarettes have the potential to benefit adult smokers if used as a complete substitute for regular cigarettes and other smoked tobacco products"^[3]. As a retailer, we hear the stories first-hand. It is not uncommon to hear, I smoked for 30 years, switched to vaping, and can finally breathe again. We also often hear about the benefits of being able to taste and smell again, as well as coughing less, being able to take full breaths of air, not smelling like cigarettes, and so much more. For the people of Portland, I ask that you listen to real stories of how vaping has helped people live healthier lives. I welcome anybody to our stores to listen to the customers.

The FDA is already doing substantial testing to prove these products are a benefit to public health. One may conclude the primary objective of this legislation appears to be limiting youth access. The State of Maine has recently made many changes to combat underage youth access. The age to purchase tobacco is now 21. In addition, online sales direct to the customer have been banned. Both of these initiatives were followed thereafter in country-wide legislation. After the changes, statistics for the overall youth surveys have demonstrated declining usage. The most recent National Youth Tobacco Survey shows a decrease of more than 27% youth use of e-cigarettes in 2020 compared to 2019. Past 30-day electronic cigarette use for middle school students was down over 55% from the 2019 survey as well as high school student usage down over 28% in the same time period. The overall reduction is 1.73 million fewer youth using tobacco products than last year. ^[4] That is a huge reduction in youth access to see in one year, and at the time of the survey, the online shipping ban was not in effect, an additional measure that we have yet to see the statistical benefit, which may also play a large role in additional youth access reduction.

Please keep in mind who the large companies are that are proposing compromises to this legislation. Compromises through crafting very specific legislation are used to attack the small, local businesses and families while protecting the products sold in convenience stores such as JUUL. JUUL has been at the center of the vaping epidemic and the root of the publicized vaping issue. Their easily disguised products and higher nicotine

concentration have brought a wrath of bad publicity to the industry. JUUL is owned by Altria, a massive publicly traded tobacco company that also owns Marlboro cigarettes and is worth \$80 billion. They have the money and political connections to write legislation that will benefit their [\\$80 billion company](#). It is local specialty mom and pop businesses, that this is all their business does, that will be the compromises, eliminated from the industry, and ultimately close their doors.

We are small, local, Maine specialty shops that have a healthier alternative. We offer a way to quit traditional tobacco. We offer choices in flavor and nicotine level. It allows for people to find a flavor that works for their preferences. Most people choose flavors over tobacco as a way to quit cigarettes. The tobacco flavors make it very easy to go back to cigarettes. Adults use flavors and they work to quit traditional tobacco. We also offer nicotine levels which allows people to progressively step down in nicotine level, all the way to no nicotine. That is not something that is available in cigarettes or electronic nicotine delivery systems owned by cigarette companies, such as JUUL. Without careful consideration, the big tobacco companies will be the only companies continue in the industry using money, connections, and policy compromises to do so, while the local Maine businesses will be unable to.

Preventing underage youth access is and a high priority for Maine and nationally as a country. As retailers, we also welcome any methods to prevent youth access. Youth usage has tarnished a small, locally owned industry that is here with a goal to help people make healthier choices and live longer lives by switching from traditional combustible tobacco to flavored electronic nicotine delivery systems. We would love to see a 100% elimination of youth access as it has discredited the benefit adult smokers have received from using these products. Some ideas include requiring retailers to set sales limits per transaction, day, week, or month. As well as scanning and tracking drivers' licenses on what is being bought, which can be provided to local municipalities upon request. We, as local businesses, are looking to work with you directly on reducing underage access while finding a solution that keeps our doors open. I am asking everyone to consider meeting with me, or other members of the group, to discuss a true compromise that considers public safety, public health, and the small businesses of Maine.

[1] [https://archives.drugabuse.gov/blog/post/caffeine-really-addictive#:~:text=While%20caffeine%20produces%20a%20small,not%20addictive%20\(scientifically%20speaking\)](https://archives.drugabuse.gov/blog/post/caffeine-really-addictive#:~:text=While%20caffeine%20produces%20a%20small,not%20addictive%20(scientifically%20speaking))

² <https://www.fda.gov/tobacco-products/products-ingredients-components/chemicals-cigarettes-plant-product-puff>

³ https://www.cdc.gov/tobacco/basic_information/e-cigarettes/pdfs/Electronic-Cigarettes-Infographic-508.pdf

⁴ https://www.cdc.gov/tobacco/data_statistics/fact_sheets/youth_data/tobacco_use/index.htm

Thank you,

Brett Scott

President

Office – [603-513-1852](tel:603-513-1852) Ext. 406

www.SmokersHavenInc.com

Smokers Haven

New England's #1 Smoke Shop

[1] [https://archives.drugabuse.gov/blog/post/caffeine-really-addictive#:~:text=While%20caffeine%20produces%20a%20small,not%20addictive%20\(scientifically%20speaking\)](https://archives.drugabuse.gov/blog/post/caffeine-really-addictive#:~:text=While%20caffeine%20produces%20a%20small,not%20addictive%20(scientifically%20speaking))

[2] <https://www.fda.gov/tobacco-products/products-ingredients-components/chemicals-cigarettes-plant-product-puff>

[3] https://www.cdc.gov/tobacco/basic_information/e-cigarettes/pdfs/Electronic-Cigarettes-Infographic-508.pdf

[4] https://www.cdc.gov/tobacco/data_statistics/fact_sheets/youth_data/tobacco_use/index.htm

Big Tobacco vs S...



ahsanrana88 <ahsanrana88@yahoo.com>

7:39 AM (4 hours ago)

to publiccomment@portlandmaine.gov

Hi,

My name is Muhammad Ahsan Ashraf and I own a convenience store at 885 Brighton ave Portland maine with the name of Three ds variety, I am writing regarding the proposed flavor ban in Portland, as I want to show you my concern my store is situated is right on the border between portland and westbrook, the proposed flavor ban is counter productive as there will be no ban in westbrook, south portland, falmouth and in surrounding cities, customers will move from portland to westbrook and other cities. Which will result in killing out business my store is the only livelihood I have for me and my family. Also like to share my personal experience in Massachusetts my cousins use to own convenience store their store is shut down due to this ban and they moved to different state. My kind request request to you is please reconsider your proposed ban and save us from closing our business.

Thanks

Muhammad Ahsan Ashraf
Three ds variety

Protects

Big Tobacco



Corporate Greed

Destroys

Small Businesses



Little Guy



donald lingar <90776439ers@gmail.com>
to publiccomment@portlandmaine.gov

Jan 16, 2022, 9:39:36 PM (2 days ago)

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,
donald lingar
214 Gold Ave
Kellogg, ID 83837-2625



Steve Marzza <steve@darkharbortattoo.com> Jan 18, 2022, 10:07:04 AM (yesterday)
to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Steve Marzza
459 Saco St
Westbrook, ME 04092-2028



Craig Durant <cdurant@gmail.com>
to publiccomment@portlandmaine.gov

Jan 18, 2022, 10:12:50 AM (24 hours ago)

Dear Portland City Council,

As your constituent, and local business manager, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Craig Durant
1 Exchange St
Portland, ME 04101-5123



Mohamed Mohamed <rocboyidris@gmail....>
to publiccomment@portlandmaine.gov

Jan 18, 2022, 10:41:23 AM (23 hours ago)

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Mohamed Mohamed
21 Chestnut St
Portland, ME 04101-4973



Caity Cook <caitymarie007@icloud.com> Jan 18, 2022, 11:28:25 AM (23 hours ago)
to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Caity Cook
105 Gould Rd
Dayton, ME 04005-7406



Rianna Tuttle <pinkmusic95@gmail.com> Jan 18, 2022, 11:29:06 AM (23 hours ago)
to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Rianna Tuttle
12 Pottersville Rd
Windham, ME 04062



Dave Discatio <mjd32@msn.com>

10:11 AM (2 hours ago)

to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, and local business owner, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Dave Discatio
665 Congress St
Portland, ME 04101-3302



Peter Larsen <moransmarket@gmail.com>

10:49 AM (1 hour ago)

to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, and local business owner, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Peter Larsen
1576 Forest Ave
Portland, ME 04103-1314



Lisa Walters <qshop473@gmail.com>
to publiccomment@portlandmaine.gov

11:32 AM (1 hour ago)

Dear Portland City Council,

As your constituent, and local business owner, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Lisa Walters
473 Stevens Ave
Portland, ME 04103-2635



Chris Jackson <psavchris@yahoo.com>
to publiccomment@portlandmaine.gov

Jan 18, 2022, 11:30:45 AM (23 hours ago)

Vaping flavors is effective for adults.

Hello, and thank you for taking the time to read this. My name is Chris and I'm a small business owner here in Portland Maine. I would first like to take the time to explain why my brother and I got into this industry. We are both former smokers who tried everything in our power to stop smoking. We tried taking the pill, gum, patches and everything in between to quit and everytime it was the same result. We always found ourselves smoking again and again. Vaping has been out for more than a decade and about 8 years ago I decided to give it a shot. I first tried vaping on a tobacco flavored e-liquid and quickly realized tobacco flavored products only acted as a trigger and made me want to smoke traditional combustibles. So, I gave a strawberry flavored product a try and was surprised by the results. It seemed to work well and didn't create the urge to smoke cigarettes.

The longer I stayed away from cigarettes and continued vaping the better I felt. My sense of smell and taste came back better than ever. I was able to breathe much better and snore less at night which resulted in a better nights sleep. Vaping flavored products had a profound health impact on my life and soon I couldn't wait to share my success story with others. So, my brother and I opened up a small business in Portland Maine and soon got thousands of other smokers to make the switch. Nothing has brought so much happiness into my life than seeing other people on the right step in recovery weather it be from substance abuse or nicotine. We started this business to save lives and help others and that's exactly what we have done.

Vaping has been one of the only ways to get an oral fixation like smoking but allows you to do so in less and less nicotine until you are finally down to 0mg of nicotine. The ultimate goal of vaping is to decrease your nicotine dependency until you're able to get off of nicotine all together. So after about four years of vaping and no nicotine dependency I finally quit vaping. After I stopped vaping I was curious to see if there would be any health differences like there was when I quit smoking cigarettes. After a year and a half I have yet to see or feel any differences with my health.

Unfortunately for adults minors find the flavors to be attractive too.

But, where do we draw the line? Should we ban flavored alcohol? THC infused edibles such as chocolate bars and nurds rope candy? Perhaps we should get rid smart phones and social media because the youth abuse these products and platforms as well. Flavored alcohol has certainly attracted the youth. We know how bad cigarettes are yet they are still legal to sell. Why haven't you tried to ban these products? Sounds a bit drastic but in a sense that's exactly what we have here. Vaping is the single most effective harm reduction tool a smoker has to quit. Vaping on flavors are extremely important when it comes to quitting smoking. I am fearful for my customers because I know how important flavors are and without them I believe you will see an explosion of traditional cigarette use and many vapers relapsing.

To make my point clear vaping does not come without some sort of risk. Although it has been proven to be 97% safer to smoking it can be habit forming. I do not believe inhaling anything other than clean air into our lungs, eating well and exercising will prolong or life expectancy. But vaping is certainly better than smoking and one step closer to living a more full healthier life free of addiction. For those exact reasons I started vaping and opened up a business.

It saddens me to see a room full of such smart individuals voting with emotions versus factual data on such a controversial topic that will ruin so many businesses and force many vapers to go back to smoking. I urge you to reconsider this ordinance for many reasons. I fully understand that you feel obligated to try and curve the youth using these products. But all this bill will do is push these problems to your surrounding cities and neighbors. Perhaps you would consider determining what products the youth are using and making tougher laws regarding the sale of these products. For starters I believe these products should be sold in 21+ stores keeping them out of sight to the minors. There could be a limit to how many of these products an individual could purchase during a single day. We as store owners could keep track of who is buying what in each store to help determine who is actually furnishing these products to minors. I believe harsher fines for those found furnishing these products may deter some. And for those found underage using these products there should be some sort of repercussions such as community service and or some sort of class room training. We should be exhausting all means of education and enforcement before we start to ban products that have helped so many in our community.

I would like for you to consider stores and owners such as myself as a resource you can turn to and ask complicated questions on such a controversial issue. I believe if we work together on these issues we can find common ground and both sides would benefit. As far as an outright ban on these products no one will win and you will only push consumers to other cities, helping surge an unregulated black market and more at home methods of obtaining and creating these products. When one door closes another will open and I firmly believe its best if we all tackle these issues together instead taking a chance of closing this door and creating another unknown issue all together. Please feel free to reach out to me ask any questions you may have.

Email- psavchris@yahoo.com

Phone-207-641-5114

Public Comment Order 138-21/22 0 views



Christopher B. Hudgins <chris@alfakherus.com>

11:59 AM (9 minutes ago)

to publiccomment@portlandmaine.gov

Please see attached public comment submitted by the National Hookah Community Association.
Address is:

P.O. Box 5256 S. Mission Rd, Suite 703

Bonsall, Ca 92003



Chris Hudgins

Director, U.S. Corporate & Regulatory Affairs

[703-350-5964](tel:703-350-5964)

www.alfakher.com



Preserving Hookah Culture & Protecting Hookah Tradition across the USA

January 19, 2022

Portland, Maine City Council
City Hall
389 Congress Street
Portland, ME 04101

Re: Order 138-21/22 Amendment to Portland City Code Chapter 17 Re: Sale of Flavored Tobacco Products Prohibited

Dear Councilmembers:

The National Hookah Community Association (NHCA) brings together, and serves as the voice of, hookah producers, distributors, sellers, lounge owners, consumers, and community members who support the preservation of hookah's cultural traditions. We are writing to request that you follow the lead of other jurisdictions, including the state of California, and exempt hookah from the flavored tobacco ban (Order 138-21/22) currently being considered.

Hookah is an important cultural practice that has existed for centuries, originating in the Middle East and India. Today, a broad cross-section of immigrants in the U.S. from around the world enjoy hookah as a centerpiece for cultural, business, and social gatherings. Hookah is widely used by Middle Eastern, Armenian, Turkish, East African, Indian, Persian, Indonesian, and other minority immigrant citizens. Hookah lounges across the country have come to serve as safe gathering places for many diverse ethnic and religious communities. Despite the importance of this social practice and tradition, NHCA members continue to find that many policymakers are often unfamiliar with hookah, its practice, and its community.

NHCA fully supports efforts to eliminate youth access and usage of tobacco products, including hookah. Hookah is unlikely to be used or consumed by youth for many reasons. Hookah water pipes are several feet tall, not easily concealed, and the setup for use is a lengthy process. Lounges that offer hookah are restricted to of-age customers, preventing teens from accessing the product. Recent research by the Centers for Disease Control and Prevention (CDC) found that just 2.1% of middle and high school students used hookah in the past 30 days, five times less than the number of teens or youth who vape.

Shisha, the product used in hookah, is a combination of tobacco and a sugar substance such as honey or molasses, and the total product is only comprised of approximately 15% tobacco. As has been the practice for hundreds of years, hookah is, by nature, a flavored product. Unfortunately, noble efforts to address the teen vaping epidemic by **banning flavored tobacco also would result in the ban of ALL hookah.**



Preserving Hookah Culture & Protecting Hookah Tradition across the USA

A ban on hookah would not only eliminate this important cultural practice for many U.S. citizens, but could also shutter many small, independent, and minority owned businesses. Many of these businesses serve as community gathering places for immigrant populations in cities across the country. Many hookah users are part of religious or ethnic populations that already face discrimination. Eliminating this cultural practice would make many feel as though they are misunderstood and targeted as an outsider by lawmakers and regulators.

We ask that you do not vote to shutter minority and immigrant owned business. Please include an exemption for hookah in Order 138-21/22.

Sincerely,

National Hookah Community Association

A Flavored Tobacco Ban is Bad Policy -- Please Oppose

Public Comment inbox



donald lingar <90776439ers@gmail.com>

to publiccomment

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase the cost of these products.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

donald lingar

214 Gold Ave

Kellogg, ID 83837-2625

From: Jonathan Shaer - NECSEMA <jon@necsema.net>
Date: Tuesday, January 11, 2022 at 1:26 PM
To: "council@portlandmaine.gov" <council@portlandmaine.gov>
Subject: debunking study findings

Councilors-

I'd like to bring to your attention concerns I have with a recent American Cancer Society press release titled, *American Cancer Society Releases Findings on Association of Cigarette Sales with Comprehensive Menthol Flavor Ban in Massachusetts* (link: <http://pressroom.cancer.org/menthol>). The study ignores the significant migration of product sales to NH and RI, and is selective in comparison states while making claims of the ban's successful impact. I fear that without the proper context and complete picture, the findings are quite misleading.

The release claims:

- Sales of all cigarettes in Massachusetts declined by up to 33% after the state instituted a ban on menthol-flavored cigarettes.
- The Massachusetts ban led to a roughly 300% drop in sales of packs of menthol-flavored cigarettes in the state by July of last year.
- Over the same period, cigarette sales in 33 states that did not institute a menthol flavor ban fell by 8%, while sales of menthol-flavored cigarettes declined by 3%.
- "We learn from Massachusetts that a menthol flavor ban effectively reduces both menthol and overall cigarette sales," study co-author Samuel Asare told UPI in an email.

On its face, you might say... wow, it works. But with only a little effort, you can see how this study is bunk. Attached is a press release we felt compelled to issue in response but following are some reasons why the findings should be dismissed.

The report declares sales of menthol cigarettes in MA dropped. Of course, sales fall when you ban 1/3 of in-state volume. But it completely ignores the fact that almost all the sales migrated to NH and RI as publicly available excise tax data demonstrates. Furthermore, NielsenIQ sales data is not a reliable source for this information, and it is compared to only 27 other states rather than 49 + DC. Why? Do the other 33 states not support their findings? Does Nielsen not have data there? Some other reason?

ACS and other will likely prop this up as "proof". But I hope you will dismiss it or, at the very least, ask ACS how the study accounts for a nearly 90% increase in NH/RI sales and 33 states not used in the study?

Respectfully,

Jon

Jonathan Shaer, Executive Director

New England Convenience Store & Energy Marketers Association, Inc. (NECSEMA)

1044 Central Street, Suite 203, Stoughton, MA 02072

Mobile: [774-406-1997](tel:774-406-1997) | Office: [781-297-9600](tel:781-297-9600) ext. 3 | Fax: [781-297-9601](tel:781-297-9601)

jon@necsema.net | www.necsema.net | [Join NECSEMA](#)

FOR IMMEDIATE RELEASE

January 6, 2022



Media contact:

Dave Wedge

617-799-0537

davidmwedge@gmail.com

THE AMERICAN CANCER SOCIETY (ACS) PUBLISHES MISLEADING REPORT

Engineered ACS findings ignore tax stamp sales data, which irrefutably demonstrate most menthol cigarette sales migrated to bordering states, to claim that the Massachusetts menthol ban led to a reduction in cigarette sales

STOUGHTON, Mass. (January 6, 2022) – The American Cancer Society (ACS) promoted findings yesterday in The Journal of the American Medical Association that Massachusetts’ ban on menthol cigarettes led to a sharp decline in cigarette sales in the Commonwealth, implying decreased in-state sales are equivalent to a decline in Massachusetts cigarette smoking rates. The findings, as asserted by ACS, completely ignore that an overwhelming majority of menthol cigarette sales immediately migrated to Rhode Island and New Hampshire where Massachusetts consumers made their purchases following implementation of the ban.

The New England Convenience Store and Energy Marketers Association (NECSEMA) previously published data unequivocally demonstrating the migration of sales from Massachusetts to surrounding New England states utilizing publicly available and easily verifiable state Department of Revenue tax stamp data. This data undermines the recent ACS report which attempts to paint a failed public health experiment as a success.

Since the implementation of the Massachusetts menthol ban, NECSEMA regularly released tax stamp data during the first year of the ban that demonstrated an overwhelming increase in the volume of menthol cigarette sales in Rhode Island and New Hampshire: Here are the facts:

- In the twelve months following the ban, menthol cigarettes sales skyrocketed by over 126% on average in the Rhode Island and New Hampshire counties bordering Massachusetts. These six counties saw an increase of over 23 million packs of menthol cigarettes.
- Statewide, Rhode Island saw an increase of over 43% in menthol cigarette sales and New Hampshire’s statewide increase was over 79%.
- Total cigarette tax stamp sales fell in Massachusetts by nearly 24%, during the same time period, and total cigarette tax stamp sales increased by over 22% in New Hampshire and 18% in Rhode Island.

To mislead the public about tobacco policy, especially in The Journal of the American Medical Association, does a grave disservice to public health and the credibility of the ACS.

“The report published by the ACS is absurd. It is not surprising that in-state menthol cigarette sales declined when the state banned the legal sale of those products. However, to promote misleading findings by omitting significant facts is both irresponsible and dangerous as other states and some cities consider a similar policy. Moreover, it undermines the Food and Drug Administration’s substantial investments in evidence-based research to determine the appropriate path forward for certain nicotine and tobacco products,” said Jonathan Shaer, Executive Director of the New England Convenience Store & Energy Marketers Association. “When organizations release findings about public policies that purport to provide improvements to public health while ignoring widely available government data, it undermines public trust and ignores the public health potential for evidence-based tobacco and nicotine policies that will actually improve health outcomes.”

To speak with Jonathan Shaer, please contact Dave Wedge at davidmwedge@gmail.com or 617-799-0537.

###

From: Jonathan Shaer - NECSEMA <jon@necsema.net>
Date: Friday, January 7, 2022 at 10:54 AM
To: "council@portlandmaine.gov" <council@portlandmaine.gov>
Subject: my editorial

Good morning, Councilors. Back in May, I penned an editorial that was picked up the Maine Wire about LD 1550 – a state bill that sought to ban flavored tobacco. As I've explained before, the bill came out of committee with a split report: one in support of a complete flavored tobacco ban, the other a flavored vape-only ban with a pmtpa/mrtp exemption. The sponsors chose to carry the bill into the 2022 session recognizing their preferred version was unlikely to pass.

The editorial is an easy-to-read summary of the process and issue, in general.

<https://www.themainewire.com/2021/05/debunking-the-myths-of-maines-proposed-flavored-tobacco-ban/>

Respectfully,

Jon

Jonathan Shaer, Executive Director

New England Convenience Store & Energy Marketers Association, Inc. (NECSEMA)

1044 Central Street, Suite 203, Stoughton, MA 02072

Mobile: [774-406-1997](tel:774-406-1997) | Office: [781-297-9600](tel:781-297-9600) ext. 3 | Fax: [781-297-9601](tel:781-297-9601)

jon@necsema.net | www.necsema.net | [Join NECSEMA](#)

From: Jonathan Shaer - NECSEMA <jon@necsema.net>
Date: Wednesday, January 5, 2022 at 2:35 PM
To: "council@portlandmaine.gov" <council@portlandmaine.gov>
Subject: Explaining LD1550

Councilors-

Happy new year. I hope you've found the information I have been sending to be helpful for your understanding of the proposal to ban flavored tobacco. Following is more information very relevant to your personal contemplations.

Allow me to explain what happened with LD1550, the flavored tobacco ban bill debated in the Maine state legislature last session, and why it never came up for a vote. I believe this is very important to understand if you hope a Portland ban will lead to a state ban.

Last session, three tobacco related bills were proposed: [LD1550](#) which sought to ban the sale of flavored tobacco, [LD1423](#) which sought to increase the excise tax on a pack of cigarettes from \$2 to \$4 per pack and double the excise tax on all Other Tobacco Products (OTP), and LD1693 which was both a flavor ban and a tax increase – this last bill never saw the light of day. Another tobacco-related proposal that didn't get any traction was the Governor's *Part 2 Budget* which was a flavored tobacco ban with a \$32 million draw on the federal stimulus money the state had received.

LD1550 was voted out of committee as a *divided report* with the Majority Report supporting a full ban while the Minority Report would have only banned flavored vape products that did not receive a PMTA approval. As the weeks passed and legislators learned about the issue, the FDA's PMTA process, and the enormous difference between the fiscal note of LD1550 (\$32 million in first year) vs. Minority Report (\$2.1 million in first year) the Minority Report gained a lot of support. Then, in mid-June, LD1423 came up for a vote and failed 67-73. At this point, it was clear LD1550 was unlikely to pass so the sponsors opted to carry it over to 2022. If any confidence existed that LD1550 would pass then it would have been called for a vote. But that never happened.

I strongly believe LD1550 has even less of a chance in 2022 because so much has happened: Youth vape rates have fallen 60%, the FDA is removing almost every flavored vape product from the market via their PMTA process, the USPS is no longer shipping e-cigarettes and, perhaps most notably, there is a full year of data demonstrating how the ban in Massachusetts has been an abject failure. None of which existed in 2021 which is why we believe LD1550 stands less a chance next year than it did last year. So, supporting a local ban will very likely mean putting Portland on an island.

Respectfully,

Jon

Jonathan Shaer, Executive Director

New England Convenience Store & Energy Marketers Association, Inc. (NECSEMA)

1044 Central Street, Suite 203, Stoughton, MA 02072

Mobile: [774-406-1997](tel:774-406-1997) | Office: [781-297-9600](tel:781-297-9600) ext. 3 | Fax: [781-297-9601](tel:781-297-9601)

jon@necsema.net | www.necsema.net | [Join NECSEMA](#)

From: Jonathan Shaer - NECSEMA <jon@necsema.net>
Date: Monday, December 20, 2021 at 9:33 AM
To: "council@portlandmaine.gov" <council@portlandmaine.gov>
Subject: NIH Study

Councilors-

The *Monitoring the Future* (MTF) survey released its 2021 results the week before last. The MTF is funded by the National Institute of Health and conducted by the University of Michigan, and measures drug and alcohol use and related attitudes among adolescent students nationwide.

The results are significant as it relates to your consideration of a ban on the sale of all flavored nicotine products in Portland.

Vaping continues to be the predominant method of nicotine consumption among young people, though the percentage of students who reported vaping nicotine within the past year decreased significantly for eighth, 10th, and 12th grade students.

- **8th graders:** 12.1% reported vaping nicotine in the past year in 2021, compared to 16.6% in 2020
- **10th graders:** 19.5% reported vaping nicotine in the past year in 2021, compared to 30.7% in 2020
- **12th graders:** 26.6% reported vaping nicotine in the past year in 2021, compared to 34.5% in 2020

*These percentages are for use at any point during the prior 12 months, whereas the National Youth Tobacco Survey (NYTS) is any use over the past 30th days. We prefer the NYTS numbers, but both are showing significant reductions in underage use.

The first sentence corroborates what we've been saying all along that it is vaping, not all the other traditional tobacco products, that attract youth. Yet, the ban you are considering bans everything. Also, worth noting is that 12th graders are drinking (46.5) and using marijuana (30.5%) at greater rates than 12th graders are vaping nicotine. Yet, we continue to demonize one product over others.

<https://www.nih.gov/news-events/news-releases/percentage-adolescents-reporting-drug-use-decreased-significantly-2021-covid-19-pandemic-endured>

I hope you all have a wonderful holiday season, and I look forward to connecting in 2022 on this important issue and any others that cause our paths to cross.

Respectfully,

Jon

Jonathan Shaer, Executive Director

New England Convenience Store & Energy Marketers Association, Inc. (NECSEMA)

1044 Central Street, Suite 203, Stoughton, MA 02072

Mobile: [774-406-1997](tel:774-406-1997) | Office: [781-297-9600](tel:781-297-9600) ext. 3 | Fax: [781-297-9601](tel:781-297-9601)

jon@necsema.net | www.necsema.net | [Join NECSEMA](#)

From: Jonathan Shaer - NECSEMA <jon@necsema.net>
Date: Tuesday, December 14, 2021 at 9:05 AM
To: "council@portlandmaine.gov" <council@portlandmaine.gov>
Subject: Denver veto

Councilors-

Last week, the Mayor of Denver, CO vetoed an ordinance passed by the city council to ban the sale of flavored tobacco. The council vote was not unanimous, and the ordinance was a bit different from the one Portland is considering. I wish to draw your attention to the letter Mayor Hancock sent to the city council explaining his reasoning. I believe you'll recognize some of the themes.

<https://www.denvergov.org/files/assets/public/mayor/documents/2021-12-10-mayor-hancock-letter-to-city-council-cb21-1182.pdf>

As I've said time and again, this is truly an issue that belongs with the Maine state legislature. I recognize you don't wish to harm your local retailers nor treat your legal-aged adults unfairly, but if Portland passes the ban and the state legislature does not then that is exactly what would occur.

Respectfully,

Jon

Jonathan Shaer, Executive Director

New England Convenience Store & Energy Marketers Association, Inc. (NECSEMA)

1044 Central Street, Suite 203, Stoughton, MA 02072

Mobile: [774-406-1997](tel:774-406-1997) | Office: [781-297-9600](tel:781-297-9600) ext. 3 | Fax: [781-297-9601](tel:781-297-9601)

jon@necsema.net | www.necsema.net | [Join NECSEMA](#)

From: Jonathan Shaer - NECSEMA <jon@necsema.net>
Date: Friday, December 10, 2021 at 7:56 AM
To: "council@portlandmaine.gov" <council@portlandmaine.gov>
Subject: 2 important points

Councilors-

There are a couple issues that I fear are misunderstood and/or under-appreciated. The first is the importance of the FDA's PMTA process. It cannot be overstated how important it is for you to completely understand the process and the end result. The second is which products the ban would actually outlaw – spoiler alert: it's a lot more than just vape. Please take 5 minutes and read below and attached.

Pre-Market Tobacco Application Process (PMTA)

Attached is a letter I asked Attorney Jonathan Havens write to the Portland City Council. It is succinct and provides insight into this rigorous FDA process. I include this because it is a terrific summary of the FDA's PMTA process from an attorney who is a former regulatory counsel with the FDA and counsels his clients on regulatory, compliance, and enforcement matters related to products regulated by the FDA, FTC and CPSC.

By law, every nicotine product marketed after February 15, 2007 must receive an order from the FDA permitting the ongoing marketing of the product. The order is called a PMTA authorization. For the FDA to issue a PMTA marketing order, the agency must determine that the manufacturer has demonstrated that marketing of the new tobacco product would be appropriate for the protection of the public health.

The FDA's deadline was September 20, 2021. The FDA still has some products it needs to evaluate, but only a handful will be issued PMTA orders effectively decimating the category. In other words, the days of thousands of flavors and devices are over. Anyone using the term *unicorn tears* from this point forward is either uninformed or trying to pray on past emotions.

Products

Attached is a flavored products inventory report that Chris from Cigaret Shopper has provided. Almost every product in the "Vape and Vape Devices" category will be pulled from shelves in just a matter of time once the FDA releases its list of unauthorized products. Every other product on the list is a *traditional tobacco* product. Per CDC data, these traditional products have low single digit youth user appeal. They are adult products. **Every product on this entire spreadsheet would be banned** if the ordinance passes. Maine's flavored tobacco profile happens to be quite large: Menthol cigarettes account for about 18% of state cigarette volume, about 89% of Maine's snuff volume is flavored, 71% of Maine's e-cigarette volume is flavored product and 60% of Maine's cigar volume is flavored.

Best,

Jon

Jonathan Shaer, Executive Director

New England Convenience Store & Energy Marketers Association, Inc. (NECSEMA)

1044 Central Street, Suite 203, Stoughton, MA 02072

Mobile: [774-406-1997](tel:774-406-1997) | Office: [781-297-9600](tel:781-297-9600) ext. 3 | Fax: [781-297-9601](tel:781-297-9601)

jon@necsema.net | www.necsema.net | [Join NECSEMA](#)

From: Jonathan Shaer - NECSEMA <jon@necsema.net>
Date: Tuesday, November 9, 2021 at 6:21 AM
To: Belinda Ray <bsr@portlandmaine.gov>, Tae Chong - City number <tchong@portlandmaine.gov>, "mdion@portlandmaine.gov" <mdion@portlandmaine.gov>
Cc: "council@portlandmaine.gov" <council@portlandmaine.gov>
Subject: flavored tobacco ban comments

Pease accept these written comments to complement the verbal testimony I plan to give this evening. Once again, thank you for opening this hearing for additional public comment on the proposed flavored tobacco ban.

Jon

Jonathan Shaer, Executive Director

New England Convenience Store & Energy Marketers Association, Inc. (NECSEMA)

1044 Central Street, Suite 203, Stoughton, MA 02072

Mobile: [774-406-1997](tel:774-406-1997) | Office: [781-297-9600](tel:781-297-9600) ext. 3 | Fax: [781-297-9601](tel:781-297-9601)

jon@necsema.net | www.necsema.net | [Join NECSEMA](#)



November 9, 2021

Portland City Council
Health and Human Services & Public Safety Committee
Portland City Hall
389 Congress St.
Portland, ME 04101

Chairman Chong, Councilmember Ray and Councilmember Dion,

Thank you for accepting additional public testimony at your hearing this evening. This is a very important issue to 50 businesses in your city, its 38 convenience stores and a significant number of adults evidenced by the volume of flavored tobacco these stores sell. Allowing additional testimony is particularly important considering the number of inaccuracies and biased information presented to your committee by the local tobacco control coordinator at the last hearing (i.e. the number of states with a ban is one, not five as you were told).

I will not waste your time defending flavored tobacco, and I hope you will not succumb to tactics which attempt to demonize the companies that manufacture and sell them. Those schemes are irrelevant and only serve as smoke and mirrors to the real questions: What is the purpose of a local ban, and will a local ban be effective?

If the purpose is to prevent youth from initiating nicotine use, then a local ban will be ineffective because you have not closed access of the products to minors, Portland retailers have a 97% FDA-verified compliance rate and the only products youth are statistically using, electronic nicotine delivery systems (ENDS), have all effectively been banned by the FDA via their Pre-Market Tobacco Application (PMTA) process.

If the purpose is to send a signal to the state legislature that Portland is in favor of a statewide ban, then a local ban will be equally ineffective since the state will likely take a more measured approach as it was prepared to last session (even before the PMTA process began) and only leave Portland businesses disadvantaged adults inconvenienced by its more sweeping ban.

Everyone claims this policy is intended to protect youth. If that is the case, then there is no empirical or statistical reason why menthol cigarettes, wintergreen smokeless and the varieties of pipe tobacco should be banned. The only product shown to demonstrate any modern-day youth appeal is ENDS (aka vape). The statistics are clear and come right from the CDC's National Youth Tobacco Survey¹ which shows that in 2020 high school-aged use for ENDS was 19.6% (down from 27.5% in 2019), cigarettes use at 4.6% (down 15.8% since 2011), smokeless use at 3.1% (down 7.9% since 2011) and cigar use at 5% (down 11.6% since 2011). In fact, the 2021 early data shows ENDS use has fallen again

¹ CDC Tobacco Data Statistics *Estimates of Current Tobacco Use Among Youth*
https://www.cdc.gov/tobacco/data_statistics/fact_sheets/youth_data/tobacco_use/index.htm

1044 Central Street, Suite 203
Stoughton, MA 02072
(781) 297 – 9600

to 11.3% - a 60% drop in two years. As you can see, there are stark difference in the various products' youth appeal rates.

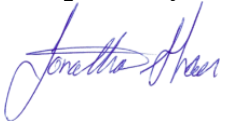
The Maine state legislature took the time to understand these facts and didn't allow emotion to dictate their decision on LD 1550. Had the bill not been pulled by the sponsors, the legislature \ likely would have passed an alternative that only banned flavored ENDS and included an PMTA authorized products exemption.

Understanding PMTA is absolutely critical as you consider this proposed ban. By September 2020, every ENDS product had to submit an application to the FDA to remain on the market. Since then, the FDA has acted on nearly 7,000,000 flavored ENDS/vapor applications and granted only 22 authorizations. The only products that will remain available are those the FDA has determined are "appropriate for the protection of public health". This is a science-based process, not an emotional one, and I would hope Portland would want these products available to legal adults if they FDA authorizes them. I was shocked your local tobacco control coordinator did not include any mention of this process in her presentation.

A local ban will not stop youth who are already knowingly breaking the law and it will not hurt the tobacco manufacturers since their products will continue to be sold, just not in Portland. Look no further than Massachusetts which saw virtually all the products come back into the state via New Hampshire and Rhode Island, coupled with a migration to traditional tobacco and vape. It will only hurt your local retailers. These local retailers are the only face to face gatekeepers for age-restricted tobacco and have a 97% compliance rate. Out of the 169 inspections since 2018 there have only been 5 violations. They are doing their job!

I implore you to oppose this proposed by-law. It is misguided as a targeted approach to reduce youth nicotine access and initiation, it ignores the science-based work of the FDA, it overreaches to impact Portland's adults, and will do nothing to reduce use or access while only serving to damage legal, licensed, tax-paying businesses in your city and the jobs those businesses provide and the families those jobs provide for.

Respectfully submitted,



Jonathan Shaer
Executive Director
Jon@necsema.net
781-297-9600 x3

1044 Central Street, Suite 203
Stoughton, MA 02072
(781) 297 – 9600

Letter to the Council 0 views



Dee Kerry <dee.kerry@maineaap.org>
to publiccomment@portlandmaine.gov

Jan 27, 2022, 1:55:47 PM (6 days ago)

Please accept the attached letter from the Maine Chapter of the American Academy of Pediatrics.

Regards,
Dee

--

Dee A. Kerry, Executive Director
she/her ([Why pronouns matter](#))

American Academy of Pediatrics, Maine Chapter
'Maine AAP'
Physical Address: 30 Association Drive
Mailing Address: PO Box 190
Manchester, ME 04351
cell: [207-620-0806](tel:207-620-0806)
MMA: [207-622-3374](tel:207-622-3374) - fax: [207-622-3332](tel:207-622-3332)

Join us on Social Media: <https://linktr.ee/maineaap>

Maine Chapter

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American Academy of Pediatrics

DEDICATED TO THE HEALTH OF ALL CHILDREN®



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Dee Kerry, BS Ed
Executive Director
30 Association Drive, Box 190
Manchester, ME 04351

office: 207-480-4185

<http://www.maineaap.org>

January 27, 2022

Distinguished members of the Portland City Council, I am writing today on behalf of the Executive Leadership of the Maine Chapter of the American Academy of Pediatrics.

The tobacco industry has a long tradition of marketing tobacco products that appeal to new users and young people. In recent years, they have introduced and marketed flavored tobacco products including e-cigarettes, cigars, smokeless tobacco and hookahs. With their colorful packaging and appealing sweet flavors, today's flavored tobacco products resemble popular candy brands and are marketed directly to youth. These products are often placed near candy displays in retail stores. There are now over 15,000 flavored tobacco products on the market.

Flavored tobacco products undermine Maine's efforts to reduce youth tobacco use. E-cigarettes are not an FDA-approved cessation method and are an enticement for youth who may not otherwise have started smoking a traditional tobacco product. For individuals looking for support to quit smoking, vaping, or other tobacco use, there are many products to help and resources such as the Maine QuitLink at 1-800-QUIT-NOW which provides free support and coaching and is evidenced-based and very effective.

We know from the Maine Integrated Youth Health Survey that one in four Maine high school students now uses e-cigarettes – a rate that has nearly doubled in the past two years. The adolescent brain is very vulnerable and susceptible to nicotine dependence and addiction very quickly. The danger to a child's developing lungs is also significant. These products, delivering flavored nicotine and aerosol mist, contain at least 6 types of toxic chemicals including nicotine, benzene, carbonyls, particulates, and trace metals, to name a few. These chemicals cause the lungs to become inflamed and can trigger or worsen conditions such as asthma and weaken the lung's ability to heal from conditions such as bronchitis and pneumonia. Over time, using these products can lead to more serious illness such as emphysema or cancer of the mouth, esophagus, and lungs.

As physician's serving children and families in Maine, we are extremely concerned with the growing rate of addiction among youth and young adults. We are strongly in favor of policies to end the sale of flavored tobacco products and encourage you to take the bold step to pass the city-wide ordinance to eliminate the sale of these products which threaten the health and well-being of Maine's children and young adults.

Respectfully submitted,

Dee Kerry
Executive Director

Proposed Flavor Tobacco Ban 0 views



Gus Lipin <guslipin@gmail.com>
to publicComment@portlandmaine.gov

Jan 19, 2022, 6:50:53 PM (13 days ago)

Dear Councilors,

I own the 1041 Brighton Ave Shopping Plaza and write you today regarding the proposed flavor tobacco ban being discussed.

Portland Smoke and Vape has been a tenant in the Plaza since 2017 and has been a great addition to our location. They draw a significant amount of traffic into the plaza and we hope to keep them as a tenant. They have been great tenants to work with and look out for the best interests of my property which I value as their landlord.

This ordinance not only impacts the businesses it targets by limiting their products and overall revenue, but also impacts business owners that lease out their locations to businesses should the business close or move locations due to a local ordinance. This ordinance fails to accomplish the goals it sets out to accomplish as these customers can travel or walk a short distance to a surrounding town/city and purchase these products. This ordinance also puts unnecessary strain on local business owners and their staff after such a turbulent couple years we've had with Covid. I see this ordinance as the City being unfriendly to its local businesses. We should be supporting our local businesses and finding better solutions with them to a problem rather than an outright ban on a product that has helped many people get off something so harmful as cigarettes.

I hope that you take these comments into consideration when you're working through your decision and I urge you to oppose this ordinance.

Thank you,
Gus Lipin
The All American Family LLC

End the sale of flavored tobacco 0 views



Matt Wellington <mwell12358@gmail.com> Jan 26, 2022, 9:46:30 AM (7 days ago)
to City Officials

Dear City Officials,

Maine kids are using tobacco products at rates higher than the national average, and flavors are luring them into what often ends up being a lifetime addiction. There is an ordinance that you are currently considering that would ban the sale of flavored tobacco products in Portland, and I would like you to support the effort and vote yes on the proposal.

Driven by thousands of flavors from gummy worm and cotton candy to mint and mango, 2 million U.S. kids are vaping – including more than 1 in 4 Maine high school students, a rate that has nearly doubled in the past two years. An overwhelming majority of them say flavors are the reason why.

Meanwhile, menthol makes it easier to start smoking and harder to quit. In fact, half of youth smokers ages 12-17 use menthol cigarettes. And due to targeted tobacco industry marketing, 85% of Black smokers use menthols.

Cities have long been leaders in efforts to reduce tobacco use in Maine and in other states across the country. Bangor just passed an ordinance to end the sale of all flavored tobacco products. Portland should join them and set an example for the state to follow.

Every day that flavored tobacco products are on the market, our kids are at risk. Let's put their health above Big Tobacco's profits. Please do everything you can to end the sale of ALL flavored tobacco products in our city without delay and vote yes on the proposed ordinance that would put Portland's kids first.

Sincerely,
Matt Wellington
14 Monument St.
Portland, ME 04101



Julia Panepinto <juliapanepinto@gmail.com> Jan 26, 2022, 9:53:00 AM (7 days ago)
to City Officials

Dear City Officials,

Maine kids are using tobacco products at rates higher than the national average, and flavors are luring them into what often ends up being a lifetime addiction. There is an ordinance that you are currently considering that would ban the sale of flavored tobacco products in Portland, and I would like you to support the effort and vote yes on the proposal.

I have seen too many friends and family's fall victim to nicotine addictions to their introduction with flavored products. We have to get rid of this option that draws SO MANY new smokers in!

Driven by thousands of flavors from gummy worm and cotton candy to mint and mango, 2 million U.S. kids are vaping – including more than 1 in 4 Maine high school students, a rate that has nearly doubled in the past two years. An overwhelming majority of them say flavors are the reason why.

Meanwhile, menthol makes it easier to start smoking and harder to quit. In fact, half of youth smokers ages 12-17 use menthol cigarettes. And due to targeted tobacco industry marketing, 85% of Black smokers use menthols.

Cities have long been leaders in efforts to reduce tobacco use in Maine and in other states across the country. Bangor just passed an ordinance to end the sale of all flavored tobacco products. Portland should join them and set an example for the state to follow.

Every day that flavored tobacco products are on the market, our kids are at risk. Let's put their health above Big Tobacco's profits. Please do everything you can to end the sale of ALL flavored tobacco products in our city without delay and vote yes on the proposed ordinance that would put Portland's kids first.

Sincerely,
Julia Panepinto
87 Sherwood St.
Portland, ME 04103



BJ McCollister <bjmccollister@gmail.com> Jan 26, 2022, 10:19:48 AM (7 days ago)
to City Officials

Dear City Officials,

Maine kids are using tobacco products at rates higher than the national average, and flavors are luring them into what often ends up being a lifetime addiction. There is an ordinance that you are currently considering that would ban the sale of flavored tobacco products in Portland, and I would like you to support the effort and vote yes on the proposal.

Driven by thousands of flavors from gummy worm and cotton candy to mint and mango, 2 million U.S. kids are vaping – including more than 1 in 4 Maine high school students, a rate that has nearly doubled in the past two years. An overwhelming majority of them say flavors are the reason why.

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Every day that flavored tobacco products are on the market, our kids are at risk. Let's put their health above Big Tobacco's profits. Please do everything you can to end the sale of ALL flavored tobacco products in our city without delay and vote yes on the proposed ordinance that would put Portland's kids first.

Sincerely,
BJ McCollister
61 Rosemont Ave
Portland, ME 04103



Julia Panepinto <juliapanepinto@gmail.com> 9:51 AM (7 hours ago)
to City Officials

Dear City Officials,

Maine kids are using tobacco products at rates higher than the national average, and flavors are luring them into what often ends up being a lifetime addiction. There is an ordinance that you are currently considering that would ban the sale of flavored tobacco products in Portland, and I would like you to support the effort and vote yes on the proposal.

Driven by thousands of flavors from gummy worm and cotton candy to mint and mango, 2 million U.S. kids are vaping – including more than 1 in 4 Maine high school students, a rate that has nearly doubled in the past two years. An overwhelming majority of them say flavors are the reason why.

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Every day that flavored tobacco products are on the market, our kids are at risk. Let's put their health above Big Tobacco's profits. Please do everything you can to end the sale of ALL flavored tobacco products in our city without delay and vote yes on the proposed ordinance that would put Portland's kids first.

Sincerely,
Julia Panepinto
87 Sherwood St
Portland, ME 04103

Tobacco Flavor Ban 138-2122 0 views



ahsanrana88 <ahsanrana88@yahoo.com>
to publiccomment@portlandmaine.gov

1:09 PM (4 hours ago)

City Council,

It's my understanding that the Portland City Council is proposing a ban on menthol cigarettes, flavored dip and flavored cigars for adults 21 and older. As a retailer that owns a business in Portland, I'm extremely disappointed that you will stop me from selling an adult product to my customers. If you pass this, my customers will simply drive to Westbrook less than 1 mile away to obtain their adult product of their choice. Furthermore, you will depreciate the value of my business.

To me, this is common sense. Prohibition doesn't work. Please vote no on the flavor ban.

Thank you,

Ahsan Ashraf

3 D's Variety

Brighton Ave, Portland

Sent from my Verizon, Samsung Galaxy smartphone



M Adnan <adnan_akhtar2911@yahoo.com>
to publiccomment@portlandmaine.gov

1:17 PM (3 hours ago)

City Council,

It's my understanding that the Portland City Council is proposing a ban on menthol cigarettes, flavored dip and flavored cigars for adults 21 and older. As a retailer that owns a business in Portland, I'm extremely disappointed that you will stop me from selling an adult product to my customers. If you pass this, my customers will simply drive to Westbrook less than 1 mile away to obtain their adult product of their choice. Furthermore, you will depreciate the value of my business.

To me, this is common sense. Prohibition doesn't work. Please vote no on the flavor ban.

Thank you,

Muhammad Akhtar

3 D's Variety

Brighton Ave, Portland

Sent from my iPhone

Reply all

Reply to author

Forward

Kevin McBride <bookgod2@gmail.com>
to publiccomment@portlandmaine.gov

Jan 19, 2022, 1:25:23 PM

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Kevin McBride
231 New Gorham Rd
Westbrook, ME 04092-2138



Chynna Blaney <clm61416@gmail.com>
to publiccomment@portlandmaine.gov

Jan 20, 2022, 9:20:13 AM (13 days ago)

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Chynna Blaney
1230 Congress St
Portland, ME 04102-2129



James Verville <jverville@live.com>
to publiccomment@portlandmaine.gov

Jan 27, 2022, 8:11:01 AM (6 days ago)

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

James Verville
358 Schellinger Rd
Poland, ME 04274-6128



Lillian Hurst <lillihurst@gmail.com>
to publiccomment@portlandmaine.gov

Jan 28, 2022, 3:09:18 AM (5 days ago)

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,
Lillian Hurst
1901 Union St
Apt 225
Lafayette, IN 47904-2681



Samantha Hester <owenssamantha97@gmail....> Jan 30, 2022, 1:05:56 PM (3 days ago)
to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,
Samantha Hester
217 Beaverdale Rd NE
Dalton, GA 30721-8014



Jason Tschamler <xdurablemammalx@gmail.c...> Feb 1, 2022, 9:22:04 AM (yesterday)
to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Jason Tschamler
25 Colonial Rd
Portland, ME 04102-2009



Karysajeen Matson <mommyoftobabies2019@icloud.com> 2:20 PM (2 hours ago)
to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living-- instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Karysajean Matson
164 Washburn Ave
Apt 3
Portland, ME 04102-2826



PEACEFOODMARKET <peacefoodmarket@gmail.com>
to publiccomment

10:04 AM (1 hour ago)

Abdulkadir mohamed
peace food market chestnut street
Dear Portland City Council,

I am a first generation immigrant that has come to America and came to this country to start a better life for my family. I have worked very hard to build my business to where it is today. Between my own two children that remain in Africa combined with my daughters 4 children of her own, the success of my business is vital to my family's survival. I am worried that the Portland City council is considering an ordinance to ban all flavored tobacco products as it is a large part of the sales in my store. I do not sell alcohol or tobacco products to anyone under 21.

I listened to the workshop on Wednesday night, and it was said that underage get their flavored tobacco products from their friends. But they will be able to get these same products in the towns next to Portland. I do not think this law solves for the issue you are stating and only hurts the retailers in Portland.

I have friends in Massachusetts that own stores and they banned all flavors a few years ago. All of their business went to New Hampshire. People here only have to drive to South Portland or Westbrook. What does that accomplish?

Please do not pass this ban. You will hurt local businesses and you will crush my American dream.

Thank you for your time.

**'ahsanrana88' via Public Comment**

to publiccomment

12:16 PM (2 hours ago)

Portland City Council,

My name is Muhammad Ashraf, I writing to you as a resident of Portland and small business operator of Three D's Variety on Brighton Ave. I am disappointed to hear that the City of Portland is considering a ban on menthol cigarettes, flavored dip, and flavored cigars. I urge you to oppose this measure.

With only two employees available to run our store, we have been working tirelessly to keep our doors open and stocked with the essential items our customers need. This is not the right time to pass this type of legislation and now more than ever we need your help to remain open and help small businesses like ours to get back on their feet. My hope is that city council members focus on more important things during an economic crisis than compounding the economic hardship convenience store operators like myself are currently facing.

My family has owned multiple convenience stores between Maine and New Hampshire, and I know that all the business we lose will move right to Westbrook or South Portland. I know the business is simply going to move over the city border.

My family in MA who own small businesses like mine have been trying to sell their stores because they cannot make ends meet any longer. Unfortunately, due to the legislation passed in MA, they cannot find anyone to buy the store. This leaves my family members in even deeper financial hardship. Please do not put me in the difficult situation I have watched my family go through.

This proposal will do irreversible harm to Portland's small businesses at a time when they are most vulnerable. It would jeopardize a significant portion of my revenue and quite frankly, could force my business to close its doors. A ban on these products would put hundreds of Portland jobs at risk. Menthol cigarettes account for nearly 18% of all cigarette sales in Maine. For moist smokeless tobacco, flavored products are nearly 87% of sales in our state. Now more than ever, I'm looking to our lawmakers to make the right decisions to help small businesses get back on their feet. We pay taxes, create jobs, and support the local economy. This ban would not only hurt our business, but it could also have devastating effects in our community. We are an essential business and have played an important role in taking care of our community.

The ban on all flavored tobacco products, including menthol cigarettes, makes no sense. It will multiply the existing illegal market in Portland, reward criminal smugglers, and cost Portland businesses, workers, and taxpayers thousands of dollars.

I urge you to vote against this flavor ban.

Thank you for your consideration,

Ahsan Ashraf

Three D's Variety



charya mean <charya.mean@gmail.com>
to publiccomment

11:34 AM (15 minutes ago)

Charya Mean
Sokreth Yean
Riverton Gas & Convenience – Forest Ave

Portland City Council,

Thank you for taking the time to read my letter. I am writing to you today in hopes that we will not make the mistake that the entire state of Massachusetts has made. As you know, they were the first state to pass this legislation in the country, back in 2019. In 2021, Massachusetts already introduced legislation to repeal that decision. Why? All this decision did was set back MA financially, and pushed millions of dollars in tax revenue to neighboring states. One speaker from Wednesday's meeting mentioned that flavored cigarettes were banned in 2009, except menthol, and underage use declined year over year. So, why are you trying to ban menthol cigarettes if the data is showing positive each year? The underage issue at hand is e-cigarettes. Why not focus solely on flavored e-cigs and leaving cigarettes, dip and cigars – that have declined in underage use for years - alone? This is what Massachusetts is acting on. They realized that the issue at hand was about vape...not traditional tobacco. Massachusetts has proposed a bill that would repeal the decision on traditional tobacco, but allow vape products to remain off the market. We believe this is a proper compromise and could help with the safety of our children while keeping the businesses in Portland alive.

Lastly, when I listened to your workshop on Wednesday night there was one more concerning topic. It was said that underage get their flavored tobacco products from their friends. How will this change if it's only a five minute ride to South Portland or Westbrook? You're only hurting local businesses in your community that have been abiding the law. My store is on the Westbrook/Portland line and if this bill passes, it may cause catastrophic effects on my business that may make it close to impossible to remain open.

To me, this is common sense. Prohibition didn't work with alcohol and it won't work with tobacco. Please **vote no** on the flavor ban ordinance.

Thank you for your consideration.

Sincerely,

Charya and Sokreth



David Discatio <dmdiscatio@gmail.com>
to publiccomment@portlandmaine.gov

Thu, Feb 3, 5:31 PM (17 hours ago)

Portland City Council,

I am concerned to learn that the Portland City council is considering an ordinance to ban ALL flavored tobacco products that will not solve for the underage usage of e-cigarette use and will devalue many law abiding businesses in Portland.

I listened to your workshop on Wednesday night and was very concerned at what I heard. It was said that underage get their flavored tobacco products from their friends. How will this change if it's only a five minute ride to South Portland, Falmouth or Westbrook? You're only hurting local businesses in your community that have been abiding the law.

One speaker also said that flavored cigarettes were banned in 2009, except menthol and underage use declined year over year. So, why are you trying to ban menthol cigarettes if the data is showing positive each year? The underage issue at hand issue is e-cigarettes. Why not focus solely on flavored e-cigs and leaving cigarettes, dip and cigars – that have declined in underage use for years - alone?

It's also my understanding that Massachusetts who has a similar band on flavor tobacco products is in the works of trying to reverse the band because data has shown that state residents are going to their bordering states to buy these products, as well as other items – such as gas, clothing products, visiting restaurants, etc.

Many customers have already told me that they would have to leave to go to South Portland, Westbrook, Falmouth to buy these products as well other things.

Please support your local businesses and keep our Portland residents in Portland, as well as tourist for the upcoming tourist season.

To me, this is common sense. Prohibition didn't work with alcohol and it won't work with tobacco. Please **vote no** on the flavor ban ordinance.

Thank you for your consideration.
Sincerely,

David Discatio
Owner- Joe's Super Variety
665 Congress Street

**'Hilary Schneider' via Public Comment**

Thu, Feb 3, 5:30 PM (17 hours ago)

to publiccomment@portlandmaine.gov

Attached and pasted below, please find comments of the American Cancer Society Cancer Action Network in support of Order 138-21/22 Amendment to Portland City Code Chapter 17 Re: Sale of Flavored Tobacco Products Prohibited:

February 3, 2022

Dear Mayor Snyder and Honorable members of the Portland City Council:

My name is Hilary Schneider, and I am the Regional Director of Government Relations for Atlantic/Northeast States for the American Cancer Society Cancer Action Network (ACS CAN). In this role, I also serve as the Government Relations Director that oversees our advocacy efforts in Maine. ACS CAN is the nonprofit, nonpartisan advocacy affiliate of the American Cancer Society and supports evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem. As the nation's leading advocate for public policies that are helping to defeat cancer, ACS CAN ensures that cancer patients, survivors, and their families have a voice in public policy matters at all levels of government.

On behalf of ACS CAN, I urge your strong support of the proposed ordinance to end the sale of all flavored tobacco products in Portland, including menthol cigarettes.

Maine law currently prohibits the sale of flavored cigars, however, the way the law was written allows for some exemptions and has created some enforcement challenges. Current efforts to end the sale of all flavored tobacco products build on and account for lessons learned from more than a decade of experience with Maine's law, as well as laws and ordinances across the nation, a more substantial body of evidence, increased awareness of such evidence, and new products introduced since the time when Maine's existing law was passed and last amended.

Tobacco use remains the largest preventable cause of disease and premature death in the United States and Maine. According to the U.S. Surgeon General, smoking is a known cause of a dozen cancers: cancer of the oropharynx, larynx, lung/trachea/bronchus, esophagus, stomach, liver, pancreas, kidney, cervix, bladder, colon, and acute myeloid leukemia.^[i] In fact, smoking is responsible for an estimated 30 percent of cancer deaths in Maine – that was 1,016 cancer deaths in 2017.^[ii] Maine has the 6th highest rate of smoking-related cancer cases in the nation and the 11th highest rate of smoking-related cancer deaths.^[iii]

In Maine, nearly 1 in 6 adults smoke cigarettes, the highest rate in the Northeast.^[iv] In recent years, overall youth tobacco use in Maine has skyrocketed with 33% of high school students using some form of tobacco product in the last 30 days.^[v] More than one in 15 Maine high school students smoke cigarettes.^[vi] One in 13 male high school students, including more than 1 in 10 high school male seniors, smoke cigars in Maine.^[vii] One in 2 Maine high school students and 1 in 6 middle school students have used e-cigarettes.^[viii] Nearly 30 percent of high school students are current users of e-cigarettes, nearly doubling from 15% in 2017.^[ix]

Studies have found that e-cigarette use increases the risk of youth and young adults using cigarettes.^[x] The former head of the FDA during the Trump Administration, Scott Gottlieb, M.D. labeled the use of e-cigarettes by teenagers as an epidemic.^[xi] What is driving the massive surge in tobacco use among youth? Flavored tobacco. Fruit and candy flavored products like cotton candy, fruit punch, menthol and mint are driving Big Tobacco's comeback attempt.

Flavors are a marketing weapon used by tobacco manufacturers to target youth and young people to a lifetime of addiction. Altering tobacco product ingredients and design, like adding flavors, can improve the ease of use of a product by masking harsh effects, facilitating nicotine uptake, and increasing a product's overall appeal.^[xii] Candy, fruit, mint and menthol flavorings in tobacco products are a promotional tool to lure new, young users, and are aggressively marketed with creative campaigns by tobacco companies.^[xiii] Products with flavors like cherry, grape, cotton candy, and gummy bear are clearly not aimed at established, adult tobacco users and years of tobacco industry documents confirm the intended use of flavors to target youth.^[xiv] Furthermore, youth report flavors a leading reason they use tobacco products and perceive flavored products as less harmful.^{[xv], [xvi]}

Flavors in tobacco products are frequently listed as one of the top three reasons youth use e-cigarettes. ^[xvii], ^[xviii] Data from the 2016-2017 PATH study, the largest national longitudinal study looking at tobacco use and its effects, found that among teens who use e-cigarettes, 97 percent regularly used a flavored product. ^[xix] Also, among those teens who had ever tried an e-cigarette, 96 percent used a flavor product for the first time. Among all students who currently use e-cigarettes, 83% used flavored e-cigarettes, including 85% of high school users and 74% of middle school users. ^[xx] Kids whose first tobacco product was flavored are more likely to become current tobacco users than those whose first product was tobacco flavored. ^[xxi] Youth perceive fruit-flavored and menthol-flavored e-cigarettes as less harmful than tobacco-flavored e-cigarettes. ^[xxii] Among exclusive users of e-cigarettes, use of mint or menthol flavored e-cigarettes went up from 16 percent in 2016 to 57 percent in 2019, while candy-, dessert- and other sweet-flavors decreased. ^[xxiii] Among young adults who reported using e-cigarettes every or some days in 2013-2014, 92 percent used a flavored product. ^[xxiv]

Smokeless tobacco companies have a long history of using flavorings, such as mint, cherry, apple, and honey, and other product manipulation to gradually get new, young users addicted to “starter” products, keep them using, and shift them on to more potent smokeless tobacco products. In 2019, 48 percent of middle and high school students who used smokeless tobacco had used a flavored product in the last month. ^[xxv] According to another study, more than 70 percent of teens who had ever used smokeless tobacco used a flavored product the first time. ^[xxvi]

For waterpipe or hookah use, more than 31.2 percent of current middle and high school users used a flavored product in 2019. ^[xxvii] What's troubling, is that the flavorings used in waterpipe tobacco, the sweet aromas and use of water make users misperceive this practice as safer than cigarette smoking. ^[xxviii] In fact, hookah tobacco and smoke are as dangerous as cigarettes, and contain carcinogens and other substances that can cause cancer and other diseases. ^[xxix] An hour-long waterpipe or hookah session typically involves 200 puffs of smoke, whereas smoking a single cigarette typically involves 20 puffs of smoke. ^[xxx], ^[xxxi]

Long before cigarette companies started adding fruit, candy, and alcohol flavorings to cigarettes, they were manipulating levels of menthol to addict new, young smokers. Menthol acts to mask the harsh taste of tobacco with a minty flavor and by reducing irritation at the back of the throat with a cooling sensation. Additionally, menthol may enhance the delivery of nicotine. Knowing that youth who experience less negative physiological effects of smoking are more likely to continue smoking regularly, the tobacco industry has spent decades manipulating its menthol brand-specific product line to appeal to youth and African Americans. The tobacco companies have a long and sordid history of predatory marketing of menthol cigarettes especially to Black Americans. While menthol cigarettes were introduced to the market in the 1930s, their use greatly expanded in the 1950s when aggressive marketing to African Americans began. ^[xxxii] A recent study estimated that, from 1980 to 2018, menthol cigarettes were responsible for 10.1 million extra people who smoke, 378,000 premature deaths and 3 million life years lost in the U.S. This amounts to nearly 10,000 premature deaths and over 265,000 new people who smoke each year over the 38-year period. ^[xxxiii]

Recognizing the danger that flavors in cigarettes have in attracting and addicting new people who smoke, especially youth, the Family Smoking Prevention and Tobacco Control Act (TCA) of 2009 prohibited the use of characterizing flavors, except for menthol and tobacco, in cigarettes. To understand a consequence to limiting the flavor prohibition to only cigarettes and exempting menthol flavoring, an analysis evaluated youth tobacco use before and after the prohibition. ^[xxxiv] The analysis found a decrease in the likelihood of being a person who smokes (17.1 percent) and fewer cigarettes smoked (59 percent) associated with the flavor prohibition, but also a 45 percent increase in the probability that the youth who smokes used menthol cigarettes. Furthermore, the flavor prohibition was associated with increases in both cigar use (34.4 percent) and pipe use (54.6 percent). This suggests that youth who smoke, in the absence of comprehensive sales restrictions on all flavors and all products, are substituting with menthol cigarettes or cigars and pipe tobacco, for which the federal flavor prohibition does not apply.

The aggressive use of flavors and marketing tactics by the tobacco industry, rapid increased use of flavored products by youth and young adults, and under regulation of these products requires action to protect youth and young adults, and the public health at-large. While the FDA's announcement earlier this year to prohibit menthol cigarettes and all flavors in cigars is an important step forward, it will take quite some time to be implemented as the process of finalizing the rules takes place. Moreover, the FDA's announcement falls short of what is needed by not covering all tobacco products. We know from past experience that when products are excluded, the tobacco industry will do everything in its power to capitalize on loopholes and some people who are addicted to tobacco will switch to excluded products. If we do not ensure the policy solutions include all tobacco products, all flavors, and all tobacco retailers then the policy will directly fail to protect those who the tobacco industry has most aggressively targeted – our youth and young adults, communities of color, the LGBTQ community, low-income communities and people with mental and behavioral health conditions.

For the above reasons, ACS CAN urges you to support the proposed ordinance to end the sale of all flavored tobacco products in Portland.

Sincerely,
Hilary Schneider

Hilary Schneider (she/her/hers), MPP
Regional Government Relations Director
207.888.9826 | m: 207.522.1332

American Cancer Society Cancer Action Network, Inc.
fightcancer.org | 1.800.227.2345

Submission for City Council - February 7th

Public Comment inbox



Jeff Bennett <jeffbennett15@gmail.com>

1:15 PM (35 minutes ago)

to publiccomment

Hello,

I would like to submit the attached testimony in support of the proposed ordinance to end the sale of all flavored tobacco products.

Thank you in advance and I look forward to Monday's meeting.

Jeff

--

Jeff Bennett
45 Torrey St
Portland, Maine

"Courage is being scared to death, but saddling up anyway." John Wayne



Mayor Snyder and honorable members of the Portland City Council. My name is Jeff Bennett and I am a resident of Torrey Street in Portland. I am a National Volunteer Team Ambassador for the American Cancer Society Cancer Action Network (ACS CAN) and a cancer survivor. ACS CAN is the nonprofit, nonpartisan advocacy affiliate of the American Cancer Society and supports evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem. ACS CAN works to ensure that individuals affected by cancer have a voice in public policy matters at all levels of government.

On behalf of ACS CAN and on behalf of myself, I would like to speak in strong support of the proposed ordinance to end the sale of all flavored tobacco products.

Tobacco use remains the largest preventable cause of disease and premature death in the United States and Maine. Smoking can cause cancer in almost any part of your body and then block your body from fighting it.ⁱ According to the U.S. Surgeon General, smoking is a known cause of cancer of the oropharynx, larynx, lung/trachea/bronchus, stomach, liver, pancreas, kidney, cervix, bladder, colon, and acute myeloid leukemia.ⁱⁱ Poisons in cigarette smoke can weaken the body's immune system, making it harder to kill cancer cells. When this happens, cancer cells keep growing without being stopped.ⁱⁱⁱ Smoking is responsible for an estimated 30 percent of cancer deaths in Maine – that was 1,016 cancer deaths in 2017.^{iv} Maine has the 6th highest rate of tobacco-related cancer cases in the nation and the 11th highest rate of tobacco-related cancer deaths.^v

In Maine, nearly 1 in 5 adults smoke cigarettes, the highest rate in the Northeast.^{vi} In recent years, overall youth tobacco use in Maine has skyrocketed with nearly 1 in 3 high school students using some form of tobacco product in the last 30 days.^{vii}

In Maine:

- More than one in 15 high school students smoke cigarettes.^{viii}
- One in 13 male high school students, including more than 1 in 10 high school male seniors, smoke cigars.^{ix} One in 2 high school students and 1 in 6 middle school students have used e-cigarettes.^x
- Nearly 30 percent of high school students are current users of e-cigarettes, nearly doubling from 15% in 2017.^{xi}

What is driving the massive surge in tobacco use among youth? Flavored tobacco. Fruit and candy flavored products like cotton candy, fruit punch, menthol and mint are driving Big Tobacco's comeback attempt. Products with flavors like cherry, grape, cotton candy, and gummy bear and creative marketing campaigns leveraging social media influencers are clearly not aimed at established, adult tobacco users; years of tobacco industry documents confirm the intended use of flavors to target youth.^{xii,xiii} Tobacco industry efforts have worked as intended - youth report flavors a leading reason they use tobacco products, they perceive flavored products as less harmful,^{xiv,xv} and youth and young adults who use e-cigarettes are more likely to use cigarettes,^{xvi} as well as cigars, little cigars or cigarillos^{xvii} when compared to peers who had never used e-cigarettes.

Federal action to-date has fallen short of what is needed by not covering all tobacco products. We know from experience that when products are excluded, the tobacco industry will do everything in its power to capitalize on loopholes and some people who are addicted to tobacco will switch to excluded products. If we do not ensure the policy solutions include all tobacco products, all flavors, and all tobacco retailers, then the policy will

directly fail to protect those who the tobacco industry has most aggressively targeted – our youth and young adults, communities of color, the LGBTQ community, low-income communities and people with mental and behavioral health conditions.

For me, the devastating effects of tobacco use is a personal issue, as it is for too many of us. My wife lost her father to lung cancer one year after our marriage. Tony was just 56 years old and began smoking at the age of 17. Tony was the father-in-law I never knew.

I take great pride in calling the city of Portland home. Portland is a community that looks after itself. I cannot think of a much better way to continue to demonstrate this than through our public health policies. By supporting this proposed ordinance, you are standing up to an industry whose profits rely on continuing to addict new generations of tobacco users and instead are choosing to protect our youth and young adults who are the future of our city and state by reducing the toll of tobacco and cancer on their lives and the lives of their loved ones.

Thank you for the opportunity to comment and it is my hope that you will support this policy.

ⁱ U.S. Department of Health and Human Services. [A Report of the Surgeon General. How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking-Attributable Disease](#). Atlanta: 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, 2010.

ⁱⁱ U.S. Department of Health and Human Services. *The Health Consequences of Smoking—50 Years of Progress: A Report of the Surgeon General*. Atlanta: 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, 2014.

ⁱⁱⁱ U.S. Department of Health and Human Services. [A Report of the Surgeon General. How Tobacco Smoke Causes Disease: The Biology and Behavioral Basis for Smoking-Attributable Disease](#). Atlanta: 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, 2010.

^{iv} American Cancer Society Cancer Action Network. State-Specific Smoking-Related Cancer Cases and Deaths, 2017, updated 12/3/2020. <https://www.fightcancer.org/sites/default/files/State-Specific%20Smoking-Attributable%20Cancer%20Cases%20and%20Deaths%20Factsheet%20FINAL%2012.11.20.pdf>

^v Ibid.

^{vi} Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Division of Population Health. BRFSS Prevalence & Trends Data [online]. 2019. [accessed Feb 09, 2021].

^{vii} Ibid.

^{viii} Maine CDC, 2019 Maine Integrated Youth Health Survey (MIYHS), <https://data.mainepublichealth.gov/miyhs/>.

^{ix} Ibid.

^x Ibid.

^{xi} Maine CDC, 2017 and 2019 Maine Integrated Youth Health Survey (MIYHS), <https://data.mainepublichealth.gov/miyhs/>

^{xii} Delnevo, C, et al., "Preference for flavoured cigar brands among youth, young adults and adults in the USA," Tobacco Control, epub ahead of print, April 10, 2014. King, BA, et al., "Flavored-Little-Cigar and Flavored-Cigarette Use Among U.S. Middle and High School Students," Journal of Adolescent Health 54(1):40-6, January 2014

^{xiii} Carpenter CM, Wayne GF, Pauly JL, Koh HK, Connolly GN. New cigarette brands with flavors that appeal to youth: tobacco marketing strategies. Health Affairs. 2005; 24(6): 1601-1610

^{xiv} Ambrose et al. Flavored tobacco product use among U.S. youth aged 12-17 years, 2013-2014. JAMA, 2015; 314(17): 1871-3.

^{xv} Huang L-L, Baker HM, Meernik C, Ranney LM, Richardson A, Goldstein AO. Impact of non-menthol flavours in tobacco products on perceptions and use among youth, young adults and adults: a systematic review. Tobacco Control 2016.

^{xvi} U.S. Department of Health and Human Services. *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. National Academies of Sciences, Engineering, and Medicine. 2018. Public health consequences of e-cigarettes. Washington, DC: The National Academies Press. Berry KM, Fetterman JL, Benjamin EJ, et al. Association of Electronic Cigarette Use With Subsequent Initiation of Tobacco Cigarettes in US Youths. JAMA Netw Open. 2019;2(2):e187794

^{xvii} Hair EC, Kreslake JM, Mowery P, Pitzer L, Schillo B, Vallone DM, A longitudinal analysis of e-cigarette use and cigar, little cigar or cigarillo initiation among youth and youth adults: 2017–2019, Drug and Alcohol Dependence, Volume 226, 1 September 2021, 108821.

**'karen norbs1' via Public Comment**

to publiccomment@portlandmaine.gov

10:22 AM (1 hour ago)

Karen Norberg
Dyer's Variety - 45 Portland St.
138-2122

Portland City Council,

I listened to your workshop on Wednesday night and you explained that when flavored cigarettes were banned in 2009, except menthol and mint, underage use dramatically declined. So, why are you trying to ban menthol cigarettes? The issue is e-vapor use. Why not focus solely on banning flavored vape product and leaving the rest of the categories alone?

Another point that stood out to me on Wednesday's call was where underage get tobacco products. It was said that underage get tobacco products from peers. What is stopping a minor from getting their product in another town and providing it to friends? You made it clear it was not from retailers, yet all the penalties are focused on the retail community.

You are only punishing retailers in your community that are good standing business owners that abide by the law. My customers will simply cross the town line and buy their products

To me, this is common sense. Prohibition didn't work with alcohol and it won't work with tobacco. Please **vote no** on the flavor ban ordinance.

Thank you for your consideration.

Sincerely,
Karen Norberg
Dyers Variety

Lani Graham <lgraham207@gmail.com>

8:33 AM (2 hours ago)

to publiccomment

Please find attached my comments to the Portland City Council regarding the proposed ban on flavored tobacco products. Thank you for considering this.

Lani Graham, MD, MPH

PO Box 10368

Portland, Me. 04104

lgraham207@gmail.com

To: Portland City Council

From: Lani Graham, MD, MPH, Former Maine Chief Public Health Officer and Former Portland Resident

Date: 2/7/22

In Support of the Proposed Portland City Ban of Flavored Tobacco Products

It has come to my attention that the Portland City Council is once again considering taking the lead on addressing the extreme danger of unregulated tobacco products to the youth of this city. There are few actions that Portland councilors could now take to enhance the future health of Portland youth than a ban on flavored tobacco products. Flavored tobacco products are the number one action that the tobacco industry has adopted to addict youth to tobacco before they have even left high school. Younger customers for an addictive product are highly prized. Every day that these products are on the market they beckon youth to take up a product to which they will ultimately become addicted. Now is the time to bring that process to a halt.

I am proud to say that I was a Portland resident and Portland property owner from 1986-2009, more than 20 years. During that time, I was fortunate enough to be part of some landmark courageous decisions made by your Predecessors to protect Portland youth. I was Chair of a Committee called "Citizens for a Healthy Portland" that sought to ban smoking in Portland restaurants due to the exposure of wait staff to a Class A carcinogen, and the adverse modeling to youth of smoking as a lifestyle choice rather than the addiction it is. The courage of that Council made Portland a leader for the entire state. Now, thanks to Portland, it is unthinkable to see people smoking in restaurants. At the time, the tobacco industry mobilized its troops to make the Portland Council back down. It was going to cause restaurants to close. It was bad for the international business. Mom and Pop stores would lose money and close without the money tobacco provided to them. Wouldn't it be better to wait for state or federal action rather than put the city of Portland out in front? But the Portland Council stood firm. The health of its citizens was not to be traded for tobacco dollars. In the end the issue went to Referendum and the citizens of Portland exonerated the Council's decision. They agreed, 2:1 that health came first. And as it turned out, the restaurants that expressed the greatest fears that they would have to close their doors remain among the most successful in Portland today. And Mainers all over the state can be grateful to Portland for taking the lead in this action.

You are likely to hear many of the same arguments against instituting a ban against flavored tobacco products, especially about menthol. And once again the Portland Council can stand for the health of Portland youth. I'm sure you will hear from those who have made it central to their professional lives to protect children from tobacco how truly dangerous these products are, so I won't go into all of that.

I congratulate you for taking up this vital public health issue, thank you for your attention and hope that Portland will once more be a health leader.

Proposed Portland Flavor Ban 1 view



brandi.cushman@cnbrown.com <brandi.cushman@cnbro...
to council@portlandmaine.gov, publiccomment@portlandmaine.gov

Nov 15, 2021, 9:08:11
AM

Good morning council members.

My name is Brandi Cushman and I am the Director of Purchasing for C. N. Brown Company. We own and operate two Big Apple Convenience Stores in the City of Portland.

I hope that you will take a few minutes to read our concerns with this proposed flavor ban in the attached document.

I appreciate your time.

Thank you,

Brandi Cushman

Director of Purchasing and Merchandising

C. N. Brown Company

P.O. Box 200

1 C. N. Brown Way

South Paris, ME 04281

☎: 207-743-4200 ext. 3102

📠: 207-743-8357

✉: brandi.cushman@cnbrown.com

www.cnbrown.com

When you think something is more important than a Customer.....Think Again





1 CN Brown Way
PO Box 200
South Paris, ME 04281
Phone: (207) 743-9212
Fax: (207) 743-8357
Toll Free 800-432-4211
cnbrown.com

Portland City Council
City Hall
389 Congress Street
Portland, ME 04101

RE: Portland City Ordinance Ending the Sale of Flavored Tobacco Products

Portland City Council-

Thank you for taking the time to read C. N. Brown Company's concerns with the proposed city ordinance ending the sale of flavored tobacco products.

My name is Brandi Cushman and I am the Director of Purchasing and Merchandising and the Category Manager of tobacco for C. N. Brown Company. We own and operate the Big Apple convenience stores at 2 Park Avenue and 16 Washington Ave. in Portland employing a total of 18 associates. Those are 18 local jobs we have created.

I am writing in opposition of this city ordinance, an ordinance that will dramatically decrease the operating revenue and profitability of many stores within the city, will affect jobs, and do nothing to keep these products that you propose to ban out of the hands of your youth as it is intended.

Zero Tolerance

We have absolutely no interest in selling tobacco to the youth in your city or anywhere else. We have training, policies, and procedures in place to ensure, to the best of our ability, that tobacco products do not get into the hands of your youth. In fact, we take this so seriously that in the rare instance an employee is found in violation of the law, and our internal training and policies regarding underage tobacco sales, they are immediately terminated. Retailers like us are on the front-line protecting young people in your city and throughout the State of Maine and we take that responsibility very seriously.

Goes Too Far

It is stated that this ordinance is about protecting youth, however, this policy is looking to ban many adult-preferred products including menthol cigarettes, mint and wintergreen smokeless tobacco and flavored cigars. The CDC's 2020 National Youth Tobacco Survey shows that high school-aged use for ENDS/vapor is 19.6% (down from 27.5% in 2019), cigarettes use at 4.6% (down 15.8% since 2011), smokeless use at 3.1% (down 7.9% since 2011) and cigar use at 5% (down 11.6% since 2011). This shows that the most preferred products by youth (although it has declined significantly) are ENDS/vapor products, yet the city is looking to ban ALL flavored tobacco products.

Federal Action

The FDA is diligently working through the Pre-Market Tobacco Application (PMTA) process with vapor products and has already removed more than 6,000,000 of these products from the market by denying their PMTA application. The only products the FDA will allow to remain on the market are those that they have determined are “appropriate for the protection of public health”. The FDA is using a science based approach to ensure that vapor products that meet their standards are available to adult tobacco consumers.

Doesn't Eliminate Access

Local tobacco bans are not going to protect your youth. If this ordinance is passed, flavored tobacco and ENDS/vapor users, including youth illegally obtaining such products, will simply go to the next city/town to get the products they want. The only people that will be negatively affected by this ordinance are your legal, licensed, tax paying local businesses who will not only lose the sale of these legal products to adult tobacco consumers, but also all of the ancillary sales these customers take with them.

The majority of youth are getting these products via adult tobacco consumers, including parents. Instead of continually attacking retailers on this issue, let's put some responsibility on the youth access issue where it lies.

With alcohol there are numerous laws on the books in regards to Illegal Possession by a Minor, Illegal Transportation by a Minor, and Furnishing to a Minor. If youth access is truly the concern of this council, these are the same laws that need to be in place and enforced for tobacco products. (I have attached a listing of these laws.) Stop making retailers shoulder all of the burden and all of the consequences of the youth access issue.

At the same time, in the rare instance that an associate at a retail establishment fails a sting because **they choose** to ignore the age verification prompt of the POS system as well as all policies and training procedures of that retail establishment, that associate should receive some form of consequence from the city and/or state, not solely the retailer. Retailers do everything in their power to make sure an illegal sale to a minor does not occur but we cannot control an associate who chooses to ignore all of the retailer's precautions.

We believe that these issues should be debated where they belong, at the state level and with the FDA. Allow the FDA, with its resources, to determine which products are safe and which are not so that adult tobacco consumers are not forced to travel across city limits to purchase legal products and therefore hurt businesses within the city of Bangor.

We strongly encourage that you vote no on the city ordinance ending the sale of flavored tobacco products.

Thank you.

A Flavored Tobacco Ban is Bad Policy -- Please Oppose 2 views



MEGAN TURBIDE <Mturbide76@gmail.com>

Dec 8, 2021, 2:21:40 PM

to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,
MEGAN TURBIDE
170 Portland Ave
Old Orchard Beach, ME 04064-1293



Olivia Curtis <ocurtis1832@gmail.com>

Dec 13, 2021, 4:37:39 PM

to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living-- instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Olivia Curtis
16 Adelaide Rd
Apt A
Old Orchard Beach, ME 04064-2227



Heather Brooks <heatherbrooks024@gmail.com>
to publiccomment@portlandmaine.gov

Dec 15, 2021, 12:33:45 PM

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living-- instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Heather Brooks
36 Maggie Ln
Portland, ME 04103-6502



to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,
Phyllis Nimer
749 Diabolo Rd
Danville, CA 94526



Katie Wilson <katiewils0nn@icloud.com>
to publiccomment@portlandmaine.gov

Dec 17, 2021, 6:55:03 PM

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Katie Wilson
25 Munjoy S
Portland, ME 04101-4310



Duane Tower <duanetower11@gmail.com>
to publiccomment@portlandmaine.gov

Dec 18, 2021, 2:53:45 PM

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Duane Tower
4816 Briarcliff Sq
Apt 13
Honeoye, NY 14471-9680



Duane Tower <duanetower11@gmail.com>
to publiccomment@portlandmaine.gov

Dec 18, 2021, 2:56:12 PM

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living-- instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,
Duane Tower
4816 Briarcliff Sq
Apt 13
Honeoye, NY 14471-9680

Protect Portland Children from Tobacco Addiction 1 view



Deb Smith <executivedirector.mahperd@gmail.com>

Nov 9, 2021, 3:42:13 PM

to council@portlandmaine.gov, publiccomment@portlandmaine.gov

Dear Portland City Council Health & Human Services and Public Safety Committee

Chair Councilor Tae Chong, and Councilor Belinda Ray, and Councilor Mark Dion

I am Deb Smith a resident of Portland and the Executive Director of the Maine Association for Health, Physical Education, Recreation, and Dance (MAHPERD). The MAHPERD Board of Directors signed on to the Flavors Hook Kids Campaign in Maine in 2021. The MAHPERD Board, and I are supportive of the ordinance to end the sale of Flavored Tobacco Products in Portland.

The use of tobacco products remains the nation's number one cause of preventable death and in Maine, nearly 1 in 5 adults smoke cigarettes, the highest rate in the Northeast. In recent years, overall youth tobacco use in Maine has skyrocketed, largely driven by the youth e-cigarette use epidemic and now 1 in 2 Maine high school students and 1 in 6 middle school students have used e-cigarettes.

Tobacco companies are targeting youth with flavored tobacco products. Products that come in array of kid friendly candy and fruit flavors such as mint, cherry, grape jelly, cotton candy, piña colada, and cinnamon roll, all sold in colorful packaging that is designed to attract tweens and teens. Nationwide, nearly 81% of youth ages 12 to 17 who had ever used a tobacco product reported that the first product they used was flavored. Tobacco companies use flavor to hook a new generation of kids on its deadly products. Flavors hide the bad taste of tobacco and make it easier for kids to try. Menthol has the additional quality of soothing the irritation of combustible cigarettes, which is why so many young people start smoking using menthol cigarettes.

We must do everything in our power to keep our communities healthy and safe and we applaud the Portland City Council for making sure that Portland residents are healthy and safe against the harms from tobacco with the ordinance.

Sincerely,

Deb Smith
201 Bradley Street
Portland, ME 04102
Executivedirector.mahperd@gmail.com

--

Deb Smith
Executive Director, Maine AHPERD



Engage • Educate • Inspire

NECSEMA comments on proposed flavored tobacco ban in Portland, ME

0 views



Havens, Jonathan A. <Jonathan.Havens@saul.com> Nov 22, 2021, 3:21:13 PM
to ksnyder@portlandmaine.gov, council@portlandmaine.gov, publiccomment@portlandmaine.gov

Dear Mayor Snyder and Members of the Portland City Council:

On behalf of our client, the New England Convenience Store and Energy Marketers Association (NECSEMA or the Association), I am submitting the attached comments regarding the proposed ordinance that would ban the sale of flavored tobacco products in Portland, Maine.

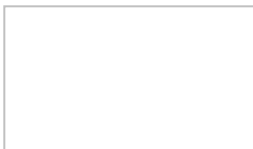
I would ask that you include these comments in the Councilor's agenda packet for when the City Council meets to discuss the proposed flavored tobacco ban.

Thank you for your consideration of these comments.

Sincerely,

Jonathan Havens

Outside Counsel to NECSEMA



Jonathan A. Havens

500 E. Pratt Street | Suite 900 | Baltimore, MD 21202
1919 Pennsylvania Ave., NW | Suite 550 | Washington, D.C. 20006
O: 410.332.8757 | M: 301.404.0674 | F: 410.332.8179
Jonathan.Havens@saul.com | www.saul.com | [LinkedIn](#) | [Twitter](#)

Click  for an interactive look at the latest from our Cannabis Law Team.

"Saul Ewing Arnstein & Lehr LLP (saul.com)" has made the following annotations:

+~~~~~+

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+~~~~~+



November 22, 2021

Mayor Kate Snyder
Members of the Portland City Council
City of Portland
389 Congress Street
Portland, ME 04101

Re: Comments on proposed flavored tobacco ban in Portland, ME

Dear Mayor Snyder and Members of the Portland City Council:

On behalf of our client, the New England Convenience Store and Energy Marketers Association (NECSEMA or the Association), I am submitting these comments regarding the proposed ordinance that would ban the sale of flavored tobacco products in Portland, Maine. I would ask that you include these comments in the Councilor's agenda packet for when the City Council meets to discuss the proposed flavored tobacco ban. I am outside counsel to NECSEMA, and advise the Association on various state and federal regulatory matters. Prior to entering private practice, I served as a regulatory counsel with the U.S. Food and Drug Administration's (FDA or the Agency) Center for Tobacco Products (CTP). Prior to starting law school, I served as a legislative aide in the U.S. Senate and U.S. House of Representatives.

As you know, the proposed ban would prohibit in Portland the sale and consumption of flavored tobacco products, including any smell or taste relating to fruit, menthol, or candy. NECSEMA opposes the proposed flavor ban for numerous reasons, including: (1) flavored products that the U.S. Food and Drug Administration (FDA or the Agency) has authorized for marketing would be banned under the ordinance; (2) the Maine Legislature considered such a ban last session and will likely do so again this session; and (3) local tobacco-related bans are ineffective. In short, the federal government and the State are equipped to handle how best to regulate flavored tobacco products, and NECSEMA urges you to let them do so.

The primary focus of these comments is to alert you to the fact that banning flavored tobacco products in Portland would undermine FDA's robust regulation of the same. By law, any flavored tobacco product that FDA allows on the market would have included a determination by the Agency that such product is "appropriate for the protection of public health"¹ and/or "appropriate to promote

¹ 21 U.S.C. § 387j(c)(4).

public health.”² When reviewing medical products, FDA uses a “safe and effective” standard. However, this standard does not apply to tobacco products. Instead, when considering a tobacco product marketing application, the Agency uses an arguably more rigorous standard, the “public health” standard, that requires FDA to consider “the risks and benefits of the tobacco product to the population as a whole, including users and nonusers.”³

More specifically, per the language in the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act), in finding that the marketing of a tobacco product for which a marketing application has been submitted is appropriate for the protection of public health, FDA *must* consider:

- (A) The increased or decreased likelihood that existing users of tobacco products will stop using such products; and
- (B) The increased or decreased likelihood that those who do not use tobacco products will start using such products.⁴

To get a sense of what a marketing application requires, consider the following elements, which a PMTA must contain:

- (A) Full reports of all information, published or known to, or which should reasonably be known to, the applicant, concerning investigations which have been made to show the health risks of such tobacco product and whether such tobacco product presents less risk than other tobacco products;
- (B) A full statement of the components, ingredients, additives, and properties, and of the principle or principles of operation, of such tobacco product;
- (C) A full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of, such tobacco product;
- (D) An identifying reference to any tobacco product standard under 21 U.S.C. § 387g which would be applicable to any aspect of such tobacco product, and either adequate information to show that such aspect of such tobacco product fully meets such tobacco product standard or adequate information to justify any deviation from such standard;
- (E) Such samples of such tobacco product and of components thereof as FDA may reasonably require;
- (F) Specimens of the labeling proposed to be used for such tobacco product; and
- (G) Such other information relevant as the Agency may require.

When one considers the breadth and depth of these requirements, it is no surprise that PMTA

² *Id.* at § 387k(g)(2)(A)(i).

³ FDA, “A New Standard of Effective Regulation,” <https://www.fda.gov/tobacco-products/rules-regulations-and-guidance/rules-and-regulations> (last updated Oct. 4, 2021).

⁴ Family Smoking Prevention and Tobacco Control Act, June 22, 2009, Pub. L. 111-31, 123 Stat. 1776, 1816.

submissions can easily exceed one million pages.

As the City of Portland considers the measure before it, I suspect one question will be, “If we do not ban the sale of flavored tobacco products, how will the health of Portland residents be protected?” The answer to that question is that FDA’s rigorous review of any product that is the subject of an Agency marketing order will have been evaluated thoroughly with regard to the risks and benefits of the product to the population as a whole, including tobacco users and nonusers. Moreover, with regard to such products, FDA will have already considered: (1) the increased or decreased likelihood that current tobacco users will stop using such product; and (2) the increased or decreased likelihood that nonusers will start using such product. In short, the Agency’s review standard ensures that granting a marketing order for such product is appropriate for the protection of public health.

Proof of the rigor of FDA’s tobacco product review standard is that on October 21, 2021, the Agency for the very first time authorized the marketing of three new electronic nicotine delivery system (ENDS) products.⁵ A week later, FDA authorized the marketing of four smokeless tobacco products, all of them mint flavored.⁶ To provide some context:

- The Agency on August 26, 2021 announced that it denied marketing applications for approximately 55,000 flavored ENDS products for “failing to provide evidence they appropriately protect public health.”⁷
- Earlier that month, FDA on Aug. 9, 2021 issued a Refuse to File (RTF) letter to JD Nova Group LLC, in which the Agency notified the company that their PMTAs that are associated with approximately 4.5 million of their products did not meet the filing requirements for a new tobacco product seeking a marketing order.⁸

Clearly, the robust standard that tobacco products must meet in order to receive a marketing order from FDA is serving to protect the public health. Rather than believing that the proposed flavor ban is the only way to protect Portland residents, you can rest assured that allowing only those flavored tobacco products that receive an Agency marketing order is a more than adequate measure to protect the health of your constituents.

⁵ FDA, “Premarket Tobacco Product Marketing Granted Orders,” <https://www.fda.gov/tobacco-products/premarket-tobacco-product-applications/premarket-tobacco-product-marketing-granted-orders> (last updated Oct. 25, 2021).

⁶ *Id.*

⁷ FDA, Press Release – “FDA Denies Marketing Applications for About 55,000 Flavored E-Cigarette Products for Failing to Provide Evidence They Appropriately Protect Public Health,” Aug. 26, 2021, <https://www.fda.gov/news-events/press-announcements/fda-denies-marketing-applications-about-55000-flavored-e-cigarette-products-failing-provide-evidence>.

⁸ FDA, Press Release – “FDA Issues Refuse to File (RTF) Letter to JD Nova Group LLC,” Aug. 9, 2021, https://www.fda.gov/tobacco-products/ctp-newsroom/fda-issues-refuse-file-rtf-letter-jd-nova-group-llc/?utm_content=landingpage&utm_medium=email&utm_source=govdelivery&utm_term=stratcomms.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jonathan A. Havens', written over a light gray rectangular background.

Jonathan A. Havens
Outside Counsel to NECSEMA

ad in MA newspapers 0 views



Jon Shaer <jon@necsema.net>

Nov 28, 2021, 8:26:20 PM

to Kate Snyder, council@portlandmaine.gov, publiccomment@portlandmaine.gov

Good evening, Mayor Snyder and Councilors,

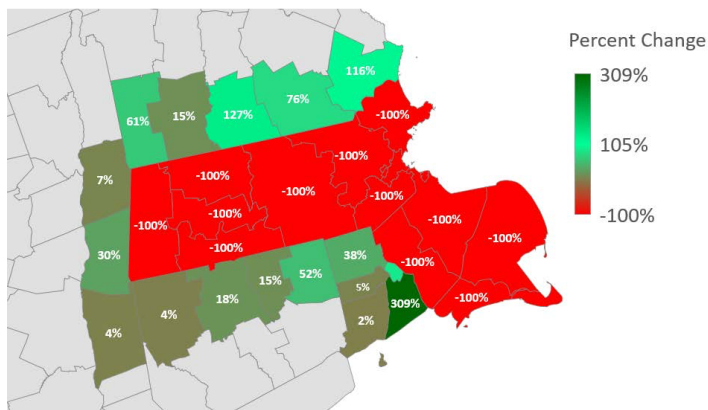
As we approach the first of two readings on the proposal to ban flavored tobacco, I want to share two images that help illustrate the important point that local bans do not work.

The first is an advertisement that appears in the Boston Herald and Boston Globe almost every day since the Massachusetts flavored tobacco ban began on 6/2020 and is likely running in other papers as well. Foods Plus is just over the MA border and runs this same ad which informs MA residents that menthol and other flavored tobacco remain available to them just over the border in Plaistow, NH. This store is spending hundreds of thousands of dollars advertising. It's safe to say that if it wasn't working, they wouldn't continue to spend the money. Imagine how much they're making!?



Unless every town within reasonable proximity to Portland enacts the same ban, then the ban is ineffective in limiting access to the products. That is why this issue should be handled, at minimum, in the state legislature. In truth, even a state ban would be ineffective since there isn't any way New Hampshire will enact a ban. Therefore, it really needs to be addressed at the federal level. A local-only ban impacts one group – the 50 legal retailers Portland has licensed to responsibly sell tobacco products. And they've done it at a 97% FDA-verified compliance rate.

This second image is a heat map of menthol cigarette sales 12 months following the ban. I think the image speaks for itself and further makes the point that products continue to be sold and come back into the voided market. In this case, Portland.



Respectfully,

Jon

Jonathan Shaer, Executive Director

New England Convenience Store & Energy Marketers Association, Inc. (NECSEMA)

1044 Central Street, Suite 203, Stoughton, MA 02072

Mobile: 774-406-1997 | Office: 781-297-9600 ext. 3 | Fax: 781-297-9601

jon@necsema.net | www.necsema.net | [Join NECSEMA](#)



FW: PLEASE include my comments to the packet for the meeting where the Flavored Tobacco Ban will receive a first reading

1 view



Julie Parker <PortlandCon@cigaretshopper.com>

Nov 12, 2021, 10:25:22 AM

to publiccomment@portlandmaine.gov, council@portlandmaine.gov

From: Julie Parker

Sent: Friday, November 12, 2021 9:30 AM

To: Chris Beaulier <Chris@cigaretshopper.com>

Cc: Julie Parker (julieparker286@gmail.com) <julieparker286@gmail.com>

Subject: PLEASE include my comments to the packet for the meeting where the Flavored Tobacco Ban will receive a first reading

To whom this may concern,

I'm a voter and Portland resident and manage the Cigaret Shopper on Congress Street. I want to oppose the ordinance banning the sale of flavored tobacco and vapor products in Portland. If this ban is passed, I will have to travel outside of the city and give another town my tax dollars. I would prefer to keep my money in the city I live and work in. This city is for small businesses and if this passes the city will lose a lot of the small businesses that are struggling to stay open. Congress Street use to be so full of people and businesses and now there are more for lease signs on vacant retail space do you really want to add more to that?

We as an adult's have the right to make our own choices in life and you are now trying to make it, so we do not have that right. I have lived in this city for 27 years and I have been working on Congress Street the whole time and have been watching the struggles of every person in the downtown district. The homeless, the mentally ill, the elderly the blue-collar workers and corporate employees do not have places to really shop for there needs on Congress Street. By taking flavored tobacco and vape products will not only hurt the store I manage it will hurt downtown just as much.

This city would lose so much tax dollars that it would hurt everyone that is still trying to afford to live in the city. In the meeting on the 9th, I sat in the zoom meeting and listened to you say that the city will not have money to help the homeless if you do not get the federal funding you need. Isn't this a more important situation you should be dealing with. And with me saying that you stop the sales of all the products you are trying to ban is this really going to help? I can answer that, and I know you can as well.

To me I feel you should be also more concerned about the crime's that are happening in this city, the illegal drug activities, rent control, the roads, and getting more businesses to come back to the downtown area.

Also, in the same meeting I listened to a school nurse talk about a middle school child STEALING their parents vape device and taking it to school. Well, no offense but that child should be taught at home about tobacco. Hold the parents accountable not everyone else!!!! Remember Maine does have the best grade for not selling to minors so why punish us for something that is obviously not the store's fault.

Thank you,

Julie Parker

Cigaret Shopper

579 Congress Street

Portland, Maine

A Flavored Tobacco Ban is Bad Policy -- Please Oppose 1 view



Tara Florentine <tflo02@att.net>
to publiccomment@portlandmaine.gov

Jan 8, 2022, 8:54:51 AM (4 days ago)

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,
Tara Florentine
2739 Rockford Rd
Shelby, NC 28152-9606

A Flavored Tobacco Ban is Bad Policy -- Please Oppose

Public Comment inbox



Joseph Rowe <rowej280@gmail.com>

6:40 AM (9 hours ago)

to publiccomment

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Joseph Rowe

37 Casco St

Apt 205

Portland, ME 04101-2932

A Flavored Tobacco Ban is Bad Policy -- Please Oppose

Public Comment inbox



Richard Hoyt <richard.t.hoyt@gmail.com>

Thu, Jan 13, 7:10 PM (21 hours ago)

to publiccomment

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Richard Hoyt

796 Brighton Ave

Portland, ME 04102-1016

Flavored tobacco ban ordinance 0 views



Anthony Scott <psavanthony@yahoo.com> Jan 17, 2022, 9:35:27 PM (12 hours ago)
to publiccomment@portlandmaine.gov

Councilors,

I wanted to send you a couple studies recently published to reinforce the truth behind some of the statements I've made to councilors and you're likely hearing from opponents of the Flavored tobacco vape ban.

The first article I want to point you towards is found in a press release by the National Institute of Health on December 15th 2021. It was the Monitoring the Future survey done by researchers at the University of Michigan. See below for link to article.

The survey found that there was a substantial decline of substance use of several substances over the last couple years.

I would like to point out below from the survey that the rate of alcohol use and Marijuana use among youth is higher for the 12th graders than vaping rates, but these products remain to be sold. These products have been known to cause many problems for our youth far greater than vaping can but yet vapes continue to be targeted. I would also like to add that the vaping industry has had many new regulations over the last two years and currently in progress of other regulatory guidelines, which should be given more time to evaluate how it will impact the vaping rates among youth before we jump to drastic measures of an outright ban.

Moving the age to purchase tobacco to 21, Restrictions on shipping vape products (PACT act), tax increases, PMTA process, and marketing restrictions are all ways in which the vape industry has been regulated in the last two years to decrease these rates. As you can see below it appears to be working and this demonstrates there are other means to accomplish the overall shared goal of lowering the youth vaping rates. Let's have a conversation on how we can lower access to these products and continue to lower vaping rates while allowing access to adults.

- **Alcohol:** The percentage of students who reported using alcohol within the past year decreased significantly for 10th and 12th grade students and remained stable for eighth graders.
 - **Eighth graders:** 17.2% reported using alcohol in the past year in 2021, remaining steady compared to 20.5% in 2020 (not a statistically significant decrease)
 - **10th graders:** 28.5% reported using alcohol in the past year in 2021, a statistically significant decrease from 40.7% in 2020
 - **12th graders:** 46.5% reported using alcohol in the past year in 2021, a statistically significant decrease from 55.3% in 2020
- **Marijuana:** The percentage of students who reported using marijuana (in all forms, including smoking and vaping) within the past year decreased significantly for eighth, 10th, and 12th grade students.
 - **Eighth graders:** 7.1% reported using marijuana in the past year in 2021, compared to 11.4% in 2020

- **10th graders:** 17.3% reported using marijuana in the past year in 2021, compared to 28.0% in 2020
 - **12th graders:** 30.5% reported using marijuana in the past year in 2021, compared to 35.2% in 2020
- **Vaping nicotine:** Vaping continues to be the predominant method of nicotine consumption among young people, though the percentage of students who reported vaping nicotine within the past year decreased significantly for eighth, 10th, and 12th grade students.
 - **Eighth graders:** 12.1% reported vaping nicotine in the past year in 2021, compared to 16.6% in 2020
 - **10th graders:** 19.5% reported vaping nicotine in the past year in 2021, compared to 30.7% in 2020
 - **12th graders:** 26.6% reported vaping nicotine in the past year in 2021, compared to 34.5% in 2020

<https://www.drugabuse.gov/news-events/news-releases/2021/12/percentage-of-adolescents-reporting-drug-use-decreased-significantly-in-2021-as-the-covid-19-pandemic-endured>

The Second study is done by Abigail S Friedman PHD of Department of Health Policy and Management, Yale School of Public Health. I have attached the study published in Jamapediatrics below for your consideration. The study considers the San Francisco ban on flavored tobacco products and its association with smoking rates among minor high school students compared to students in other districts without a flavor ban. It found that the San Francisco flavor ban was associated with more than doubled odds of recent smoking among underage high school students. This should raise concern that chances of an increase in cigarette use will happen not just for youth but adults as well if a flavor ban is enacted.

I hope you all have a great holiday and I would still like to connect with more of you soon. Please consider my open invitation to meet and discuss this topic.

Thank you
 Anthony Scott
 Portland Smoke and Vape

FW: Flavor ban 0 views



Brett Scott <brett@smokershaveninc.com> Jan 18, 2022, 11:49:46 AM (23 hours ago)
to Publiccomment@portlandmaine.gov

Hello,

I am writing as the owner of Smokers Haven, a retailer and distributor in the state of Maine selling flavored e-cigarettes, and a member of the Maine Vapers Association.

Considering a flavor ban is an immense decision that will affect the people of Portland. It is easy for someone that is not a smoker to say, "Just stop smoking", but nicotine is a highly addictive chemical. Think about a person's daily coffee, tea, or energy drink. Most people cannot function without their morning cup, but caffeine is considered "not addictive scientifically speaking."^[1] In terms of cigarettes, the addictive part is the nicotine. But, for people to get that nicotine, there are other harmful chemicals they inhale in the process of using traditional combustible tobacco products. According to the FDA "There are more than 7,000 chemicals in cigarette smoke. More than 70 of those chemicals are linked to cancer."^[2] Flavored electronic nicotine devices help people transition from traditional cigarettes to a less harmful nicotine deliverance system. "E-cigarettes have the potential to benefit adult smokers if used as a complete substitute for regular cigarettes and other smoked tobacco products"^[3]. As a retailer, we hear the stories first-hand. It is not uncommon to hear, I smoked for 30 years, switched to vaping, and can finally breathe again. We also often hear about the benefits of being able to taste and smell again, as well as coughing less, being able to take full breaths of air, not smelling like cigarettes, and so much more. For the people of Portland, I ask that you listen to real stories of how vaping has helped people live healthier lives. I welcome anybody to our stores to listen to the customers.

The FDA is already doing substantial testing to prove these products are a benefit to public health. One may conclude the primary objective of this legislation appears to be limiting youth access. The State of Maine has recently made many changes to combat underage youth access. The age to purchase tobacco is now 21. In addition, online sales direct to the customer have been banned. Both of these initiatives were followed thereafter in country-wide legislation. After the changes, statistics for the overall youth surveys have demonstrated declining usage. The most recent National Youth Tobacco Survey shows a decrease of more than 27% youth use of e-cigarettes in 2020 compared to 2019. Past 30-day electronic cigarette use for middle school students was down over 55% from the 2019 survey as well as high school student usage down over 28% in the same time period. The overall reduction is 1.73 million fewer youth using tobacco products than last year. ^[4] That is a huge reduction in youth access to see in one year, and at the time of the survey, the online shipping ban was not in effect, an additional measure that we have yet to see the statistical benefit, which may also play a large role in additional youth access reduction.

Please keep in mind who the large companies are that are proposing compromises to this legislation. Compromises through crafting very specific legislation are used to attack the small, local businesses and families while protecting the products sold in convenience stores such as JUUL. JUUL has been at the center of the vaping epidemic and the root of the publicized vaping issue. Their easily disguised products and higher nicotine

concentration have brought a wrath of bad publicity to the industry. JUUL is owned by Altria, a massive publicly traded tobacco company that also owns Marlboro cigarettes and is worth \$80 billion. They have the money and political connections to write legislation that will benefit their [\\$80 billion company](#). It is local specialty mom and pop businesses, that this is all their business does, that will be the compromises, eliminated from the industry, and ultimately close their doors.

We are small, local, Maine specialty shops that have a healthier alternative. We offer a way to quit traditional tobacco. We offer choices in flavor and nicotine level. It allows for people to find a flavor that works for their preferences. Most people choose flavors over tobacco as a way to quit cigarettes. The tobacco flavors make it very easy to go back to cigarettes. Adults use flavors and they work to quit traditional tobacco. We also offer nicotine levels which allows people to progressively step down in nicotine level, all the way to no nicotine. That is not something that is available in cigarettes or electronic nicotine delivery systems owned by cigarette companies, such as JUUL. Without careful consideration, the big tobacco companies will be the only companies continue in the industry using money, connections, and policy compromises to do so, while the local Maine businesses will be unable to.

Preventing underage youth access is and a high priority for Maine and nationally as a country. As retailers, we also welcome any methods to prevent youth access. Youth usage has tarnished a small, locally owned industry that is here with a goal to help people make healthier choices and live longer lives by switching from traditional combustible tobacco to flavored electronic nicotine delivery systems. We would love to see a 100% elimination of youth access as it has discredited the benefit adult smokers have received from using these products. Some ideas include requiring retailers to set sales limits per transaction, day, week, or month. As well as scanning and tracking drivers' licenses on what is being bought, which can be provided to local municipalities upon request. We, as local businesses, are looking to work with you directly on reducing underage access while finding a solution that keeps our doors open. I am asking everyone to consider meeting with me, or other members of the group, to discuss a true compromise that considers public safety, public health, and the small businesses of Maine.

[1] [https://archives.drugabuse.gov/blog/post/caffeine-really-addictive#:~:text=While%20caffeine%20produces%20a%20small,not%20addictive%20\(scientifically%20speaking\)](https://archives.drugabuse.gov/blog/post/caffeine-really-addictive#:~:text=While%20caffeine%20produces%20a%20small,not%20addictive%20(scientifically%20speaking))

² <https://www.fda.gov/tobacco-products/products-ingredients-components/chemicals-cigarettes-plant-product-puff>

³ https://www.cdc.gov/tobacco/basic_information/e-cigarettes/pdfs/Electronic-Cigarettes-Infographic-508.pdf

⁴ https://www.cdc.gov/tobacco/data_statistics/fact_sheets/youth_data/tobacco_use/index.htm

Thank you,

Brett Scott

President

Office – [603-513-1852](tel:603-513-1852) Ext. 406

www.SmokersHavenInc.com

Smokers Haven

New England's #1 Smoke Shop

[1] [https://archives.drugabuse.gov/blog/post/caffeine-really-addictive#:~:text=While%20caffeine%20produces%20a%20small,not%20addictive%20\(scientifically%20speaking\)](https://archives.drugabuse.gov/blog/post/caffeine-really-addictive#:~:text=While%20caffeine%20produces%20a%20small,not%20addictive%20(scientifically%20speaking))

[2] <https://www.fda.gov/tobacco-products/products-ingredients-components/chemicals-cigarettes-plant-product-puff>

[3] https://www.cdc.gov/tobacco/basic_information/e-cigarettes/pdfs/Electronic-Cigarettes-Infographic-508.pdf

[4] https://www.cdc.gov/tobacco/data_statistics/fact_sheets/youth_data/tobacco_use/index.htm

Big Tobacco vs S...



ahsanrana88 <ahsanrana88@yahoo.com>

7:39 AM (4 hours ago)

to publiccomment@portlandmaine.gov

Hi,

My name is Muhammad Ahsan Ashraf and I own a convenience store at 885 Brighton ave Portland maine with the name of Three ds variety, I am writing regarding the proposed flavor ban in Portland, as I want to show you my concern my store is situated is right on the border between portland and westbrook, the proposed flavor ban is counter productive as there will be no ban in westbrook, south portland, falmouth and in surrounding cities, customers will move from portland to westbrook and other cities. Which will result in killing out business my store is the only livelihood I have for me and my family. Also like to share my personal experience in Massachusetts my cousins use to own convenience store their store is shut down due to this ban and they moved to different state. My kind request request to you is please reconsider your proposed ban and save us from closing our business.

Thanks

Muhammad Ahsan Ashraf
Three ds variety

Protects

Big Tobacco



Corporate Greed

Destroys

Small Businesses



Little Guy



donald lingar <90776439ers@gmail.com>
to publiccomment@portlandmaine.gov

Jan 16, 2022, 9:39:36 PM (2 days ago)

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,
donald lingar
214 Gold Ave
Kellogg, ID 83837-2625



Steve Marzza <steve@darkharbortattoo.com> Jan 18, 2022, 10:07:04 AM (yesterday)
to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Please oppose this extreme proposal.

Sincerely,

Steve Marzza
459 Saco St
Westbrook, ME 04092-2028



Craig Durant <cdurant@gmail.com>
to publiccomment@portlandmaine.gov

Jan 18, 2022, 10:12:50 AM (24 hours ago)

Dear Portland City Council,

As your constituent, and local business manager, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

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Please oppose this extreme proposal.

Sincerely,

Craig Durant
1 Exchange St
Portland, ME 04101-5123



Mohamed Mohamed <rocboyidris@gmail.com>
to publiccomment@portlandmaine.gov

Jan 18, 2022, 10:41:23 AM (23 hours ago)

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Mohamed Mohamed
21 Chestnut St
Portland, ME 04101-4973



Caity Cook <caitymarie007@icloud.com> Jan 18, 2022, 11:28:25 AM (23 hours ago)
to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Caity Cook
105 Gould Rd
Dayton, ME 04005-7406



Rianna Tuttle <pinkmusic95@gmail.com> Jan 18, 2022, 11:29:06 AM (23 hours ago)
to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Rianna Tuttle
12 Pottersville Rd
Windham, ME 04062



Dave Discatio <mjd32@msn.com>
to publiccomment@portlandmaine.gov

10:11 AM (2 hours ago)

Dear Portland City Council,

As your constituent, and local business owner, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Dave Discatio
665 Congress St
Portland, ME 04101-3302



Peter Larsen <moransmarket@gmail.com>
to publiccomment@portlandmaine.gov

10:49 AM (1 hour ago)

Dear Portland City Council,

As your constituent, and local business owner, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Peter Larsen
1576 Forest Ave
Portland, ME 04103-1314



Lisa Walters <qshop473@gmail.com>
to publiccomment@portlandmaine.gov

11:32 AM (1 hour ago)

Dear Portland City Council,

As your constituent, and local business owner, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Lisa Walters
473 Stevens Ave
Portland, ME 04103-2635



Chris Jackson <psavchris@yahoo.com>
to publiccomment@portlandmaine.gov

Jan 18, 2022, 11:30:45 AM (23 hours ago)

Vaping flavors is effective for adults.

Hello, and thank you for taking the time to read this. My name is Chris and I'm a small business owner here in Portland Maine. I would first like to take the time to explain why my brother and I got into this industry. We are both former smokers who tried everything in our power to stop smoking. We tried taking the pill, gum, patches and everything in between to quit and everytime it was the same result. We always found ourselves smoking again and again. Vaping has been out for more than a decade and about 8 years ago I decided to give it a shot. I first tried vaping on a tobacco flavored e-liquid and quickly realized tobacco flavored products only acted as a trigger and made me want to smoke traditional combustibles. So, I gave a strawberry flavored product a try and was surprised by the results. It seemed to work well and didn't create the urge to smoke cigarettes.

The longer I stayed away from cigarettes and continued vaping the better I felt. My sense of smell and taste came back better than ever. I was able to breathe much better and snore less at night which resulted in a better nights sleep. Vaping flavored products had a profound health impact on my life and soon I couldn't wait to share my success story with others. So, my brother and I opened up a small business in Portland Maine and soon got thousands of other smokers to make the switch. Nothing has brought so much happiness into my life than seeing other people on the right step in recovery weather it be from substance abuse or nicotine. We started this business to save lives and help others and that's exactly what we have done.

Vaping has been one of the only ways to get an oral fixation like smoking but allows you to do so in less and less nicotine until you are finally down to 0mg of nicotine. The ultimate goal of vaping is to decrease your nicotine dependency until you're able to get off of nicotine all together. So after about four years of vaping and no nicotine dependency I finally quit vaping. After I stopped vaping I was curious to see if there would be any health differences like there was when I quit smoking cigarettes. After a year and a half I have yet to see or feel any differences with my health.

Unfortunately for adults minors find the flavors to be attractive too.

But, where do we draw the line? Should we ban flavored alcohol? THC infused edibles such as chocolate bars and nurds rope candy? Perhaps we should get rid smart phones and social media because the youth abuse these products and platforms as well. Flavored alcohol has certainly attracted the youth. We know how bad cigarettes are yet they are still legal to sell. Why haven't you tried to ban these products? Sounds a bit drastic but in a sense that's exactly what we have here. Vaping is the single most effective harm reduction tool a smoker has to quit. Vaping on flavors are extremely important when it comes to quitting smoking. I am fearful for my customers because I know how important flavors are and without them I believe you will see an explosion of traditional cigarette use and many vapers relapsing.

To make my point clear vaping does not come without some sort of risk. Although it has been proven to be 97% safer to smoking it can be habit forming. I do not believe inhaling anything other than clean air into our lungs, eating well and exercising will prolong or life expectancy. But vaping is certainly better than smoking and one step closer to living a more full healthier life free of addiction. For those exact reasons I started vaping and opened up a business.

It saddens me to see a room full of such smart individuals voting with emotions versus factual data on such a controversial topic that will ruin so many businesses and force many vapers to go back to smoking. I urge you to reconsider this ordinance for many reasons. I fully understand that you feel obligated to try and curve the youth using these products. But all this bill will do is push these problems to your surrounding cities and neighbors. Perhaps you would consider determining what products the youth are using and making tougher laws regarding the sale of these products. For starters I believe these products should be sold in 21+ stores keeping them out of sight to the minors. There could be a limit to how many of these products an individual could purchase during a single day. We as store owners could keep track of who is buying what in each store to help determine who is actually furnishing these products to minors. I believe harsher fines for those found furnishing these products may deter some. And for those found underage using these products there should be some sort of repercussions such as community service and or some sort of class room training. We should be exhausting all means of education and enforcement before we start to ban products that have helped so many in our community.

I would like for you to consider stores and owners such as myself as a resource you can turn to and ask complicated questions on such a controversial issue. I believe if we work together on these issues we can find common ground and both sides would benefit. As far as an outright ban on these products no one will win and you will only push consumers to other cities, helping surge an unregulated black market and more at home methods of obtaining and creating these products. When one door closes another will open and I firmly believe its best if we all tackle these issues together instead taking a chance of closing this door and creating another unknown issue all together. Please feel free to reach out to me ask any questions you may have.

Email- psavchris@yahoo.com

Phone-207-641-5114

Public Comment Order 138-21/22 0 views



Christopher B. Hudgins <chris@alfakherus.com>

11:59 AM (9 minutes ago)

to publiccomment@portlandmaine.gov

Please see attached public comment submitted by the National Hookah Community Association.
Address is:

P.O. Box 5256 S. Mission Rd, Suite 703

Bonsall, Ca 92003



Chris Hudgins

Director, U.S. Corporate & Regulatory Affairs

[703-350-5964](tel:703-350-5964)

www.alfakher.com



Preserving Hookah Culture & Protecting Hookah Tradition across the USA

January 19, 2022

Portland, Maine City Council
City Hall
389 Congress Street
Portland, ME 04101

Re: Order 138-21/22 Amendment to Portland City Code Chapter 17 Re: Sale of Flavored Tobacco Products Prohibited

Dear Councilmembers:

The National Hookah Community Association (NHCA) brings together, and serves as the voice of, hookah producers, distributors, sellers, lounge owners, consumers, and community members who support the preservation of hookah's cultural traditions. We are writing to request that you follow the lead of other jurisdictions, including the state of California, and exempt hookah from the flavored tobacco ban (Order 138-21/22) currently being considered.

Hookah is an important cultural practice that has existed for centuries, originating in the Middle East and India. Today, a broad cross-section of immigrants in the U.S. from around the world enjoy hookah as a centerpiece for cultural, business, and social gatherings. Hookah is widely used by Middle Eastern, Armenian, Turkish, East African, Indian, Persian, Indonesian, and other minority immigrant citizens. Hookah lounges across the country have come to serve as safe gathering places for many diverse ethnic and religious communities. Despite the importance of this social practice and tradition, NHCA members continue to find that many policymakers are often unfamiliar with hookah, its practice, and its community.

NHCA fully supports efforts to eliminate youth access and usage of tobacco products, including hookah. Hookah is unlikely to be used or consumed by youth for many reasons. Hookah water pipes are several feet tall, not easily concealed, and the setup for use is a lengthy process. Lounges that offer hookah are restricted to of-age customers, preventing teens from accessing the product. Recent research by the Centers for Disease Control and Prevention (CDC) found that just 2.1% of middle and high school students used hookah in the past 30 days, five times less than the number of teens or youth who vape.

Shisha, the product used in hookah, is a combination of tobacco and a sugar substance such as honey or molasses, and the total product is only comprised of approximately 15% tobacco. As has been the practice for hundreds of years, hookah is, by nature, a flavored product. Unfortunately, noble efforts to address the teen vaping epidemic by **banning flavored tobacco also would result in the ban of ALL hookah.**



Preserving Hookah Culture & Protecting Hookah Tradition across the USA

A ban on hookah would not only eliminate this important cultural practice for many U.S. citizens, but could also shutter many small, independent, and minority owned businesses. Many of these businesses serve as community gathering places for immigrant populations in cities across the country. Many hookah users are part of religious or ethnic populations that already face discrimination. Eliminating this cultural practice would make many feel as though they are misunderstood and targeted as an outsider by lawmakers and regulators.

We ask that you do not vote to shutter minority and immigrant owned business. Please include an exemption for hookah in Order 138-21/22.

Sincerely,

National Hookah Community Association

A Flavored Tobacco Ban is Bad Policy -- Please Oppose

Public Comment inbox



donald lingar <90776439ers@gmail.com>

to publiccomment

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase the cost of these products.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

donald lingar

214 Gold Ave

Kellogg, ID 83837-2625

From: Jonathan Shaer - NECSEMA <jon@necsema.net>
Date: Tuesday, January 11, 2022 at 1:26 PM
To: "council@portlandmaine.gov" <council@portlandmaine.gov>
Subject: debunking study findings

Councilors-

I'd like to bring to your attention concerns I have with a recent American Cancer Society press release titled, *American Cancer Society Releases Findings on Association of Cigarette Sales with Comprehensive Menthol Flavor Ban in Massachusetts* (link: <http://pressroom.cancer.org/menthol>). The study ignores the significant migration of product sales to NH and RI, and is selective in comparison states while making claims of the ban's successful impact. I fear that without the proper context and complete picture, the findings are quite misleading.

The release claims:

- Sales of all cigarettes in Massachusetts declined by up to 33% after the state instituted a ban on menthol-flavored cigarettes.
- The Massachusetts ban led to a roughly 300% drop in sales of packs of menthol-flavored cigarettes in the state by July of last year.
- Over the same period, cigarette sales in 33 states that did not institute a menthol flavor ban fell by 8%, while sales of menthol-flavored cigarettes declined by 3%.
- "We learn from Massachusetts that a menthol flavor ban effectively reduces both menthol and overall cigarette sales," study co-author Samuel Asare told UPI in an email.

On its face, you might say... wow, it works. But with only a little effort, you can see how this study is bunk. Attached is a press release we felt compelled to issue in response but following are some reasons why the findings should be dismissed.

The report declares sales of menthol cigarettes in MA dropped. Of course, sales fall when you ban 1/3 of in-state volume. But it completely ignores the fact that almost all the sales migrated to NH and RI as publicly available excise tax data demonstrates. Furthermore, NielsenIQ sales data is not a reliable source for this information, and it is compared to only 27 other states rather than 49 + DC. Why? Do the other 33 states not support their findings? Does Nielsen not have data there? Some other reason?

ACS and other will likely prop this up as "proof". But I hope you will dismiss it or, at the very least, ask ACS how the study accounts for a nearly 90% increase in NH/RI sales and 33 states not used in the study?

Respectfully,

Jon

Jonathan Shaer, Executive Director

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jon@necsema.net | www.necsema.net | [Join NECSEMA](#)

FOR IMMEDIATE RELEASE

January 6, 2022



Media contact:

Dave Wedge

617-799-0537

davidmwedge@gmail.com

THE AMERICAN CANCER SOCIETY (ACS) PUBLISHES MISLEADING REPORT

Engineered ACS findings ignore tax stamp sales data, which irrefutably demonstrate most menthol cigarette sales migrated to bordering states, to claim that the Massachusetts menthol ban led to a reduction in cigarette sales

STOUGHTON, Mass. (January 6, 2022) – The American Cancer Society (ACS) promoted findings yesterday in The Journal of the American Medical Association that Massachusetts’ ban on menthol cigarettes led to a sharp decline in cigarette sales in the Commonwealth, implying decreased in-state sales are equivalent to a decline in Massachusetts cigarette smoking rates. The findings, as asserted by ACS, completely ignore that an overwhelming majority of menthol cigarette sales immediately migrated to Rhode Island and New Hampshire where Massachusetts consumers made their purchases following implementation of the ban.

The New England Convenience Store and Energy Marketers Association (NECSEMA) previously published data unequivocally demonstrating the migration of sales from Massachusetts to surrounding New England states utilizing publicly available and easily verifiable state Department of Revenue tax stamp data. This data undermines the recent ACS report which attempts to paint a failed public health experiment as a success.

Since the implementation of the Massachusetts menthol ban, NECSEMA regularly released tax stamp data during the first year of the ban that demonstrated an overwhelming increase in the volume of menthol cigarette sales in Rhode Island and New Hampshire: Here are the facts:

- In the twelve months following the ban, menthol cigarettes sales skyrocketed by over 126% on average in the Rhode Island and New Hampshire counties bordering Massachusetts. These six counties saw an increase of over 23 million packs of menthol cigarettes.
- Statewide, Rhode Island saw an increase of over 43% in menthol cigarette sales and New Hampshire’s statewide increase was over 79%.
- Total cigarette tax stamp sales fell in Massachusetts by nearly 24%, during the same time period, and total cigarette tax stamp sales increased by over 22% in New Hampshire and 18% in Rhode Island.

To mislead the public about tobacco policy, especially in The Journal of the American Medical Association, does a grave disservice to public health and the credibility of the ACS.

“The report published by the ACS is absurd. It is not surprising that in-state menthol cigarette sales declined when the state banned the legal sale of those products. However, to promote misleading findings by omitting significant facts is both irresponsible and dangerous as other states and some cities consider a similar policy. Moreover, it undermines the Food and Drug Administration’s substantial investments in evidence-based research to determine the appropriate path forward for certain nicotine and tobacco products,” said Jonathan Shaer, Executive Director of the New England Convenience Store & Energy Marketers Association. “When organizations release findings about public policies that purport to provide improvements to public health while ignoring widely available government data, it undermines public trust and ignores the public health potential for evidence-based tobacco and nicotine policies that will actually improve health outcomes.”

To speak with Jonathan Shaer, please contact Dave Wedge at davidmwedge@gmail.com or 617-799-0537.

###

From: Jonathan Shaer - NECSEMA <jon@necsema.net>
Date: Friday, January 7, 2022 at 10:54 AM
To: "council@portlandmaine.gov" <council@portlandmaine.gov>
Subject: my editorial

Good morning, Councilors. Back in May, I penned an editorial that was picked up the Maine Wire about LD 1550 – a state bill that sought to ban flavored tobacco. As I've explained before, the bill came out of committee with a split report: one in support of a complete flavored tobacco ban, the other a flavored vape-only ban with a pmtpa/mrtp exemption. The sponsors chose to carry the bill into the 2022 session recognizing their preferred version was unlikely to pass.

The editorial is an easy-to-read summary of the process and issue, in general.

<https://www.themainewire.com/2021/05/debunking-the-myths-of-maines-proposed-flavored-tobacco-ban/>

Respectfully,

Jon

Jonathan Shaer, Executive Director

New England Convenience Store & Energy Marketers Association, Inc. (NECSEMA)

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From: Jonathan Shaer - NECSEMA <jon@necsema.net>
Date: Wednesday, January 5, 2022 at 2:35 PM
To: "council@portlandmaine.gov" <council@portlandmaine.gov>
Subject: Explaining LD1550

Councilors-

Happy new year. I hope you've found the information I have been sending to be helpful for your understanding of the proposal to ban flavored tobacco. Following is more information very relevant to your personal contemplations.

Allow me to explain what happened with LD1550, the flavored tobacco ban bill debated in the Maine state legislature last session, and why it never came up for a vote. I believe this is very important to understand if you hope a Portland ban will lead to a state ban.

Last session, three tobacco related bills were proposed: [LD1550](#) which sought to ban the sale of flavored tobacco, [LD1423](#) which sought to increase the excise tax on a pack of cigarettes from \$2 to \$4 per pack and double the excise tax on all Other Tobacco Products (OTP), and LD1693 which was both a flavor ban and a tax increase – this last bill never saw the light of day. Another tobacco-related proposal that didn't get any traction was the Governor's *Part 2 Budget* which was a flavored tobacco ban with a \$32 million draw on the federal stimulus money the state had received.

LD1550 was voted out of committee as a *divided report* with the Majority Report supporting a full ban while the Minority Report would have only banned flavored vape products that did not receive a PMTA approval. As the weeks passed and legislators learned about the issue, the FDA's PMTA process, and the enormous difference between the fiscal note of LD1550 (\$32 million in first year) vs. Minority Report (\$2.1 million in first year) the Minority Report gained a lot of support. Then, in mid-June, LD1423 came up for a vote and failed 67-73. At this point, it was clear LD1550 was unlikely to pass so the sponsors opted to carry it over to 2022. If any confidence existed that LD1550 would pass then it would have been called for a vote. But that never happened.

I strongly believe LD1550 has even less of a chance in 2022 because so much has happened: Youth vape rates have fallen 60%, the FDA is removing almost every flavored vape product from the market via their PMTA process, the USPS is no longer shipping e-cigarettes and, perhaps most notably, there is a full year of data demonstrating how the ban in Massachusetts has been an abject failure. None of which existed in 2021 which is why we believe LD1550 stands less a chance next year than it did last year. So, supporting a local ban will very likely mean putting Portland on an island.

Respectfully,

Jon

Jonathan Shaer, Executive Director

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jon@necsema.net | www.necsema.net | [Join NECSEMA](#)

From: Jonathan Shaer - NECSEMA <jon@necsema.net>
Date: Monday, December 20, 2021 at 9:33 AM
To: "council@portlandmaine.gov" <council@portlandmaine.gov>
Subject: NIH Study

Councilors-

The *Monitoring the Future* (MTF) survey released its 2021 results the week before last. The MTF is funded by the National Institute of Health and conducted by the University of Michigan, and measures drug and alcohol use and related attitudes among adolescent students nationwide.

The results are significant as it relates to your consideration of a ban on the sale of all flavored nicotine products in Portland.

Vaping continues to be the predominant method of nicotine consumption among young people, though the percentage of students who reported vaping nicotine within the past year decreased significantly for eighth, 10th, and 12th grade students.

- **8th graders:** 12.1% reported vaping nicotine in the past year in 2021, compared to 16.6% in 2020
- **10th graders:** 19.5% reported vaping nicotine in the past year in 2021, compared to 30.7% in 2020
- **12th graders:** 26.6% reported vaping nicotine in the past year in 2021, compared to 34.5% in 2020

*These percentages are for use at any point during the prior 12 months, whereas the National Youth Tobacco Survey (NYTS) is any use over the past 30th days. We prefer the NYTS numbers, but both are showing significant reductions in underage use.

The first sentence corroborates what we've been saying all along that it is vaping, not all the other traditional tobacco products, that attract youth. Yet, the ban you are considering bans everything. Also, worth noting is that 12th graders are drinking (46.5) and using marijuana (30.5%) at greater rates than 12th graders are vaping nicotine. Yet, we continue to demonize one product over others.

<https://www.nih.gov/news-events/news-releases/percentage-adolescents-reporting-drug-use-decreased-significantly-2021-covid-19-pandemic-endured>

I hope you all have a wonderful holiday season, and I look forward to connecting in 2022 on this important issue and any others that cause our paths to cross.

Respectfully,

Jon

Jonathan Shaer, Executive Director

New England Convenience Store & Energy Marketers Association, Inc. (NECSEMA)

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From: Jonathan Shaer - NECSEMA <jon@necsema.net>
Date: Tuesday, December 14, 2021 at 9:05 AM
To: "council@portlandmaine.gov" <council@portlandmaine.gov>
Subject: Denver veto

Councilors-

Last week, the Mayor of Denver, CO vetoed an ordinance passed by the city council to ban the sale of flavored tobacco. The council vote was not unanimous, and the ordinance was a bit different from the one Portland is considering. I wish to draw your attention to the letter Mayor Hancock sent to the city council explaining his reasoning. I believe you'll recognize some of the themes.

<https://www.denvergov.org/files/assets/public/mayor/documents/2021-12-10-mayor-hancock-letter-to-city-council-cb21-1182.pdf>

As I've said time and again, this is truly an issue that belongs with the Maine state legislature. I recognize you don't wish to harm your local retailers nor treat your legal-aged adults unfairly, but if Portland passes the ban and the state legislature does not then that is exactly what would occur.

Respectfully,

Jon

Jonathan Shaer, Executive Director

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From: Jonathan Shaer - NECSEMA <jon@necsema.net>
Date: Friday, December 10, 2021 at 7:56 AM
To: "council@portlandmaine.gov" <council@portlandmaine.gov>
Subject: 2 important points

Councilors-

There are a couple issues that I fear are misunderstood and/or under-appreciated. The first is the importance of the FDA's PMTA process. It cannot be overstated how important it is for you to completely understand the process and the end result. The second is which products the ban would actually outlaw – spoiler alert: it's a lot more than just vape. Please take 5 minutes and read below and attached.

Pre-Market Tobacco Application Process (PMTA)

Attached is a letter I asked Attorney Jonathan Havens write to the Portland City Council. It is succinct and provides insight into this rigorous FDA process. I include this because it is a terrific summary of the FDA's PMTA process from an attorney who is a former regulatory counsel with the FDA and counsels his clients on regulatory, compliance, and enforcement matters related to products regulated by the FDA, FTC and CPSC.

By law, every nicotine product marketed after February 15, 2007 must receive an order from the FDA permitting the ongoing marketing of the product. The order is called a PMTA authorization. For the FDA to issue a PMTA marketing order, the agency must determine that the manufacturer has demonstrated that marketing of the new tobacco product would be appropriate for the protection of the public health.

The FDA's deadline was September 20, 2021. The FDA still has some products it needs to evaluate, but only a handful will be issued PMTA orders effectively decimating the category. In other words, the days of thousands of flavors and devices are over. Anyone using the term *unicorn tears* from this point forward is either uninformed or trying to pray on past emotions.

Products

Attached is a flavored products inventory report that Chris from Cigaret Shopper has provided. Almost every product in the "Vape and Vape Devices" category will be pulled from shelves in just a matter of time once the FDA releases its list of unauthorized products. Every other product on the list is a *traditional tobacco* product. Per CDC data, these traditional products have low single digit youth user appeal. They are adult products. **Every product on this entire spreadsheet would be banned** if the ordinance passes. Maine's flavored tobacco profile happens to be quite large: Menthol cigarettes account for about 18% of state cigarette volume, about 89% of Maine's snuff volume is flavored, 71% of Maine's e-cigarette volume is flavored product and 60% of Maine's cigar volume is flavored.

Best,

Jon

Jonathan Shaer, Executive Director

New England Convenience Store & Energy Marketers Association, Inc. (NECSEMA)

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jon@necsema.net | www.necsema.net | [Join NECSEMA](#)

From: Jonathan Shaer - NECSEMA <jon@necsema.net>
Date: Tuesday, November 9, 2021 at 6:21 AM
To: Belinda Ray <bsr@portlandmaine.gov>, Tae Chong - City number <tchong@portlandmaine.gov>, "mdion@portlandmaine.gov" <mdion@portlandmaine.gov>
Cc: "council@portlandmaine.gov" <council@portlandmaine.gov>
Subject: flavored tobacco ban comments

Pease accept these written comments to complement the verbal testimony I plan to give this evening. Once again, thank you for opening this hearing for additional public comment on the proposed flavored tobacco ban.

Jon

Jonathan Shaer, Executive Director

New England Convenience Store & Energy Marketers Association, Inc. (NECSEMA)

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jon@necsema.net | www.necsema.net | [Join NECSEMA](#)



November 9, 2021

Portland City Council
Health and Human Services & Public Safety Committee
Portland City Hall
389 Congress St.
Portland, ME 04101

Chairman Chong, Councilmember Ray and Councilmember Dion,

Thank you for accepting additional public testimony at your hearing this evening. This is a very important issue to 50 businesses in your city, its 38 convenience stores and a significant number of adults evidenced by the volume of flavored tobacco these stores sell. Allowing additional testimony is particularly important considering the number of inaccuracies and biased information presented to your committee by the local tobacco control coordinator at the last hearing (i.e. the number of states with a ban is one, not five as you were told).

I will not waste your time defending flavored tobacco, and I hope you will not succumb to tactics which attempt to demonize the companies that manufacture and sell them. Those schemes are irrelevant and only serve as smoke and mirrors to the real questions: What is the purpose of a local ban, and will a local ban be effective?

If the purpose is to prevent youth from initiating nicotine use, then a local ban will be ineffective because you have not closed access of the products to minors, Portland retailers have a 97% FDA-verified compliance rate and the only products youth are statistically using, electronic nicotine delivery systems (ENDS), have all effectively been banned by the FDA via their Pre-Market Tobacco Application (PMTA) process.

If the purpose is to send a signal to the state legislature that Portland is in favor of a statewide ban, then a local ban will be equally ineffective since the state will likely take a more measured approach as it was prepared to last session (even before the PMTA process began) and only leave Portland businesses disadvantaged adults inconvenienced by its more sweeping ban.

Everyone claims this policy is intended to protect youth. If that is the case, then there is no empirical or statistical reason why menthol cigarettes, wintergreen smokeless and the varieties of pipe tobacco should be banned. The only product shown to demonstrate any modern-day youth appeal is ENDS (aka vape). The statistics are clear and come right from the CDC's National Youth Tobacco Survey¹ which shows that in 2020 high school-aged use for ENDS was 19.6% (down from 27.5% in 2019), cigarettes use at 4.6% (down 15.8% since 2011), smokeless use at 3.1% (down 7.9% since 2011) and cigar use at 5% (down 11.6% since 2011). In fact, the 2021 early data shows ENDS use has fallen again

¹ CDC Tobacco Data Statistics *Estimates of Current Tobacco Use Among Youth*
https://www.cdc.gov/tobacco/data_statistics/fact_sheets/youth_data/tobacco_use/index.htm

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to 11.3% - a 60% drop in two years. As you can see, there are stark difference in the various products' youth appeal rates.

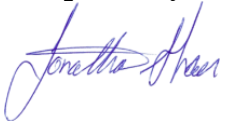
The Maine state legislature took the time to understand these facts and didn't allow emotion to dictate their decision on LD 1550. Had the bill not been pulled by the sponsors, the legislature \ likely would have passed an alternative that only banned flavored ENDS and included an PMTA authorized products exemption.

Understanding PMTA is absolutely critical as you consider this proposed ban. By September 2020, every ENDS product had to submit an application to the FDA to remain on the market. Since then, the FDA has acted on nearly 7,000,000 flavored ENDS/vapor applications and granted only 22 authorizations. The only products that will remain available are those the FDA has determined are "appropriate for the protection of public health". This is a science-based process, not an emotional one, and I would hope Portland would want these products available to legal adults if they FDA authorizes them. I was shocked your local tobacco control coordinator did not include any mention of this process in her presentation.

A local ban will not stop youth who are already knowingly breaking the law and it will not hurt the tobacco manufacturers since their products will continue to be sold, just not in Portland. Look no further than Massachusetts which saw virtually all the products come back into the state via New Hampshire and Rhode Island, coupled with a migration to traditional tobacco and vape. It will only hurt your local retailers. These local retailers are the only face to face gatekeepers for age-restricted tobacco and have a 97% compliance rate. Out of the 169 inspections since 2018 there have only been 5 violations. They are doing their job!

I implore you to oppose this proposed by-law. It is misguided as a targeted approach to reduce youth nicotine access and initiation, it ignores the science-based work of the FDA, it overreaches to impact Portland's adults, and will do nothing to reduce use or access while only serving to damage legal, licensed, tax-paying businesses in your city and the jobs those businesses provide and the families those jobs provide for.

Respectfully submitted,



Jonathan Shaer
Executive Director
Jon@necsema.net
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Letter to the Council 0 views



Dee Kerry <dee.kerry@maineaap.org>
to publiccomment@portlandmaine.gov

Jan 27, 2022, 1:55:47 PM (6 days ago)

Please accept the attached letter from the Maine Chapter of the American Academy of Pediatrics.

Regards,
Dee

--

Dee A. Kerry, Executive Director
she/her ([Why pronouns matter](#))

American Academy of Pediatrics, Maine Chapter
'Maine AAP'
Physical Address: 30 Association Drive
Mailing Address: PO Box 190
Manchester, ME 04351
cell: [207-620-0806](tel:207-620-0806)
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Join us on Social Media: <https://linktr.ee/maineaap>

Maine Chapter

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American Academy of Pediatrics

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Dee Kerry, BS Ed
Executive Director
30 Association Drive, Box 190
Manchester, ME 04351

office: 207-480-4185

<http://www.maineaap.org>

January 27, 2022

Distinguished members of the Portland City Council, I am writing today on behalf of the Executive Leadership of the Maine Chapter of the American Academy of Pediatrics.

The tobacco industry has a long tradition of marketing tobacco products that appeal to new users and young people. In recent years, they have introduced and marketed flavored tobacco products including e-cigarettes, cigars, smokeless tobacco and hookahs. With their colorful packaging and appealing sweet flavors, today's flavored tobacco products resemble popular candy brands and are marketed directly to youth. These products are often placed near candy displays in retail stores. There are now over 15,000 flavored tobacco products on the market.

Flavored tobacco products undermine Maine's efforts to reduce youth tobacco use. E-cigarettes are not an FDA-approved cessation method and are an enticement for youth who may not otherwise have started smoking a traditional tobacco product. For individuals looking for support to quit smoking, vaping, or other tobacco use, there are many products to help and resources such as the Maine QuitLink at 1-800-QUIT-NOW which provides free support and coaching and is evidenced-based and very effective.

We know from the Maine Integrated Youth Health Survey that one in four Maine high school students now uses e-cigarettes – a rate that has nearly doubled in the past two years. The adolescent brain is very vulnerable and susceptible to nicotine dependence and addiction very quickly. The danger to a child's developing lungs is also significant. These products, delivering flavored nicotine and aerosol mist, contain at least 6 types of toxic chemicals including nicotine, benzene, carbonyls, particulates, and trace metals, to name a few. These chemicals cause the lungs to become inflamed and can trigger or worsen conditions such as asthma and weaken the lung's ability to heal from conditions such as bronchitis and pneumonia. Over time, using these products can lead to more serious illness such as emphysema or cancer of the mouth, esophagus, and lungs.

As physician's serving children and families in Maine, we are extremely concerned with the growing rate of addiction among youth and young adults. We are strongly in favor of policies to end the sale of flavored tobacco products and encourage you to take the bold step to pass the city-wide ordinance to eliminate the sale of these products which threaten the health and well-being of Maine's children and young adults.

Respectfully submitted,

Dee Kerry
Executive Director

Proposed Flavor Tobacco Ban 0 views



Gus Lipin <guslipin@gmail.com>
to publicComment@portlandmaine.gov

Jan 19, 2022, 6:50:53 PM (13 days ago)

Dear Councilors,

I own the 1041 Brighton Ave Shopping Plaza and write you today regarding the proposed flavor tobacco ban being discussed.

Portland Smoke and Vape has been a tenant in the Plaza since 2017 and has been a great addition to our location. They draw a significant amount of traffic into the plaza and we hope to keep them as a tenant. They have been great tenants to work with and look out for the best interests of my property which I value as their landlord.

This ordinance not only impacts the businesses it targets by limiting their products and overall revenue, but also impacts business owners that lease out their locations to businesses should the business close or move locations due to a local ordinance. This ordinance fails to accomplish the goals it sets out to accomplish as these customers can travel or walk a short distance to a surrounding town/city and purchase these products. This ordinance also puts unnecessary strain on local business owners and their staff after such a turbulent couple years we've had with Covid. I see this ordinance as the City being unfriendly to its local businesses. We should be supporting our local businesses and finding better solutions with them to a problem rather than an outright ban on a product that has helped many people get off something so harmful as cigarettes.

I hope that you take these comments into consideration when you're working through your decision and I urge you to oppose this ordinance.

Thank you,
Gus Lipin
The All American Family LLC

End the sale of flavored tobacco 0 views



Matt Wellington <mwell12358@gmail.com> Jan 26, 2022, 9:46:30 AM (7 days ago)
to City Officials

Dear City Officials,

Maine kids are using tobacco products at rates higher than the national average, and flavors are luring them into what often ends up being a lifetime addiction. There is an ordinance that you are currently considering that would ban the sale of flavored tobacco products in Portland, and I would like you to support the effort and vote yes on the proposal.

Driven by thousands of flavors from gummy worm and cotton candy to mint and mango, 2 million U.S. kids are vaping – including more than 1 in 4 Maine high school students, a rate that has nearly doubled in the past two years. An overwhelming majority of them say flavors are the reason why.

Meanwhile, menthol makes it easier to start smoking and harder to quit. In fact, half of youth smokers ages 12-17 use menthol cigarettes. And due to targeted tobacco industry marketing, 85% of Black smokers use menthols.

Cities have long been leaders in efforts to reduce tobacco use in Maine and in other states across the country. Bangor just passed an ordinance to end the sale of all flavored tobacco products. Portland should join them and set an example for the state to follow.

Every day that flavored tobacco products are on the market, our kids are at risk. Let's put their health above Big Tobacco's profits. Please do everything you can to end the sale of ALL flavored tobacco products in our city without delay and vote yes on the proposed ordinance that would put Portland's kids first.

Sincerely,
Matt Wellington
14 Monument St.
Portland, ME 04101



Julia Panepinto <juliapanepinto@gmail.com> Jan 26, 2022, 9:53:00 AM (7 days ago)
to City Officials

Dear City Officials,

Maine kids are using tobacco products at rates higher than the national average, and flavors are luring them into what often ends up being a lifetime addiction. There is an ordinance that you are currently considering that would ban the sale of flavored tobacco products in Portland, and I would like you to support the effort and vote yes on the proposal.

I have seen too many friends and family's fall victim to nicotine addictions to their introduction with flavored products. We have to get rid of this option that draws SO MANY new smokers in!

Driven by thousands of flavors from gummy worm and cotton candy to mint and mango, 2 million U.S. kids are vaping – including more than 1 in 4 Maine high school students, a rate that has nearly doubled in the past two years. An overwhelming majority of them say flavors are the reason why.

Meanwhile, menthol makes it easier to start smoking and harder to quit. In fact, half of youth smokers ages 12-17 use menthol cigarettes. And due to targeted tobacco industry marketing, 85% of Black smokers use menthols.

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Every day that flavored tobacco products are on the market, our kids are at risk. Let's put their health above Big Tobacco's profits. Please do everything you can to end the sale of ALL flavored tobacco products in our city without delay and vote yes on the proposed ordinance that would put Portland's kids first.

Sincerely,
Julia Panepinto
87 Sherwood St.
Portland, ME 04103



BJ McCollister <bjmccollister@gmail.com> Jan 26, 2022, 10:19:48 AM (7 days ago)
to City Officials

Dear City Officials,

Maine kids are using tobacco products at rates higher than the national average, and flavors are luring them into what often ends up being a lifetime addiction. There is an ordinance that you are currently considering that would ban the sale of flavored tobacco products in Portland, and I would like you to support the effort and vote yes on the proposal.

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Every day that flavored tobacco products are on the market, our kids are at risk. Let's put their health above Big Tobacco's profits. Please do everything you can to end the sale of ALL flavored tobacco products in our city without delay and vote yes on the proposed ordinance that would put Portland's kids first.

Sincerely,
BJ McCollister
61 Rosemont Ave
Portland, ME 04103



Julia Panepinto <juliapanepinto@gmail.com> 9:51 AM (7 hours ago)
to City Officials

Dear City Officials,

Maine kids are using tobacco products at rates higher than the national average, and flavors are luring them into what often ends up being a lifetime addiction. There is an ordinance that you are currently considering that would ban the sale of flavored tobacco products in Portland, and I would like you to support the effort and vote yes on the proposal.

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Cities have long been leaders in efforts to reduce tobacco use in Maine and in other states across the country. Bangor just passed an ordinance to end the sale of all flavored tobacco products. Portland should join them and set an example for the state to follow.

Every day that flavored tobacco products are on the market, our kids are at risk. Let's put their health above Big Tobacco's profits. Please do everything you can to end the sale of ALL flavored tobacco products in our city without delay and vote yes on the proposed ordinance that would put Portland's kids first.

Sincerely,
Julia Panepinto
87 Sherwood St
Portland, ME 04103

Tobacco Flavor Ban 138-2122 0 views



ahsanrana88 <ahsanrana88@yahoo.com>
to publiccomment@portlandmaine.gov

1:09 PM (4 hours ago)

City Council,

It's my understanding that the Portland City Council is proposing a ban on menthol cigarettes, flavored dip and flavored cigars for adults 21 and older. As a retailer that owns a business in Portland, I'm extremely disappointed that you will stop me from selling an adult product to my customers. If you pass this, my customers will simply drive to Westbrook less than 1 mile away to obtain their adult product of their choice. Furthermore, you will depreciate the value of my business.

To me, this is common sense. Prohibition doesn't work. Please vote no on the flavor ban.

Thank you,

Ahsan Ashraf

3 D's Variety

Brighton Ave, Portland

Sent from my Verizon, Samsung Galaxy smartphone



M Adnan <adnan_akhtar2911@yahoo.com>
to publiccomment@portlandmaine.gov

1:17 PM (3 hours ago)

City Council,

It's my understanding that the Portland City Council is proposing a ban on menthol cigarettes, flavored dip and flavored cigars for adults 21 and older. As a retailer that owns a business in Portland, I'm extremely disappointed that you will stop me from selling an adult product to my customers. If you pass this, my customers will simply drive to Westbrook less than 1 mile away to obtain their adult product of their choice. Furthermore, you will depreciate the value of my business.

To me, this is common sense. Prohibition doesn't work. Please vote no on the flavor ban.

Thank you,

Muhammad Akhtar

3 D's Variety

Brighton Ave, Portland

Sent from my iPhone

Reply all

Reply to author

Forward

Kevin McBride <bookgod2@gmail.com>
to publiccomment@portlandmaine.gov

Jan 19, 2022, 1:25:23 PM

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Kevin McBride
231 New Gorham Rd
Westbrook, ME 04092-2138



Chynna Blaney <clm61416@gmail.com>
to publiccomment@portlandmaine.gov

Jan 20, 2022, 9:20:13 AM (13 days ago)

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Chynna Blaney
1230 Congress St
Portland, ME 04102-2129



James Verville <jverville@live.com>
to publiccomment@portlandmaine.gov

Jan 27, 2022, 8:11:01 AM (6 days ago)

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

James Verville
358 Schellinger Rd
Poland, ME 04274-6128



Lillian Hurst <lillihurst@gmail.com>
to publiccomment@portlandmaine.gov

Jan 28, 2022, 3:09:18 AM (5 days ago)

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,
Lillian Hurst
1901 Union St
Apt 225
Lafayette, IN 47904-2681



Samantha Hester <owenssamantha97@gmail....>
to publiccomment@portlandmaine.gov

Jan 30, 2022, 1:05:56 PM (3 days ago)

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,
Samantha Hester
217 Beaverdale Rd NE
Dalton, GA 30721-8014



Jason Tschamler <xdurablemammalx@gmail.c...>
to publiccomment@portlandmaine.gov

Feb 1, 2022, 9:22:04 AM (yesterday)

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Jason Tschamler
25 Colonial Rd
Portland, ME 04102-2009



Karysajean Matson <mommyoftobabies2019@icloud.com> 2:20 PM (2 hours ago)
to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living-- instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Karysajean Matson
164 Washburn Ave
Apt 3
Portland, ME 04102-2826

Proposed Portland Flavor Ban 1 view



brandi.cushman@cnbrown.com <brandi.cushman@cnbro... Nov 15, 2021, 9:08:11 AM
to council@portlandmaine.gov, publiccomment@portlandmaine.gov

Good morning council members.

My name is Brandi Cushman and I am the Director of Purchasing for C. N. Brown Company. We own and operate two Big Apple Convenience Stores in the City of Portland.

I hope that you will take a few minutes to read our concerns with this proposed flavor ban in the attached document.

I appreciate your time.

Thank you,

Brandi Cushman

Director of Purchasing and Merchandising

C. N. Brown Company

P.O. Box 200

1 C. N. Brown Way

South Paris, ME 04281

☎: 207-743-4200 ext. 3102

📠: 207-743-8357

✉: brandi.cushman@cnbrown.com

www.cnbrown.com

When you think something is more important than a Customer.....Think Again





1 CN Brown Way
PO Box 200
South Paris, ME 04281
Phone: (207) 743-9212
Fax: (207) 743-8357
Toll Free 800-432-4211
cnbrown.com

Portland City Council
City Hall
389 Congress Street
Portland, ME 04101

RE: Portland City Ordinance Ending the Sale of Flavored Tobacco Products

Portland City Council-

Thank you for taking the time to read C. N. Brown Company's concerns with the proposed city ordinance ending the sale of flavored tobacco products.

My name is Brandi Cushman and I am the Director of Purchasing and Merchandising and the Category Manager of tobacco for C. N. Brown Company. We own and operate the Big Apple convenience stores at 2 Park Avenue and 16 Washington Ave. in Portland employing a total of 18 associates. Those are 18 local jobs we have created.

I am writing in opposition of this city ordinance, an ordinance that will dramatically decrease the operating revenue and profitability of many stores within the city, will affect jobs, and do nothing to keep these products that you propose to ban out of the hands of your youth as it is intended.

Zero Tolerance

We have absolutely no interest in selling tobacco to the youth in your city or anywhere else. We have training, policies, and procedures in place to ensure, to the best of our ability, that tobacco products do not get into the hands of your youth. In fact, we take this so seriously that in the rare instance an employee is found in violation of the law, and our internal training and policies regarding underage tobacco sales, they are immediately terminated. Retailers like us are on the front-line protecting young people in your city and throughout the State of Maine and we take that responsibility very seriously.

Goes Too Far

It is stated that this ordinance is about protecting youth, however, this policy is looking to ban many adult-preferred products including menthol cigarettes, mint and wintergreen smokeless tobacco and flavored cigars. The CDC's 2020 National Youth Tobacco Survey shows that high school-aged use for ENDS/vapor is 19.6% (down from 27.5% in 2019), cigarettes use at 4.6% (down 15.8% since 2011), smokeless use at 3.1% (down 7.9% since 2011) and cigar use at 5% (down 11.6% since 2011). This shows that the most preferred products by youth (although it has declined significantly) are ENDS/vapor products, yet the city is looking to ban ALL flavored tobacco products.

Federal Action

The FDA is diligently working through the Pre-Market Tobacco Application (PMTA) process with vapor products and has already removed more than 6,000,000 of these products from the market by denying their PMTA application. The only products the FDA will allow to remain on the market are those that they have determined are “appropriate for the protection of public health”. The FDA is using a science based approach to ensure that vapor products that meet their standards are available to adult tobacco consumers.

Doesn't Eliminate Access

Local tobacco bans are not going to protect your youth. If this ordinance is passed, flavored tobacco and ENDS/vapor users, including youth illegally obtaining such products, will simply go to the next city/town to get the products they want. The only people that will be negatively affected by this ordinance are your legal, licensed, tax paying local businesses who will not only lose the sale of these legal products to adult tobacco consumers, but also all of the ancillary sales these customers take with them.

The majority of youth are getting these products via adult tobacco consumers, including parents. Instead of continually attacking retailers on this issue, let's put some responsibility on the youth access issue where it lies.

With alcohol there are numerous laws on the books in regards to Illegal Possession by a Minor, Illegal Transportation by a Minor, and Furnishing to a Minor. If youth access is truly the concern of this council, these are the same laws that need to be in place and enforced for tobacco products. (I have attached a listing of these laws.) Stop making retailers shoulder all of the burden and all of the consequences of the youth access issue.

At the same time, in the rare instance that an associate at a retail establishment fails a sting because **they choose** to ignore the age verification prompt of the POS system as well as all policies and training procedures of that retail establishment, that associate should receive some form of consequence from the city and/or state, not solely the retailer. Retailers do everything in their power to make sure an illegal sale to a minor does not occur but we cannot control an associate who chooses to ignore all of the retailer's precautions.

We believe that these issues should be debated where they belong, at the state level and with the FDA. Allow the FDA, with its resources, to determine which products are safe and which are not so that adult tobacco consumers are not forced to travel across city limits to purchase legal products and therefore hurt businesses within the city of Bangor.

We strongly encourage that you vote no on the city ordinance ending the sale of flavored tobacco products.

Thank you.

A Flavored Tobacco Ban is Bad Policy -- Please Oppose 2 views



MEGAN TURBIDE <Mturbide76@gmail.com>

Dec 8, 2021, 2:21:40 PM

to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,
MEGAN TURBIDE
170 Portland Ave
Old Orchard Beach, ME 04064-1293



Olivia Curtis <ocurtis1832@gmail.com>

Dec 13, 2021, 4:37:39 PM

to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living-- instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Olivia Curtis
16 Adelaide Rd
Apt A
Old Orchard Beach, ME 04064-2227



Heather Brooks <heatherbrooks024@gmail.com>
to publiccomment@portlandmaine.gov

Dec 15, 2021, 12:33:45 PM

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living-- instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Heather Brooks
36 Maggie Ln
Portland, ME 04103-6502



to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,
Phyllis Nimer
749 Diabolo Rd
Danville, CA 94526



Katie Wilson <katiewils0nn@icloud.com>
to publiccomment@portlandmaine.gov

Dec 17, 2021, 6:55:03 PM

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Katie Wilson
25 Munjoy S
Portland, ME 04101-4310



Duane Tower <duanetower11@gmail.com>
to publiccomment@portlandmaine.gov

Dec 18, 2021, 2:53:45 PM

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Duane Tower
4816 Briarcliff Sq
Apt 13
Honeoye, NY 14471-9680



Duane Tower <duanetower11@gmail.com>
to publiccomment@portlandmaine.gov

Dec 18, 2021, 2:56:12 PM

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living-- instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,
Duane Tower
4816 Briarcliff Sq
Apt 13
Honeoye, NY 14471-9680

Protect Portland Children from Tobacco Addiction 1 view



Deb Smith <executivedirector.mahperd@gmail.com>

Nov 9, 2021, 3:42:13 PM

to council@portlandmaine.gov, publiccomment@portlandmaine.gov

Dear Portland City Council Health & Human Services and Public Safety Committee

Chair Councilor Tae Chong, and Councilor Belinda Ray, and Councilor Mark Dion

I am Deb Smith a resident of Portland and the Executive Director of the Maine Association for Health, Physical Education, Recreation, and Dance (MAHPERD). The MAHPERD Board of Directors signed on to the Flavors Hook Kids Campaign in Maine in 2021. The MAHPERD Board, and I are supportive of the ordinance to end the sale of Flavored Tobacco Products in Portland.

The use of tobacco products remains the nation's number one cause of preventable death and in Maine, nearly 1 in 5 adults smoke cigarettes, the highest rate in the Northeast. In recent years, overall youth tobacco use in Maine has skyrocketed, largely driven by the youth e-cigarette use epidemic and now 1 in 2 Maine high school students and 1 in 6 middle school students have used e-cigarettes.

Tobacco companies are targeting youth with flavored tobacco products. Products that come in array of kid friendly candy and fruit flavors such as mint, cherry, grape jelly, cotton candy, piña colada, and cinnamon roll, all sold in colorful packaging that is designed to attract tweens and teens. Nationwide, nearly 81% of youth ages 12 to 17 who had ever used a tobacco product reported that the first product they used was flavored. Tobacco companies use flavor to hook a new generation of kids on its deadly products. Flavors hide the bad taste of tobacco and make it easier for kids to try. Menthol has the additional quality of soothing the irritation of combustible cigarettes, which is why so many young people start smoking using menthol cigarettes.

We must do everything in our power to keep our communities healthy and safe and we applaud the Portland City Council for making sure that Portland residents are healthy and safe against the harms from tobacco with the ordinance.

Sincerely,

Deb Smith
201 Bradley Street
Portland, ME 04102
Executivedirector.mahperd@gmail.com

--

Deb Smith
Executive Director, Maine AHPERD



Engage • Educate • Inspire

NECSEMA comments on proposed flavored tobacco ban in Portland, ME

0 views



Havens, Jonathan A. <Jonathan.Havens@saul.com> Nov 22, 2021, 3:21:13 PM
to ksnyder@portlandmaine.gov, council@portlandmaine.gov, publiccomment@portlandmaine.gov

Dear Mayor Snyder and Members of the Portland City Council:

On behalf of our client, the New England Convenience Store and Energy Marketers Association (NECSEMA or the Association), I am submitting the attached comments regarding the proposed ordinance that would ban the sale of flavored tobacco products in Portland, Maine.

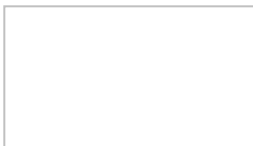
I would ask that you include these comments in the Councilor's agenda packet for when the City Council meets to discuss the proposed flavored tobacco ban.

Thank you for your consideration of these comments.

Sincerely,

Jonathan Havens

Outside Counsel to NECSEMA



Jonathan A. Havens

500 E. Pratt Street | Suite 900 | Baltimore, MD 21202
1919 Pennsylvania Ave., NW | Suite 550 | Washington, D.C. 20006
O: 410.332.8757 | M: 301.404.0674 | F: 410.332.8179
Jonathan.Havens@saul.com | www.saul.com | [LinkedIn](#) | [Twitter](#)

Click  for an interactive look at the latest from our Cannabis Law Team.

"Saul Ewing Arnstein & Lehr LLP (saul.com)" has made the following annotations:

+~~~~~+

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+~~~~~+



November 22, 2021

Mayor Kate Snyder
Members of the Portland City Council
City of Portland
389 Congress Street
Portland, ME 04101

Re: Comments on proposed flavored tobacco ban in Portland, ME

Dear Mayor Snyder and Members of the Portland City Council:

On behalf of our client, the New England Convenience Store and Energy Marketers Association (NECSEMA or the Association), I am submitting these comments regarding the proposed ordinance that would ban the sale of flavored tobacco products in Portland, Maine. I would ask that you include these comments in the Councilor's agenda packet for when the City Council meets to discuss the proposed flavored tobacco ban. I am outside counsel to NECSEMA, and advise the Association on various state and federal regulatory matters. Prior to entering private practice, I served as a regulatory counsel with the U.S. Food and Drug Administration's (FDA or the Agency) Center for Tobacco Products (CTP). Prior to starting law school, I served as a legislative aide in the U.S. Senate and U.S. House of Representatives.

As you know, the proposed ban would prohibit in Portland the sale and consumption of flavored tobacco products, including any smell or taste relating to fruit, menthol, or candy. NECSEMA opposes the proposed flavor ban for numerous reasons, including: (1) flavored products that the U.S. Food and Drug Administration (FDA or the Agency) has authorized for marketing would be banned under the ordinance; (2) the Maine Legislature considered such a ban last session and will likely do so again this session; and (3) local tobacco-related bans are ineffective. In short, the federal government and the State are equipped to handle how best to regulate flavored tobacco products, and NECSEMA urges you to let them do so.

The primary focus of these comments is to alert you to the fact that banning flavored tobacco products in Portland would undermine FDA's robust regulation of the same. By law, any flavored tobacco product that FDA allows on the market would have included a determination by the Agency that such product is "appropriate for the protection of public health"¹ and/or "appropriate to promote

¹ 21 U.S.C. § 387j(c)(4).

public health.”² When reviewing medical products, FDA uses a “safe and effective” standard. However, this standard does not apply to tobacco products. Instead, when considering a tobacco product marketing application, the Agency uses an arguably more rigorous standard, the “public health” standard, that requires FDA to consider “the risks and benefits of the tobacco product to the population as a whole, including users and nonusers.”³

More specifically, per the language in the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act), in finding that the marketing of a tobacco product for which a marketing application has been submitted is appropriate for the protection of public health, FDA *must* consider:

- (A) The increased or decreased likelihood that existing users of tobacco products will stop using such products; and
- (B) The increased or decreased likelihood that those who do not use tobacco products will start using such products.⁴

To get a sense of what a marketing application requires, consider the following elements, which a PMTA must contain:

- (A) Full reports of all information, published or known to, or which should reasonably be known to, the applicant, concerning investigations which have been made to show the health risks of such tobacco product and whether such tobacco product presents less risk than other tobacco products;
- (B) A full statement of the components, ingredients, additives, and properties, and of the principle or principles of operation, of such tobacco product;
- (C) A full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of, such tobacco product;
- (D) An identifying reference to any tobacco product standard under 21 U.S.C. § 387g which would be applicable to any aspect of such tobacco product, and either adequate information to show that such aspect of such tobacco product fully meets such tobacco product standard or adequate information to justify any deviation from such standard;
- (E) Such samples of such tobacco product and of components thereof as FDA may reasonably require;
- (F) Specimens of the labeling proposed to be used for such tobacco product; and
- (G) Such other information relevant as the Agency may require.

When one considers the breadth and depth of these requirements, it is no surprise that PMTA

² *Id.* at § 387k(g)(2)(A)(i).

³ FDA, “A New Standard of Effective Regulation,” <https://www.fda.gov/tobacco-products/rules-regulations-and-guidance/rules-and-regulations> (last updated Oct. 4, 2021).

⁴ Family Smoking Prevention and Tobacco Control Act, June 22, 2009, Pub. L. 111-31, 123 Stat. 1776, 1816.

submissions can easily exceed one million pages.

As the City of Portland considers the measure before it, I suspect one question will be, “If we do not ban the sale of flavored tobacco products, how will the health of Portland residents be protected?” The answer to that question is that FDA’s rigorous review of any product that is the subject of an Agency marketing order will have been evaluated thoroughly with regard to the risks and benefits of the product to the population as a whole, including tobacco users and nonusers. Moreover, with regard to such products, FDA will have already considered: (1) the increased or decreased likelihood that current tobacco users will stop using such product; and (2) the increased or decreased likelihood that nonusers will start using such product. In short, the Agency’s review standard ensures that granting a marketing order for such product is appropriate for the protection of public health.

Proof of the rigor of FDA’s tobacco product review standard is that on October 21, 2021, the Agency for the very first time authorized the marketing of three new electronic nicotine delivery system (ENDS) products.⁵ A week later, FDA authorized the marketing of four smokeless tobacco products, all of them mint flavored.⁶ To provide some context:

- The Agency on August 26, 2021 announced that it denied marketing applications for approximately 55,000 flavored ENDS products for “failing to provide evidence they appropriately protect public health.”⁷
- Earlier that month, FDA on Aug. 9, 2021 issued a Refuse to File (RTF) letter to JD Nova Group LLC, in which the Agency notified the company that their PMTAs that are associated with approximately 4.5 million of their products did not meet the filing requirements for a new tobacco product seeking a marketing order.⁸

Clearly, the robust standard that tobacco products must meet in order to receive a marketing order from FDA is serving to protect the public health. Rather than believing that the proposed flavor ban is the only way to protect Portland residents, you can rest assured that allowing only those flavored tobacco products that receive an Agency marketing order is a more than adequate measure to protect the health of your constituents.

⁵ FDA, “Premarket Tobacco Product Marketing Granted Orders,” <https://www.fda.gov/tobacco-products/premarket-tobacco-product-applications/premarket-tobacco-product-marketing-granted-orders> (last updated Oct. 25, 2021).

⁶ *Id.*

⁷ FDA, Press Release – “FDA Denies Marketing Applications for About 55,000 Flavored E-Cigarette Products for Failing to Provide Evidence They Appropriately Protect Public Health,” Aug. 26, 2021, <https://www.fda.gov/news-events/press-announcements/fda-denies-marketing-applications-about-55000-flavored-e-cigarette-products-failing-provide-evidence>.

⁸ FDA, Press Release – “FDA Issues Refuse to File (RTF) Letter to JD Nova Group LLC,” Aug. 9, 2021, https://www.fda.gov/tobacco-products/ctp-newsroom/fda-issues-refuse-file-rtf-letter-jd-nova-group-llc/?utm_content=landingpage&utm_medium=email&utm_source=govdelivery&utm_term=stratcomms.

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan A. Havens", written over a light gray rectangular background.

Jonathan A. Havens
Outside Counsel to NECSEMA

ad in MA newspapers 0 views



Jon Shaer <jon@necsema.net>

Nov 28, 2021, 8:26:20 PM

to Kate Snyder, council@portlandmaine.gov, publiccomment@portlandmaine.gov

Good evening, Mayor Snyder and Councilors,

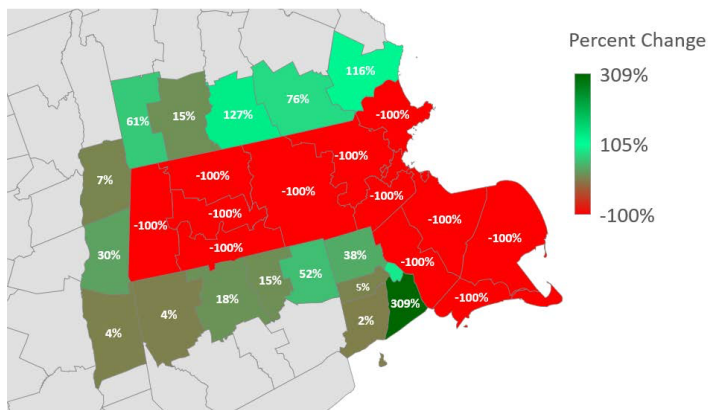
As we approach the first of two readings on the proposal to ban flavored tobacco, I want to share two images that help illustrate the important point that local bans do not work.

The first is an advertisement that appears in the Boston Herald and Boston Globe almost every day since the Massachusetts flavored tobacco ban began on 6/2020 and is likely running in other papers as well. Foods Plus is just over the MA border and runs this same ad which informs MA residents that menthol and other flavored tobacco remain available to them just over the border in Plaistow, NH. This store is spending hundreds of thousands of dollars advertising. It's safe to say that if it wasn't working, they wouldn't continue to spend the money. Imagine how much they're making!?



Unless every town within reasonable proximity to Portland enacts the same ban, then the ban is ineffective in limiting access to the products. That is why this issue should be handled, at minimum, in the state legislature. In truth, even a state ban would be ineffective since there isn't any way New Hampshire will enact a ban. Therefore, it really needs to be addressed at the federal level. A local-only ban impacts one group – the 50 legal retailers Portland has licensed to responsibly sell tobacco products. And they've done it at a 97% FDA-verified compliance rate.

This second image is a heat map of menthol cigarette sales 12 months following the ban. I think the image speaks for itself and further makes the point that products continue to be sold and come back into the voided market. In this case, Portland.



Respectfully,

Jon

Jonathan Shaer, Executive Director

New England Convenience Store & Energy Marketers Association, Inc. (NECSEMA)

1044 Central Street, Suite 203, Stoughton, MA 02072

Mobile: 774-406-1997 | Office: 781-297-9600 ext. 3 | Fax: 781-297-9601

jon@necsema.net | www.necsema.net | Join NECSEMA



FW: PLEASE include my comments to the packet for the meeting where the Flavored Tobacco Ban will receive a first reading

1 view



Julie Parker <PortlandCon@cigaretshopper.com>

Nov 12, 2021, 10:25:22 AM

to publiccomment@portlandmaine.gov, council@portlandmaine.gov

From: Julie Parker

Sent: Friday, November 12, 2021 9:30 AM

To: Chris Beaulier <Chris@cigaretshopper.com>

Cc: Julie Parker (julieparker286@gmail.com) <julieparker286@gmail.com>

Subject: PLEASE include my comments to the packet for the meeting where the Flavored Tobacco Ban will receive a first reading

To whom this may concern,

I'm a voter and Portland resident and manage the Cigaret Shopper on Congress Street. I want to oppose the ordinance banning the sale of flavored tobacco and vapor products in Portland. If this ban is passed, I will have to travel outside of the city and give another town my tax dollars. I would prefer to keep my money in the city I live and work in. This city is for small businesses and if this passes the city will lose a lot of the small businesses that are struggling to stay open. Congress Street use to be so full of people and businesses and now there are more for lease signs on vacant retail space do you really want to add more to that?

We as an adult's have the right to make our own choices in life and you are now trying to make it, so we do not have that right. I have lived in this city for 27 years and I have been working on Congress Street the whole time and have been watching the struggles of every person in the downtown district. The homeless, the mentally ill, the elderly the blue-collar workers and corporate employees do not have places to really shop for there needs on Congress Street. By taking flavored tobacco and vape products will not only hurt the store I manage it will hurt downtown just as much.

This city would lose so much tax dollars that it would hurt everyone that is still trying to afford to live in the city. In the meeting on the 9th, I sat in the zoom meeting and listened to you say that the city will not have money to help the homeless if you do not get the federal funding you need. Isn't this a more important situation you should be dealing with. And with me saying that you stop the sales of all the products you are trying to ban is this really going to help? I can answer that, and I know you can as well.

To me I feel you should be also more concerned about the crime's that are happening in this city, the illegal drug activities, rent control, the roads, and getting more businesses to come back to the downtown area.

Also, in the same meeting I listened to a school nurse talk about a middle school child STEALING their parents vape device and taking it to school. Well, no offense but that child should be taught at home about tobacco. Hold the parents accountable not everyone else!!!! Remember Maine does have the best grade for not selling to minors so why punish us for something that is obviously not the store's fault.

Thank you,

Julie Parker

Cigaret Shopper

579 Congress Street

Portland, Maine

A Flavored Tobacco Ban is Bad Policy -- Please Oppose 1 view



Tara Florentine <tflo02@att.net>
to publiccomment@portlandmaine.gov

Jan 8, 2022, 8:54:51 AM (4 days ago)

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,
Tara Florentine
2739 Rockford Rd
Shelby, NC 28152-9606

A Flavored Tobacco Ban is Bad Policy -- Please Oppose

Public Comment inbox



Joseph Rowe <rowej280@gmail.com>

6:40 AM (9 hours ago)

to publiccomment

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Joseph Rowe

37 Casco St

Apt 205

Portland, ME 04101-2932

A Flavored Tobacco Ban is Bad Policy -- Please Oppose

Public Comment inbox



Richard Hoyt <richard.t.hoyt@gmail.com>

Thu, Jan 13, 7:10 PM (21 hours ago)

to publiccomment

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Richard Hoyt

796 Brighton Ave

Portland, ME 04102-1016

Flavored tobacco ban ordinance 0 views



Anthony Scott <psavanthony@yahoo.com> Jan 17, 2022, 9:35:27 PM (12 hours ago)
to publiccomment@portlandmaine.gov

Councilors,

I wanted to send you a couple studies recently published to reinforce the truth behind some of the statements I've made to councilors and you're likely hearing from opponents of the Flavored tobacco vape ban.

The first article I want to point you towards is found in a press release by the National Institute of Health on December 15th 2021. It was the Monitoring the Future survey done by researchers at the University of Michigan. See below for link to article.

The survey found that there was a substantial decline of substance use of several substances over the last couple years.

I would like to point out below from the survey that the rate of alcohol use and Marijuana use among youth is higher for the 12th graders than vaping rates, but these products remain to be sold. These products have been known to cause many problems for our youth far greater than vaping can but yet vapes continue to be targeted. I would also like to add that the vaping industry has had many new regulations over the last two years and currently in progress of other regulatory guidelines, which should be given more time to evaluate how it will impact the vaping rates among youth before we jump to drastic measures of an outright ban.

Moving the age to purchase tobacco to 21, Restrictions on shipping vape products (PACT act), tax increases, PMTA process, and marketing restrictions are all ways in which the vape industry has been regulated in the last two years to decrease these rates. As you can see below it appears to be working and this demonstrates there are other means to accomplish the overall shared goal of lowering the youth vaping rates. Let's have a conversation on how we can lower access to these products and continue to lower vaping rates while allowing access to adults.

- **Alcohol:** The percentage of students who reported using alcohol within the past year decreased significantly for 10th and 12th grade students and remained stable for eighth graders.
 - **Eighth graders:** 17.2% reported using alcohol in the past year in 2021, remaining steady compared to 20.5% in 2020 (not a statistically significant decrease)
 - **10th graders:** 28.5% reported using alcohol in the past year in 2021, a statistically significant decrease from 40.7% in 2020
 - **12th graders:** 46.5% reported using alcohol in the past year in 2021, a statistically significant decrease from 55.3% in 2020
- **Marijuana:** The percentage of students who reported using marijuana (in all forms, including smoking and vaping) within the past year decreased significantly for eighth, 10th, and 12th grade students.
 - **Eighth graders:** 7.1% reported using marijuana in the past year in 2021, compared to 11.4% in 2020

- **10th graders:** 17.3% reported using marijuana in the past year in 2021, compared to 28.0% in 2020
- **12th graders:** 30.5% reported using marijuana in the past year in 2021, compared to 35.2% in 2020
- **Vaping nicotine:** Vaping continues to be the predominant method of nicotine consumption among young people, though the percentage of students who reported vaping nicotine within the past year decreased significantly for eighth, 10th, and 12th grade students.
 - **Eighth graders:** 12.1% reported vaping nicotine in the past year in 2021, compared to 16.6% in 2020
 - **10th graders:** 19.5% reported vaping nicotine in the past year in 2021, compared to 30.7% in 2020
 - **12th graders:** 26.6% reported vaping nicotine in the past year in 2021, compared to 34.5% in 2020

<https://www.drugabuse.gov/news-events/news-releases/2021/12/percentage-of-adolescents-reporting-drug-use-decreased-significantly-in-2021-as-the-covid-19-pandemic-endured>

The Second study is done by Abigail S Friedman PHD of Department of Health Policy and Management, Yale School of Public Health. I have attached the study published in Jamapediatrics below for your consideration. The study considers the San Francisco ban on flavored tobacco products and its association with smoking rates among minor high school students compared to students in other districts without a flavor ban. It found that the San Francisco flavor ban was associated with more than doubled odds of recent smoking among underage high school students. This should raise concern that chances of an increase in cigarette use will happen not just for youth but adults as well if a flavor ban is enacted.

I hope you all have a great holiday and I would still like to connect with more of you soon. Please consider my open invitation to meet and discuss this topic.

Thank you
 Anthony Scott
 Portland Smoke and Vape

FW: Flavor ban 0 views



Brett Scott <brett@smokershaveninc.com> Jan 18, 2022, 11:49:46 AM (23 hours ago)
to Publiccomment@portlandmaine.gov

Hello,

I am writing as the owner of Smokers Haven, a retailer and distributor in the state of Maine selling flavored e-cigarettes, and a member of the Maine Vapers Association.

Considering a flavor ban is an immense decision that will affect the people of Portland. It is easy for someone that is not a smoker to say, "Just stop smoking", but nicotine is a highly addictive chemical. Think about a person's daily coffee, tea, or energy drink. Most people cannot function without their morning cup, but caffeine is considered "not addictive scientifically speaking."^[1] In terms of cigarettes, the addictive part is the nicotine. But, for people to get that nicotine, there are other harmful chemicals they inhale in the process of using traditional combustible tobacco products. According to the FDA "There are more than 7,000 chemicals in cigarette smoke. More than 70 of those chemicals are linked to cancer."^[2] Flavored electronic nicotine devices help people transition from traditional cigarettes to a less harmful nicotine deliverance system. "E-cigarettes have the potential to benefit adult smokers if used as a complete substitute for regular cigarettes and other smoked tobacco products"^[3]. As a retailer, we hear the stories first-hand. It is not uncommon to hear, I smoked for 30 years, switched to vaping, and can finally breathe again. We also often hear about the benefits of being able to taste and smell again, as well as coughing less, being able to take full breaths of air, not smelling like cigarettes, and so much more. For the people of Portland, I ask that you listen to real stories of how vaping has helped people live healthier lives. I welcome anybody to our stores to listen to the customers.

The FDA is already doing substantial testing to prove these products are a benefit to public health. One may conclude the primary objective of this legislation appears to be limiting youth access. The State of Maine has recently made many changes to combat underage youth access. The age to purchase tobacco is now 21. In addition, online sales direct to the customer have been banned. Both of these initiatives were followed thereafter in country-wide legislation. After the changes, statistics for the overall youth surveys have demonstrated declining usage. The most recent National Youth Tobacco Survey shows a decrease of more than 27% youth use of e-cigarettes in 2020 compared to 2019. Past 30-day electronic cigarette use for middle school students was down over 55% from the 2019 survey as well as high school student usage down over 28% in the same time period. The overall reduction is 1.73 million fewer youth using tobacco products than last year. ^[4] That is a huge reduction in youth access to see in one year, and at the time of the survey, the online shipping ban was not in effect, an additional measure that we have yet to see the statistical benefit, which may also play a large role in additional youth access reduction.

Please keep in mind who the large companies are that are proposing compromises to this legislation. Compromises through crafting very specific legislation are used to attack the small, local businesses and families while protecting the products sold in convenience stores such as JUUL. JUUL has been at the center of the vaping epidemic and the root of the publicized vaping issue. Their easily disguised products and higher nicotine

concentration have brought a wrath of bad publicity to the industry. JUUL is owned by Altria, a massive publicly traded tobacco company that also owns Marlboro cigarettes and is worth \$80 billion. They have the money and political connections to write legislation that will benefit their [\\$80 billion company](#). It is local specialty mom and pop businesses, that this is all their business does, that will be the compromises, eliminated from the industry, and ultimately close their doors.

We are small, local, Maine specialty shops that have a healthier alternative. We offer a way to quit traditional tobacco. We offer choices in flavor and nicotine level. It allows for people to find a flavor that works for their preferences. Most people choose flavors over tobacco as a way to quit cigarettes. The tobacco flavors make it very easy to go back to cigarettes. Adults use flavors and they work to quit traditional tobacco. We also offer nicotine levels which allows people to progressively step down in nicotine level, all the way to no nicotine. That is not something that is available in cigarettes or electronic nicotine delivery systems owned by cigarette companies, such as JUUL. Without careful consideration, the big tobacco companies will be the only companies continue in the industry using money, connections, and policy compromises to do so, while the local Maine businesses will be unable to.

Preventing underage youth access is and a high priority for Maine and nationally as a country. As retailers, we also welcome any methods to prevent youth access. Youth usage has tarnished a small, locally owned industry that is here with a goal to help people make healthier choices and live longer lives by switching from traditional combustible tobacco to flavored electronic nicotine delivery systems. We would love to see a 100% elimination of youth access as it has discredited the benefit adult smokers have received from using these products. Some ideas include requiring retailers to set sales limits per transaction, day, week, or month. As well as scanning and tracking drivers' licenses on what is being bought, which can be provided to local municipalities upon request. We, as local businesses, are looking to work with you directly on reducing underage access while finding a solution that keeps our doors open. I am asking everyone to consider meeting with me, or other members of the group, to discuss a true compromise that considers public safety, public health, and the small businesses of Maine.

[1] [https://archives.drugabuse.gov/blog/post/caffeine-really-addictive#:~:text=While%20caffeine%20produces%20a%20small,not%20addictive%20\(scientifically%20speaking\)](https://archives.drugabuse.gov/blog/post/caffeine-really-addictive#:~:text=While%20caffeine%20produces%20a%20small,not%20addictive%20(scientifically%20speaking))

² <https://www.fda.gov/tobacco-products/products-ingredients-components/chemicals-cigarettes-plant-product-puff>

³ https://www.cdc.gov/tobacco/basic_information/e-cigarettes/pdfs/Electronic-Cigarettes-Infographic-508.pdf

⁴ https://www.cdc.gov/tobacco/data_statistics/fact_sheets/youth_data/tobacco_use/index.htm

Thank you,

Brett Scott

President

Office – [603-513-1852](tel:603-513-1852) Ext. 406

www.SmokersHavenInc.com

Smokers Haven

New England's #1 Smoke Shop

[1] [https://archives.drugabuse.gov/blog/post/caffeine-really-addictive#:~:text=While%20caffeine%20produces%20a%20small,not%20addictive%20\(scientifically%20speaking\)](https://archives.drugabuse.gov/blog/post/caffeine-really-addictive#:~:text=While%20caffeine%20produces%20a%20small,not%20addictive%20(scientifically%20speaking))

[2] <https://www.fda.gov/tobacco-products/products-ingredients-components/chemicals-cigarettes-plant-product-puff>

[3] https://www.cdc.gov/tobacco/basic_information/e-cigarettes/pdfs/Electronic-Cigarettes-Infographic-508.pdf

[4] https://www.cdc.gov/tobacco/data_statistics/fact_sheets/youth_data/tobacco_use/index.htm

Big Tobacco vs S...



ahsanrana88 <ahsanrana88@yahoo.com>

7:39 AM (4 hours ago)

to publiccomment@portlandmaine.gov

Hi,

My name is Muhammad Ahsan Ashraf and I own a convenience store at 885 Brighton ave Portland maine with the name of Three ds variety, I am writing regarding the proposed flavor ban in Portland, as I want to show you my concern my store is situated is right on the border between portland and westbrook, the proposed flavor ban is counter productive as there will be no ban in westbrook, south portland, falmouth and in surrounding cities, customers will move from portland to westbrook and other cities. Which will result in killing out business my store is the only livelihood I have for me and my family. Also like to share my personal experience in Massachusetts my cousins use to own convenience store their store is shut down due to this ban and they moved to different state. My kind request request to you is please reconsider your proposed ban and save us from closing our business.

Thanks

Muhammad Ahsan Ashraf
Three ds variety

Protects

Big Tobacco



Corporate Greed

Destroys

Small Businesses



Little Guy



donald lingar <90776439ers@gmail.com>
to publiccomment@portlandmaine.gov

Jan 16, 2022, 9:39:36 PM (2 days ago)

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,
donald lingar
214 Gold Ave
Kellogg, ID 83837-2625



Steve Marzza <steve@darkharbortattoo.com> Jan 18, 2022, 10:07:04 AM (yesterday)
to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Steve Marzza
459 Saco St
Westbrook, ME 04092-2028



Craig Durant <cdurant@gmail.com>
to publiccomment@portlandmaine.gov

Jan 18, 2022, 10:12:50 AM (24 hours ago)

Dear Portland City Council,

As your constituent, and local business manager, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Craig Durant
1 Exchange St
Portland, ME 04101-5123



Mohamed Mohamed <rocboyidris@gmail....>
to publiccomment@portlandmaine.gov

Jan 18, 2022, 10:41:23 AM (23 hours ago)

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Mohamed Mohamed
21 Chestnut St
Portland, ME 04101-4973



Caity Cook <caitymarie007@icloud.com> Jan 18, 2022, 11:28:25 AM (23 hours ago)
to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Caity Cook
105 Gould Rd
Dayton, ME 04005-7406



Rianna Tuttle <pinkmusic95@gmail.com> Jan 18, 2022, 11:29:06 AM (23 hours ago)
to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Rianna Tuttle
12 Pottersville Rd
Windham, ME 04062



Dave Discatio <mjd32@msn.com>
to publiccomment@portlandmaine.gov

10:11 AM (2 hours ago)

Dear Portland City Council,

As your constituent, and local business owner, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Dave Discatio
665 Congress St
Portland, ME 04101-3302



Peter Larsen <moransmarket@gmail.com>
to publiccomment@portlandmaine.gov

10:49 AM (1 hour ago)

Dear Portland City Council,

As your constituent, and local business owner, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Peter Larsen
1576 Forest Ave
Portland, ME 04103-1314



Lisa Walters <qshop473@gmail.com>
to publiccomment@portlandmaine.gov

11:32 AM (1 hour ago)

Dear Portland City Council,

As your constituent, and local business owner, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Lisa Walters
473 Stevens Ave
Portland, ME 04103-2635



Chris Jackson <psavchris@yahoo.com>
to publiccomment@portlandmaine.gov

Jan 18, 2022, 11:30:45 AM (23 hours ago)

Vaping flavors is effective for adults.

Hello, and thank you for taking the time to read this. My name is Chris and I'm a small business owner here in Portland Maine. I would first like to take the time to explain why my brother and I got into this industry. We are both former smokers who tried everything in our power to stop smoking. We tried taking the pill, gum, patches and everything in between to quit and everytime it was the same result. We always found ourselves smoking again and again. Vaping has been out for more than a decade and about 8 years ago I decided to give it a shot. I first tried vaping on a tobacco flavored e-liquid and quickly realized tobacco flavored products only acted as a trigger and made me want to smoke traditional combustibles. So, I gave a strawberry flavored product a try and was surprised by the results. It seemed to work well and didn't create the urge to smoke cigarettes.

The longer I stayed away from cigarettes and continued vaping the better I felt. My sense of smell and taste came back better than ever. I was able to breathe much better and snore less at night which resulted in a better nights sleep. Vaping flavored products had a profound health impact on my life and soon I couldn't wait to share my success story with others. So, my brother and I opened up a small business in Portland Maine and soon got thousands of other smokers to make the switch. Nothing has brought so much happiness into my life than seeing other people on the right step in recovery weather it be from substance abuse or nicotine. We started this business to save lives and help others and that's exactly what we have done.

Vaping has been one of the only ways to get an oral fixation like smoking but allows you to do so in less and less nicotine until you are finally down to 0mg of nicotine. The ultimate goal of vaping is to decrease your nicotine dependency until you're able to get off of nicotine all together. So after about four years of vaping and no nicotine dependency I finally quit vaping. After I stopped vaping I was curious to see if there would be any health differences like there was when I quit smoking cigarettes. After a year and a half I have yet to see or feel any differences with my health.

Unfortunately for adults minors find the flavors to be attractive too.

But, where do we draw the line? Should we ban flavored alcohol? THC infused edibles such as chocolate bars and nurds rope candy? Perhaps we should get rid smart phones and social media because the youth abuse these products and platforms as well. Flavored alcohol has certainly attracted the youth. We know how bad cigarettes are yet they are still legal to sell. Why haven't you tried to ban these products? Sounds a bit drastic but in a sense that's exactly what we have here. Vaping is the single most effective harm reduction tool a smoker has to quit. Vaping on flavors are extremely important when it comes to quitting smoking. I am fearful for my customers because I know how important flavors are and without them I believe you will see an explosion of traditional cigarette use and many vapers relapsing.

To make my point clear vaping does not come without some sort of risk. Although it has been proven to be 97% safer to smoking it can be habit forming. I do not believe inhaling anything other than clean air into our lungs, eating well and exercising will prolong or life expectancy. But vaping is certainly better than smoking and one step closer to living a more full healthier life free of addiction. For those exact reasons I started vaping and opened up a business.

It saddens me to see a room full of such smart individuals voting with emotions versus factual data on such a controversial topic that will ruin so many businesses and force many vapers to go back to smoking. I urge you to reconsider this ordinance for many reasons. I fully understand that you feel obligated to try and curve the youth using these products. But all this bill will do is push these problems to your surrounding cities and neighbors. Perhaps you would consider determining what products the youth are using and making tougher laws regarding the sale of these products. For starters I believe these products should be sold in 21+ stores keeping them out of sight to the minors. There could be a limit to how many of these products an individual could purchase during a single day. We as store owners could keep track of who is buying what in each store to help determine who is actually furnishing these products to minors. I believe harsher fines for those found furnishing these products may deter some. And for those found underage using these products there should be some sort of repercussions such as community service and or some sort of class room training. We should be exhausting all means of education and enforcement before we start to ban products that have helped so many in our community.

I would like for you to consider stores and owners such as myself as a resource you can turn to and ask complicated questions on such a controversial issue. I believe if we work together on these issues we can find common ground and both sides would benefit. As far as an outright ban on these products no one will win and you will only push consumers to other cities, helping surge an unregulated black market and more at home methods of obtaining and creating these products. When one door closes another will open and I firmly believe its best if we all tackle these issues together instead taking a chance of closing this door and creating another unknown issue all together. Please feel free to reach out to me ask any questions you may have.

Email- psavchris@yahoo.com

Phone-207-641-5114

Public Comment Order 138-21/22 0 views



Christopher B. Hudgins <chris@alfakherus.com>

11:59 AM (9 minutes ago)

to publiccomment@portlandmaine.gov

Please see attached public comment submitted by the National Hookah Community Association.
Address is:

P.O. Box 5256 S. Mission Rd, Suite 703

Bonsall, Ca 92003



Chris Hudgins

Director, U.S. Corporate & Regulatory Affairs

[703-350-5964](tel:703-350-5964)

www.alfakher.com



Preserving Hookah Culture & Protecting Hookah Tradition across the USA

January 19, 2022

Portland, Maine City Council
City Hall
389 Congress Street
Portland, ME 04101

Re: Order 138-21/22 Amendment to Portland City Code Chapter 17 Re: Sale of Flavored Tobacco Products Prohibited

Dear Councilmembers:

The National Hookah Community Association (NHCA) brings together, and serves as the voice of, hookah producers, distributors, sellers, lounge owners, consumers, and community members who support the preservation of hookah's cultural traditions. We are writing to request that you follow the lead of other jurisdictions, including the state of California, and exempt hookah from the flavored tobacco ban (Order 138-21/22) currently being considered.

Hookah is an important cultural practice that has existed for centuries, originating in the Middle East and India. Today, a broad cross-section of immigrants in the U.S. from around the world enjoy hookah as a centerpiece for cultural, business, and social gatherings. Hookah is widely used by Middle Eastern, Armenian, Turkish, East African, Indian, Persian, Indonesian, and other minority immigrant citizens. Hookah lounges across the country have come to serve as safe gathering places for many diverse ethnic and religious communities. Despite the importance of this social practice and tradition, NHCA members continue to find that many policymakers are often unfamiliar with hookah, its practice, and its community.

NHCA fully supports efforts to eliminate youth access and usage of tobacco products, including hookah. Hookah is unlikely to be used or consumed by youth for many reasons. Hookah water pipes are several feet tall, not easily concealed, and the setup for use is a lengthy process. Lounges that offer hookah are restricted to of-age customers, preventing teens from accessing the product. Recent research by the Centers for Disease Control and Prevention (CDC) found that just 2.1% of middle and high school students used hookah in the past 30 days, five times less than the number of teens or youth who vape.

Shisha, the product used in hookah, is a combination of tobacco and a sugar substance such as honey or molasses, and the total product is only comprised of approximately 15% tobacco. As has been the practice for hundreds of years, hookah is, by nature, a flavored product. Unfortunately, noble efforts to address the teen vaping epidemic by **banning flavored tobacco also would result in the ban of ALL hookah.**



Preserving Hookah Culture & Protecting Hookah Tradition across the USA

A ban on hookah would not only eliminate this important cultural practice for many U.S. citizens, but could also shutter many small, independent, and minority owned businesses. Many of these businesses serve as community gathering places for immigrant populations in cities across the country. Many hookah users are part of religious or ethnic populations that already face discrimination. Eliminating this cultural practice would make many feel as though they are misunderstood and targeted as an outsider by lawmakers and regulators.

We ask that you do not vote to shutter minority and immigrant owned business. Please include an exemption for hookah in Order 138-21/22.

Sincerely,

National Hookah Community Association

A Flavored Tobacco Ban is Bad Policy -- Please Oppose

Public Comment inbox



donald lingar <90776439ers@gmail.com>

to publiccomment

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase the cost of these products.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

donald lingar

214 Gold Ave

Kellogg, ID 83837-2625

From: Jonathan Shaer - NECSEMA <jon@necsema.net>
Date: Tuesday, January 11, 2022 at 1:26 PM
To: "council@portlandmaine.gov" <council@portlandmaine.gov>
Subject: debunking study findings

Councilors-

I'd like to bring to your attention concerns I have with a recent American Cancer Society press release titled, *American Cancer Society Releases Findings on Association of Cigarette Sales with Comprehensive Menthol Flavor Ban in Massachusetts* (link: <http://pressroom.cancer.org/menthol>). The study ignores the significant migration of product sales to NH and RI, and is selective in comparison states while making claims of the ban's successful impact. I fear that without the proper context and complete picture, the findings are quite misleading.

The release claims:

- Sales of all cigarettes in Massachusetts declined by up to 33% after the state instituted a ban on menthol-flavored cigarettes.
- The Massachusetts ban led to a roughly 300% drop in sales of packs of menthol-flavored cigarettes in the state by July of last year.
- Over the same period, cigarette sales in 33 states that did not institute a menthol flavor ban fell by 8%, while sales of menthol-flavored cigarettes declined by 3%.
- "We learn from Massachusetts that a menthol flavor ban effectively reduces both menthol and overall cigarette sales," study co-author Samuel Asare told UPI in an email.

On its face, you might say... wow, it works. But with only a little effort, you can see how this study is bunk. Attached is a press release we felt compelled to issue in response but following are some reasons why the findings should be dismissed.

The report declares sales of menthol cigarettes in MA dropped. Of course, sales fall when you ban 1/3 of in-state volume. But it completely ignores the fact that almost all the sales migrated to NH and RI as publicly available excise tax data demonstrates. Furthermore, NielsenIQ sales data is not a reliable source for this information, and it is compared to only 27 other states rather than 49 + DC. Why? Do the other 33 states not support their findings? Does Nielsen not have data there? Some other reason?

ACS and other will likely prop this up as "proof". But I hope you will dismiss it or, at the very least, ask ACS how the study accounts for a nearly 90% increase in NH/RI sales and 33 states not used in the study?

Respectfully,

Jon

Jonathan Shaer, Executive Director

New England Convenience Store & Energy Marketers Association, Inc. (NECSEMA)

1044 Central Street, Suite 203, Stoughton, MA 02072

Mobile: [774-406-1997](tel:774-406-1997) | Office: [781-297-9600](tel:781-297-9600) ext. 3 | Fax: [781-297-9601](tel:781-297-9601)

jon@necsema.net | www.necsema.net | [Join NECSEMA](#)

FOR IMMEDIATE RELEASE

January 6, 2022



Media contact:

Dave Wedge

617-799-0537

davidmwedge@gmail.com

THE AMERICAN CANCER SOCIETY (ACS) PUBLISHES MISLEADING REPORT

Engineered ACS findings ignore tax stamp sales data, which irrefutably demonstrate most menthol cigarette sales migrated to bordering states, to claim that the Massachusetts menthol ban led to a reduction in cigarette sales

STOUGHTON, Mass. (January 6, 2022) – The American Cancer Society (ACS) promoted findings yesterday in The Journal of the American Medical Association that Massachusetts’ ban on menthol cigarettes led to a sharp decline in cigarette sales in the Commonwealth, implying decreased in-state sales are equivalent to a decline in Massachusetts cigarette smoking rates. The findings, as asserted by ACS, completely ignore that an overwhelming majority of menthol cigarette sales immediately migrated to Rhode Island and New Hampshire where Massachusetts consumers made their purchases following implementation of the ban.

The New England Convenience Store and Energy Marketers Association (NECSEMA) previously published data unequivocally demonstrating the migration of sales from Massachusetts to surrounding New England states utilizing publicly available and easily verifiable state Department of Revenue tax stamp data. This data undermines the recent ACS report which attempts to paint a failed public health experiment as a success.

Since the implementation of the Massachusetts menthol ban, NECSEMA regularly released tax stamp data during the first year of the ban that demonstrated an overwhelming increase in the volume of menthol cigarette sales in Rhode Island and New Hampshire: Here are the facts:

- In the twelve months following the ban, menthol cigarettes sales skyrocketed by over 126% on average in the Rhode Island and New Hampshire counties bordering Massachusetts. These six counties saw an increase of over 23 million packs of menthol cigarettes.
- Statewide, Rhode Island saw an increase of over 43% in menthol cigarette sales and New Hampshire’s statewide increase was over 79%.
- Total cigarette tax stamp sales fell in Massachusetts by nearly 24%, during the same time period, and total cigarette tax stamp sales increased by over 22% in New Hampshire and 18% in Rhode Island.

To mislead the public about tobacco policy, especially in The Journal of the American Medical Association, does a grave disservice to public health and the credibility of the ACS.

“The report published by the ACS is absurd. It is not surprising that in-state menthol cigarette sales declined when the state banned the legal sale of those products. However, to promote misleading findings by omitting significant facts is both irresponsible and dangerous as other states and some cities consider a similar policy. Moreover, it undermines the Food and Drug Administration’s substantial investments in evidence-based research to determine the appropriate path forward for certain nicotine and tobacco products,” said Jonathan Shaer, Executive Director of the New England Convenience Store & Energy Marketers Association. “When organizations release findings about public policies that purport to provide improvements to public health while ignoring widely available government data, it undermines public trust and ignores the public health potential for evidence-based tobacco and nicotine policies that will actually improve health outcomes.”

To speak with Jonathan Shaer, please contact Dave Wedge at davidmwedge@gmail.com or 617-799-0537.

###

From: Jonathan Shaer - NECSEMA <jon@necsema.net>
Date: Friday, January 7, 2022 at 10:54 AM
To: "council@portlandmaine.gov" <council@portlandmaine.gov>
Subject: my editorial

Good morning, Councilors. Back in May, I penned an editorial that was picked up the Maine Wire about LD 1550 – a state bill that sought to ban flavored tobacco. As I've explained before, the bill came out of committee with a split report: one in support of a complete flavored tobacco ban, the other a flavored vape-only ban with a pmtpa/mrtp exemption. The sponsors chose to carry the bill into the 2022 session recognizing their preferred version was unlikely to pass.

The editorial is an easy-to-read summary of the process and issue, in general.

<https://www.themainewire.com/2021/05/debunking-the-myths-of-maines-proposed-flavored-tobacco-ban/>

Respectfully,

Jon

Jonathan Shaer, Executive Director

New England Convenience Store & Energy Marketers Association, Inc. (NECSEMA)

1044 Central Street, Suite 203, Stoughton, MA 02072

Mobile: [774-406-1997](tel:774-406-1997) | Office: [781-297-9600](tel:781-297-9600) ext. 3 | Fax: [781-297-9601](tel:781-297-9601)

jon@necsema.net | www.necsema.net | [Join NECSEMA](#)

From: Jonathan Shaer - NECSEMA <jon@necsema.net>
Date: Wednesday, January 5, 2022 at 2:35 PM
To: "council@portlandmaine.gov" <council@portlandmaine.gov>
Subject: Explaining LD1550

Councilors-

Happy new year. I hope you've found the information I have been sending to be helpful for your understanding of the proposal to ban flavored tobacco. Following is more information very relevant to your personal contemplations.

Allow me to explain what happened with LD1550, the flavored tobacco ban bill debated in the Maine state legislature last session, and why it never came up for a vote. I believe this is very important to understand if you hope a Portland ban will lead to a state ban.

Last session, three tobacco related bills were proposed: [LD1550](#) which sought to ban the sale of flavored tobacco, [LD1423](#) which sought to increase the excise tax on a pack of cigarettes from \$2 to \$4 per pack and double the excise tax on all Other Tobacco Products (OTP), and LD1693 which was both a flavor ban and a tax increase – this last bill never saw the light of day. Another tobacco-related proposal that didn't get any traction was the Governor's *Part 2 Budget* which was a flavored tobacco ban with a \$32 million draw on the federal stimulus money the state had received.

LD1550 was voted out of committee as a *divided report* with the Majority Report supporting a full ban while the Minority Report would have only banned flavored vape products that did not receive a PMTA approval. As the weeks passed and legislators learned about the issue, the FDA's PMTA process, and the enormous difference between the fiscal note of LD1550 (\$32 million in first year) vs. Minority Report (\$2.1 million in first year) the Minority Report gained a lot of support. Then, in mid-June, LD1423 came up for a vote and failed 67-73. At this point, it was clear LD1550 was unlikely to pass so the sponsors opted to carry it over to 2022. If any confidence existed that LD1550 would pass then it would have been called for a vote. But that never happened.

I strongly believe LD1550 has even less of a chance in 2022 because so much has happened: Youth vape rates have fallen 60%, the FDA is removing almost every flavored vape product from the market via their PMTA process, the USPS is no longer shipping e-cigarettes and, perhaps most notably, there is a full year of data demonstrating how the ban in Massachusetts has been an abject failure. None of which existed in 2021 which is why we believe LD1550 stands less a chance next year than it did last year. So, supporting a local ban will very likely mean putting Portland on an island.

Respectfully,

Jon

Jonathan Shaer, Executive Director

New England Convenience Store & Energy Marketers Association, Inc. (NECSEMA)

1044 Central Street, Suite 203, Stoughton, MA 02072

Mobile: [774-406-1997](tel:774-406-1997) | Office: [781-297-9600](tel:781-297-9600) ext. 3 | Fax: [781-297-9601](tel:781-297-9601)

jon@necsema.net | www.necsema.net | [Join NECSEMA](#)

From: Jonathan Shaer - NECSEMA <jon@necsema.net>
Date: Monday, December 20, 2021 at 9:33 AM
To: "council@portlandmaine.gov" <council@portlandmaine.gov>
Subject: NIH Study

Councilors-

The *Monitoring the Future* (MTF) survey released its 2021 results the week before last. The MTF is funded by the National Institute of Health and conducted by the University of Michigan, and measures drug and alcohol use and related attitudes among adolescent students nationwide.

The results are significant as it relates to your consideration of a ban on the sale of all flavored nicotine products in Portland.

Vaping continues to be the predominant method of nicotine consumption among young people, though the percentage of students who reported vaping nicotine within the past year decreased significantly for eighth, 10th, and 12th grade students.

- **8th graders:** 12.1% reported vaping nicotine in the past year in 2021, compared to 16.6% in 2020
- **10th graders:** 19.5% reported vaping nicotine in the past year in 2021, compared to 30.7% in 2020
- **12th graders:** 26.6% reported vaping nicotine in the past year in 2021, compared to 34.5% in 2020

*These percentages are for use at any point during the prior 12 months, whereas the National Youth Tobacco Survey (NYTS) is any use over the past 30th days. We prefer the NYTS numbers, but both are showing significant reductions in underage use.

The first sentence corroborates what we've been saying all along that it is vaping, not all the other traditional tobacco products, that attract youth. Yet, the ban you are considering bans everything. Also, worth noting is that 12th graders are drinking (46.5) and using marijuana (30.5%) at greater rates than 12th graders are vaping nicotine. Yet, we continue to demonize one product over others.

<https://www.nih.gov/news-events/news-releases/percentage-adolescents-reporting-drug-use-decreased-significantly-2021-covid-19-pandemic-endured>

I hope you all have a wonderful holiday season, and I look forward to connecting in 2022 on this important issue and any others that cause our paths to cross.

Respectfully,

Jon

Jonathan Shaer, Executive Director

New England Convenience Store & Energy Marketers Association, Inc. (NECSEMA)

1044 Central Street, Suite 203, Stoughton, MA 02072

Mobile: [774-406-1997](tel:774-406-1997) | Office: [781-297-9600](tel:781-297-9600) ext. 3 | Fax: [781-297-9601](tel:781-297-9601)

jon@necsema.net | www.necsema.net | [Join NECSEMA](#)

From: Jonathan Shaer - NECSEMA <jon@necsema.net>
Date: Tuesday, December 14, 2021 at 9:05 AM
To: "council@portlandmaine.gov" <council@portlandmaine.gov>
Subject: Denver veto

Councilors-

Last week, the Mayor of Denver, CO vetoed an ordinance passed by the city council to ban the sale of flavored tobacco. The council vote was not unanimous, and the ordinance was a bit different from the one Portland is considering. I wish to draw your attention to the letter Mayor Hancock sent to the city council explaining his reasoning. I believe you'll recognize some of the themes.

<https://www.denvergov.org/files/assets/public/mayor/documents/2021-12-10-mayor-hancock-letter-to-city-council-cb21-1182.pdf>

As I've said time and again, this is truly an issue that belongs with the Maine state legislature. I recognize you don't wish to harm your local retailers nor treat your legal-aged adults unfairly, but if Portland passes the ban and the state legislature does not then that is exactly what would occur.

Respectfully,

Jon

Jonathan Shaer, Executive Director

New England Convenience Store & Energy Marketers Association, Inc. (NECSEMA)

1044 Central Street, Suite 203, Stoughton, MA 02072

Mobile: [774-406-1997](tel:774-406-1997) | Office: [781-297-9600](tel:781-297-9600) ext. 3 | Fax: [781-297-9601](tel:781-297-9601)

jon@necsema.net | www.necsema.net | [Join NECSEMA](#)

From: Jonathan Shaer - NECSEMA <jon@necsema.net>
Date: Friday, December 10, 2021 at 7:56 AM
To: "council@portlandmaine.gov" <council@portlandmaine.gov>
Subject: 2 important points

Councilors-

There are a couple issues that I fear are misunderstood and/or under-appreciated. The first is the importance of the FDA's PMTA process. It cannot be overstated how important it is for you to completely understand the process and the end result. The second is which products the ban would actually outlaw – spoiler alert: it's a lot more than just vape. Please take 5 minutes and read below and attached.

Pre-Market Tobacco Application Process (PMTA)

Attached is a letter I asked Attorney Jonathan Havens write to the Portland City Council. It is succinct and provides insight into this rigorous FDA process. I include this because it is a terrific summary of the FDA's PMTA process from an attorney who is a former regulatory counsel with the FDA and counsels his clients on regulatory, compliance, and enforcement matters related to products regulated by the FDA, FTC and CPSC.

By law, every nicotine product marketed after February 15, 2007 must receive an order from the FDA permitting the ongoing marketing of the product. The order is called a PMTA authorization. For the FDA to issue a PMTA marketing order, the agency must determine that the manufacturer has demonstrated that marketing of the new tobacco product would be appropriate for the protection of the public health.

The FDA's deadline was September 20, 2021. The FDA still has some products it needs to evaluate, but only a handful will be issued PMTA orders effectively decimating the category. In other words, the days of thousands of flavors and devices are over. Anyone using the term *unicorn tears* from this point forward is either uninformed or trying to pray on past emotions.

Products

Attached is a flavored products inventory report that Chris from Cigaret Shopper has provided. Almost every product in the "Vape and Vape Devices" category will be pulled from shelves in just a matter of time once the FDA releases its list of unauthorized products. Every other product on the list is a *traditional tobacco* product. Per CDC data, these traditional products have low single digit youth user appeal. They are adult products. **Every product on this entire spreadsheet would be banned** if the ordinance passes. Maine's flavored tobacco profile happens to be quite large: Menthol cigarettes account for about 18% of state cigarette volume, about 89% of Maine's snuff volume is flavored, 71% of Maine's e-cigarette volume is flavored product and 60% of Maine's cigar volume is flavored.

Best,

Jon

Jonathan Shaer, Executive Director

New England Convenience Store & Energy Marketers Association, Inc. (NECSEMA)

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jon@necsema.net | www.necsema.net | [Join NECSEMA](#)

From: Jonathan Shaer - NECSEMA <jon@necsema.net>
Date: Tuesday, November 9, 2021 at 6:21 AM
To: Belinda Ray <bsr@portlandmaine.gov>, Tae Chong - City number <tchong@portlandmaine.gov>, "mdion@portlandmaine.gov" <mdion@portlandmaine.gov>
Cc: "council@portlandmaine.gov" <council@portlandmaine.gov>
Subject: flavored tobacco ban comments

Pease accept these written comments to complement the verbal testimony I plan to give this evening. Once again, thank you for opening this hearing for additional public comment on the proposed flavored tobacco ban.

Jon

Jonathan Shaer, Executive Director

New England Convenience Store & Energy Marketers Association, Inc. (NECSEMA)

1044 Central Street, Suite 203, Stoughton, MA 02072

Mobile: [774-406-1997](tel:774-406-1997) | Office: [781-297-9600](tel:781-297-9600) ext. 3 | Fax: [781-297-9601](tel:781-297-9601)

jon@necsema.net | www.necsema.net | [Join NECSEMA](#)



November 9, 2021

Portland City Council
Health and Human Services & Public Safety Committee
Portland City Hall
389 Congress St.
Portland, ME 04101

Chairman Chong, Councilmember Ray and Councilmember Dion,

Thank you for accepting additional public testimony at your hearing this evening. This is a very important issue to 50 businesses in your city, its 38 convenience stores and a significant number of adults evidenced by the volume of flavored tobacco these stores sell. Allowing additional testimony is particularly important considering the number of inaccuracies and biased information presented to your committee by the local tobacco control coordinator at the last hearing (i.e. the number of states with a ban is one, not five as you were told).

I will not waste your time defending flavored tobacco, and I hope you will not succumb to tactics which attempt to demonize the companies that manufacture and sell them. Those schemes are irrelevant and only serve as smoke and mirrors to the real questions: What is the purpose of a local ban, and will a local ban be effective?

If the purpose is to prevent youth from initiating nicotine use, then a local ban will be ineffective because you have not closed access of the products to minors, Portland retailers have a 97% FDA-verified compliance rate and the only products youth are statistically using, electronic nicotine delivery systems (ENDS), have all effectively been banned by the FDA via their Pre-Market Tobacco Application (PMTA) process.

If the purpose is to send a signal to the state legislature that Portland is in favor of a statewide ban, then a local ban will be equally ineffective since the state will likely take a more measured approach as it was prepared to last session (even before the PMTA process began) and only leave Portland businesses disadvantaged adults inconvenienced by its more sweeping ban.

Everyone claims this policy is intended to protect youth. If that is the case, then there is no empirical or statistical reason why menthol cigarettes, wintergreen smokeless and the varieties of pipe tobacco should be banned. The only product shown to demonstrate any modern-day youth appeal is ENDS (aka vape). The statistics are clear and come right from the CDC's National Youth Tobacco Survey¹ which shows that in 2020 high school-aged use for ENDS was 19.6% (down from 27.5% in 2019), cigarettes use at 4.6% (down 15.8% since 2011), smokeless use at 3.1% (down 7.9% since 2011) and cigar use at 5% (down 11.6% since 2011). In fact, the 2021 early data shows ENDS use has fallen again

¹ CDC Tobacco Data Statistics *Estimates of Current Tobacco Use Among Youth*
https://www.cdc.gov/tobacco/data_statistics/fact_sheets/youth_data/tobacco_use/index.htm

1044 Central Street, Suite 203
Stoughton, MA 02072
(781) 297 – 9600

to 11.3% - a 60% drop in two years. As you can see, there are stark difference in the various products' youth appeal rates.

The Maine state legislature took the time to understand these facts and didn't allow emotion to dictate their decision on LD 1550. Had the bill not been pulled by the sponsors, the legislature \ likely would have passed an alternative that only banned flavored ENDS and included an PMTA authorized products exemption.

Understanding PMTA is absolutely critical as you consider this proposed ban. By September 2020, every ENDS product had to submit an application to the FDA to remain on the market. Since then, the FDA has acted on nearly 7,000,000 flavored ENDS/vapor applications and granted only 22 authorizations. The only products that will remain available are those the FDA has determined are "appropriate for the protection of public health". This is a science-based process, not an emotional one, and I would hope Portland would want these products available to legal adults if they FDA authorizes them. I was shocked your local tobacco control coordinator did not include any mention of this process in her presentation.

A local ban will not stop youth who are already knowingly breaking the law and it will not hurt the tobacco manufacturers since their products will continue to be sold, just not in Portland. Look no further than Massachusetts which saw virtually all the products come back into the state via New Hampshire and Rhode Island, coupled with a migration to traditional tobacco and vape. It will only hurt your local retailers. These local retailers are the only face to face gatekeepers for age-restricted tobacco and have a 97% compliance rate. Out of the 169 inspections since 2018 there have only been 5 violations. They are doing their job!

I implore you to oppose this proposed by-law. It is misguided as a targeted approach to reduce youth nicotine access and initiation, it ignores the science-based work of the FDA, it overreaches to impact Portland's adults, and will do nothing to reduce use or access while only serving to damage legal, licensed, tax-paying businesses in your city and the jobs those businesses provide and the families those jobs provide for.

Respectfully submitted,



Jonathan Shaer
Executive Director
Jon@necsema.net
781-297-9600 x3

1044 Central Street, Suite 203
Stoughton, MA 02072
(781) 297 – 9600

Proposed Portland Flavor Ban 1 view



brandi.cushman@cnbrown.com <brandi.cushman@cnbro... Nov 15, 2021, 9:08:11 AM
to council@portlandmaine.gov, publiccomment@portlandmaine.gov

Good morning council members.

My name is Brandi Cushman and I am the Director of Purchasing for C. N. Brown Company. We own and operate two Big Apple Convenience Stores in the City of Portland.

I hope that you will take a few minutes to read our concerns with this proposed flavor ban in the attached document.

I appreciate your time.

Thank you,

Brandi Cushman

Director of Purchasing and Merchandising

C. N. Brown Company

P.O. Box 200

1 C. N. Brown Way

South Paris, ME 04281

☎: 207-743-4200 ext. 3102

📠: 207-743-8357

✉: brandi.cushman@cnbrown.com

www.cnbrown.com

When you think something is more important than a Customer.....Think Again





1 CN Brown Way
PO Box 200
South Paris, ME 04281
Phone: (207) 743-9212
Fax: (207) 743-8357
Toll Free 800-432-4211
cnbrown.com

Portland City Council
City Hall
389 Congress Street
Portland, ME 04101

RE: Portland City Ordinance Ending the Sale of Flavored Tobacco Products

Portland City Council-

Thank you for taking the time to read C. N. Brown Company's concerns with the proposed city ordinance ending the sale of flavored tobacco products.

My name is Brandi Cushman and I am the Director of Purchasing and Merchandising and the Category Manager of tobacco for C. N. Brown Company. We own and operate the Big Apple convenience stores at 2 Park Avenue and 16 Washington Ave. in Portland employing a total of 18 associates. Those are 18 local jobs we have created.

I am writing in opposition of this city ordinance, an ordinance that will dramatically decrease the operating revenue and profitability of many stores within the city, will affect jobs, and do nothing to keep these products that you propose to ban out of the hands of your youth as it is intended.

Zero Tolerance

We have absolutely no interest in selling tobacco to the youth in your city or anywhere else. We have training, policies, and procedures in place to ensure, to the best of our ability, that tobacco products do not get into the hands of your youth. In fact, we take this so seriously that in the rare instance an employee is found in violation of the law, and our internal training and policies regarding underage tobacco sales, they are immediately terminated. Retailers like us are on the front-line protecting young people in your city and throughout the State of Maine and we take that responsibility very seriously.

Goes Too Far

It is stated that this ordinance is about protecting youth, however, this policy is looking to ban many adult-preferred products including menthol cigarettes, mint and wintergreen smokeless tobacco and flavored cigars. The CDC's 2020 National Youth Tobacco Survey shows that high school-aged use for ENDS/vapor is 19.6% (down from 27.5% in 2019), cigarettes use at 4.6% (down 15.8% since 2011), smokeless use at 3.1% (down 7.9% since 2011) and cigar use at 5% (down 11.6% since 2011). This shows that the most preferred products by youth (although it has declined significantly) are ENDS/vapor products, yet the city is looking to ban ALL flavored tobacco products.

Federal Action

The FDA is diligently working through the Pre-Market Tobacco Application (PMTA) process with vapor products and has already removed more than 6,000,000 of these products from the market by denying their PMTA application. The only products the FDA will allow to remain on the market are those that they have determined are “appropriate for the protection of public health”. The FDA is using a science based approach to ensure that vapor products that meet their standards are available to adult tobacco consumers.

Doesn't Eliminate Access

Local tobacco bans are not going to protect your youth. If this ordinance is passed, flavored tobacco and ENDS/vapor users, including youth illegally obtaining such products, will simply go to the next city/town to get the products they want. The only people that will be negatively affected by this ordinance are your legal, licensed, tax paying local businesses who will not only lose the sale of these legal products to adult tobacco consumers, but also all of the ancillary sales these customers take with them.

The majority of youth are getting these products via adult tobacco consumers, including parents. Instead of continually attacking retailers on this issue, let's put some responsibility on the youth access issue where it lies.

With alcohol there are numerous laws on the books in regards to Illegal Possession by a Minor, Illegal Transportation by a Minor, and Furnishing to a Minor. If youth access is truly the concern of this council, these are the same laws that need to be in place and enforced for tobacco products. (I have attached a listing of these laws.) Stop making retailers shoulder all of the burden and all of the consequences of the youth access issue.

At the same time, in the rare instance that an associate at a retail establishment fails a sting because **they choose** to ignore the age verification prompt of the POS system as well as all policies and training procedures of that retail establishment, that associate should receive some form of consequence from the city and/or state, not solely the retailer. Retailers do everything in their power to make sure an illegal sale to a minor does not occur but we cannot control an associate who chooses to ignore all of the retailer's precautions.

We believe that these issues should be debated where they belong, at the state level and with the FDA. Allow the FDA, with its resources, to determine which products are safe and which are not so that adult tobacco consumers are not forced to travel across city limits to purchase legal products and therefore hurt businesses within the city of Bangor.

We strongly encourage that you vote no on the city ordinance ending the sale of flavored tobacco products.

Thank you.

A Flavored Tobacco Ban is Bad Policy -- Please Oppose 2 views



MEGAN TURBIDE <Mturbide76@gmail.com>

Dec 8, 2021, 2:21:40 PM

to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,
MEGAN TURBIDE
170 Portland Ave
Old Orchard Beach, ME 04064-1293



Olivia Curtis <ocurtis1832@gmail.com>

Dec 13, 2021, 4:37:39 PM

to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living-- instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Olivia Curtis
16 Adelaide Rd
Apt A
Old Orchard Beach, ME 04064-2227



Heather Brooks <heatherbrooks024@gmail.com>
to publiccomment@portlandmaine.gov

Dec 15, 2021, 12:33:45 PM

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living-- instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Heather Brooks
36 Maggie Ln
Portland, ME 04103-6502



to publiccomment@portlandmaine.gov

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,
Phyllis Nimer
749 Diabolo Rd
Danville, CA 94526



Katie Wilson <katiewils0nn@icloud.com>
to publiccomment@portlandmaine.gov

Dec 17, 2021, 6:55:03 PM

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Katie Wilson
25 Munjoy S
Portland, ME 04101-4310



Duane Tower <duanetower11@gmail.com>
to publiccomment@portlandmaine.gov

Dec 18, 2021, 2:53:45 PM

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Duane Tower
4816 Briarcliff Sq
Apt 13
Honeoye, NY 14471-9680



Duane Tower <duanetower11@gmail.com>
to publiccomment@portlandmaine.gov

Dec 18, 2021, 2:56:12 PM

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living-- instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,
Duane Tower
4816 Briarcliff Sq
Apt 13
Honeoye, NY 14471-9680

Protect Portland Children from Tobacco Addiction 1 view



Deb Smith <executivedirector.mahperd@gmail.com>

Nov 9, 2021, 3:42:13 PM

to council@portlandmaine.gov, publiccomment@portlandmaine.gov

Dear Portland City Council Health & Human Services and Public Safety Committee

Chair Councilor Tae Chong, and Councilor Belinda Ray, and Councilor Mark Dion

I am Deb Smith a resident of Portland and the Executive Director of the Maine Association for Health, Physical Education, Recreation, and Dance (MAHPERD). The MAHPERD Board of Directors signed on to the Flavors Hook Kids Campaign in Maine in 2021. The MAHPERD Board, and I are supportive of the ordinance to end the sale of Flavored Tobacco Products in Portland.

The use of tobacco products remains the nation's number one cause of preventable death and in Maine, nearly 1 in 5 adults smoke cigarettes, the highest rate in the Northeast. In recent years, overall youth tobacco use in Maine has skyrocketed, largely driven by the youth e-cigarette use epidemic and now 1 in 2 Maine high school students and 1 in 6 middle school students have used e-cigarettes.

Tobacco companies are targeting youth with flavored tobacco products. Products that come in array of kid friendly candy and fruit flavors such as mint, cherry, grape jelly, cotton candy, piña colada, and cinnamon roll, all sold in colorful packaging that is designed to attract tweens and teens. Nationwide, nearly 81% of youth ages 12 to 17 who had ever used a tobacco product reported that the first product they used was flavored. Tobacco companies use flavor to hook a new generation of kids on its deadly products. Flavors hide the bad taste of tobacco and make it easier for kids to try. Menthol has the additional quality of soothing the irritation of combustible cigarettes, which is why so many young people start smoking using menthol cigarettes.

We must do everything in our power to keep our communities healthy and safe and we applaud the Portland City Council for making sure that Portland residents are healthy and safe against the harms from tobacco with the ordinance.

Sincerely,

Deb Smith
201 Bradley Street
Portland, ME 04102
Executivedirector.mahperd@gmail.com

--

Deb Smith
Executive Director, Maine AHPERD



Engage • Educate • Inspire

NECSEMA comments on proposed flavored tobacco ban in Portland, ME

0 views



Havens, Jonathan A. <Jonathan.Havens@saul.com> Nov 22, 2021, 3:21:13 PM
to ksnyder@portlandmaine.gov, council@portlandmaine.gov, publiccomment@portlandmaine.gov

Dear Mayor Snyder and Members of the Portland City Council:

On behalf of our client, the New England Convenience Store and Energy Marketers Association (NECSEMA or the Association), I am submitting the attached comments regarding the proposed ordinance that would ban the sale of flavored tobacco products in Portland, Maine.

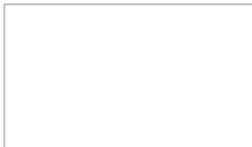
I would ask that you include these comments in the Councilor's agenda packet for when the City Council meets to discuss the proposed flavored tobacco ban.

Thank you for your consideration of these comments.

Sincerely,

Jonathan Havens

Outside Counsel to NECSEMA



Jonathan A. Havens

500 E. Pratt Street | Suite 900 | Baltimore, MD 21202
1919 Pennsylvania Ave., NW | Suite 550 | Washington, D.C. 20006
O: 410.332.8757 | M: 301.404.0674 | F: 410.332.8179
Jonathan.Havens@saul.com | www.saul.com | [LinkedIn](#) | [Twitter](#)

Click  for an interactive look at the latest from our Cannabis Law Team.

"Saul Ewing Arnstein & Lehr LLP (saul.com)" has made the following annotations:

+~~~~~+

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+~~~~~+



November 22, 2021

Mayor Kate Snyder
Members of the Portland City Council
City of Portland
389 Congress Street
Portland, ME 04101

Re: Comments on proposed flavored tobacco ban in Portland, ME

Dear Mayor Snyder and Members of the Portland City Council:

On behalf of our client, the New England Convenience Store and Energy Marketers Association (NECSEMA or the Association), I am submitting these comments regarding the proposed ordinance that would ban the sale of flavored tobacco products in Portland, Maine. I would ask that you include these comments in the Councilor's agenda packet for when the City Council meets to discuss the proposed flavored tobacco ban. I am outside counsel to NECSEMA, and advise the Association on various state and federal regulatory matters. Prior to entering private practice, I served as a regulatory counsel with the U.S. Food and Drug Administration's (FDA or the Agency) Center for Tobacco Products (CTP). Prior to starting law school, I served as a legislative aide in the U.S. Senate and U.S. House of Representatives.

As you know, the proposed ban would prohibit in Portland the sale and consumption of flavored tobacco products, including any smell or taste relating to fruit, menthol, or candy. NECSEMA opposes the proposed flavor ban for numerous reasons, including: (1) flavored products that the U.S. Food and Drug Administration (FDA or the Agency) has authorized for marketing would be banned under the ordinance; (2) the Maine Legislature considered such a ban last session and will likely do so again this session; and (3) local tobacco-related bans are ineffective. In short, the federal government and the State are equipped to handle how best to regulate flavored tobacco products, and NECSEMA urges you to let them do so.

The primary focus of these comments is to alert you to the fact that banning flavored tobacco products in Portland would undermine FDA's robust regulation of the same. By law, any flavored tobacco product that FDA allows on the market would have included a determination by the Agency that such product is "appropriate for the protection of public health"¹ and/or "appropriate to promote

¹ 21 U.S.C. § 387j(c)(4).

public health.”² When reviewing medical products, FDA uses a “safe and effective” standard. However, this standard does not apply to tobacco products. Instead, when considering a tobacco product marketing application, the Agency uses an arguably more rigorous standard, the “public health” standard, that requires FDA to consider “the risks and benefits of the tobacco product to the population as a whole, including users and nonusers.”³

More specifically, per the language in the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act), in finding that the marketing of a tobacco product for which a marketing application has been submitted is appropriate for the protection of public health, FDA *must* consider:

- (A) The increased or decreased likelihood that existing users of tobacco products will stop using such products; and
- (B) The increased or decreased likelihood that those who do not use tobacco products will start using such products.⁴

To get a sense of what a marketing application requires, consider the following elements, which a PMTA must contain:

- (A) Full reports of all information, published or known to, or which should reasonably be known to, the applicant, concerning investigations which have been made to show the health risks of such tobacco product and whether such tobacco product presents less risk than other tobacco products;
- (B) A full statement of the components, ingredients, additives, and properties, and of the principle or principles of operation, of such tobacco product;
- (C) A full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of, such tobacco product;
- (D) An identifying reference to any tobacco product standard under 21 U.S.C. § 387g which would be applicable to any aspect of such tobacco product, and either adequate information to show that such aspect of such tobacco product fully meets such tobacco product standard or adequate information to justify any deviation from such standard;
- (E) Such samples of such tobacco product and of components thereof as FDA may reasonably require;
- (F) Specimens of the labeling proposed to be used for such tobacco product; and
- (G) Such other information relevant as the Agency may require.

When one considers the breadth and depth of these requirements, it is no surprise that PMTA

² *Id.* at § 387k(g)(2)(A)(i).

³ FDA, “A New Standard of Effective Regulation,” <https://www.fda.gov/tobacco-products/rules-regulations-and-guidance/rules-and-regulations> (last updated Oct. 4, 2021).

⁴ Family Smoking Prevention and Tobacco Control Act, June 22, 2009, Pub. L. 111-31, 123 Stat. 1776, 1816.

submissions can easily exceed one million pages.

As the City of Portland considers the measure before it, I suspect one question will be, “If we do not ban the sale of flavored tobacco products, how will the health of Portland residents be protected?” The answer to that question is that FDA’s rigorous review of any product that is the subject of an Agency marketing order will have been evaluated thoroughly with regard to the risks and benefits of the product to the population as a whole, including tobacco users and nonusers. Moreover, with regard to such products, FDA will have already considered: (1) the increased or decreased likelihood that current tobacco users will stop using such product; and (2) the increased or decreased likelihood that nonusers will start using such product. In short, the Agency’s review standard ensures that granting a marketing order for such product is appropriate for the protection of public health.

Proof of the rigor of FDA’s tobacco product review standard is that on October 21, 2021, the Agency for the very first time authorized the marketing of three new electronic nicotine delivery system (ENDS) products.⁵ A week later, FDA authorized the marketing of four smokeless tobacco products, all of them mint flavored.⁶ To provide some context:

- The Agency on August 26, 2021 announced that it denied marketing applications for approximately 55,000 flavored ENDS products for “failing to provide evidence they appropriately protect public health.”⁷
- Earlier that month, FDA on Aug. 9, 2021 issued a Refuse to File (RTF) letter to JD Nova Group LLC, in which the Agency notified the company that their PMTAs that are associated with approximately 4.5 million of their products did not meet the filing requirements for a new tobacco product seeking a marketing order.⁸

Clearly, the robust standard that tobacco products must meet in order to receive a marketing order from FDA is serving to protect the public health. Rather than believing that the proposed flavor ban is the only way to protect Portland residents, you can rest assured that allowing only those flavored tobacco products that receive an Agency marketing order is a more than adequate measure to protect the health of your constituents.

⁵ FDA, “Premarket Tobacco Product Marketing Granted Orders,” <https://www.fda.gov/tobacco-products/premarket-tobacco-product-applications/premarket-tobacco-product-marketing-granted-orders> (last updated Oct. 25, 2021).

⁶ *Id.*

⁷ FDA, Press Release – “FDA Denies Marketing Applications for About 55,000 Flavored E-Cigarette Products for Failing to Provide Evidence They Appropriately Protect Public Health,” Aug. 26, 2021, <https://www.fda.gov/news-events/press-announcements/fda-denies-marketing-applications-about-55000-flavored-e-cigarette-products-failing-provide-evidence>.

⁸ FDA, Press Release – “FDA Issues Refuse to File (RTF) Letter to JD Nova Group LLC,” Aug. 9, 2021, https://www.fda.gov/tobacco-products/ctp-newsroom/fda-issues-refuse-file-rtf-letter-jd-nova-group-llc/?utm_content=landingpage&utm_medium=email&utm_source=govdelivery&utm_term=stratcomms.

Mayor Snyder and Portland City Council Members

November 22, 2021

Page 4

Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jonathan A. Havens', written over a light gray rectangular background.

Jonathan A. Havens
Outside Counsel to NECSEMA

ad in MA newspapers 0 views



Jon Shaer <jon@necsema.net>

Nov 28, 2021, 8:26:20 PM

to Kate Snyder, council@portlandmaine.gov, publiccomment@portlandmaine.gov

Good evening, Mayor Snyder and Councilors,

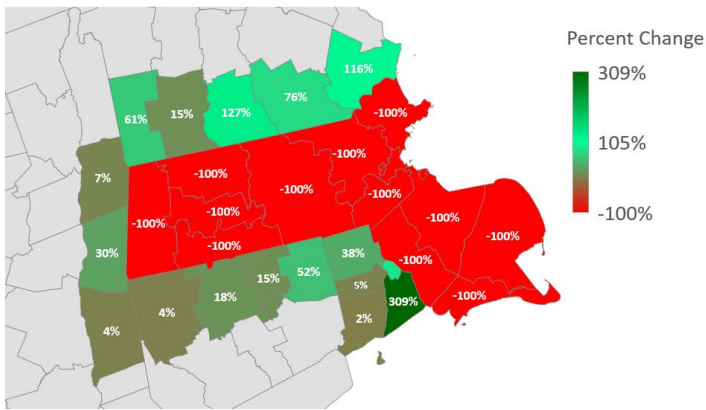
As we approach the first of two readings on the proposal to ban flavored tobacco, I want to share two images that help illustrate the important point that local bans do not work.

The first is an advertisement that appears in the Boston Herald and Boston Globe almost every day since the Massachusetts flavored tobacco ban began on 6/2020 and is likely running in other papers as well. Foods Plus is just over the MA border and runs this same ad which informs MA residents that menthol and other flavored tobacco remain available to them just over the border in Plaistow, NH. This store is spending hundreds of thousands of dollars advertising. It's safe to say that if it wasn't working, they wouldn't continue to spend the money. Imagine how much they're making!?



Unless every town within reasonable proximity to Portland enacts the same ban, then the ban is ineffective in limiting access to the products. That is why this issue should be handled, at minimum, in the state legislature. In truth, even a state ban would be ineffective since there isn't any way New Hampshire will enact a ban. Therefore, it really needs to be addressed at the federal level. A local-only ban impacts one group – the 50 legal retailers Portland has licensed to responsibly sell tobacco products. And they've done it at a 97% FDA-verified compliance rate.

This second image is a heat map of menthol cigarette sales 12 months following the ban. I think the image speaks for itself and further makes the point that products continue to be sold and come back into the voided market. In this case, Portland.



Respectfully,

Jon

Jonathan Shaer, Executive Director

New England Convenience Store & Energy Marketers Association, Inc. (NECSEMA)

1044 Central Street, Suite 203, Stoughton, MA 02072

Mobile: [774-406-1997](tel:774-406-1997) | Office: [781-297-9600](tel:781-297-9600) ext. 3 | Fax: [781-297-9601](tel:781-297-9601)

jon@necsema.net | www.necsema.net | [Join NECSEMA](#)



FW: PLEASE include my comments to the packet for the meeting where the Flavored Tobacco Ban will receive a first reading

1 view



Julie Parker <PortlandCon@cigaretshopper.com>

Nov 12, 2021, 10:25:22 AM

to publiccomment@portlandmaine.gov, council@portlandmaine.gov

From: Julie Parker

Sent: Friday, November 12, 2021 9:30 AM

To: Chris Beaulier <Chris@cigaretshopper.com>

Cc: Julie Parker (julieparker286@gmail.com) <julieparker286@gmail.com>

Subject: PLEASE include my comments to the packet for the meeting where the Flavored Tobacco Ban will receive a first reading

To whom this may concern,

I'm a voter and Portland resident and manage the Cigaret Shopper on Congress Street. I want to oppose the ordinance banning the sale of flavored tobacco and vapor products in Portland. If this ban is passed, I will have to travel outside of the city and give another town my tax dollars. I would prefer to keep my money in the city I live and work in. This city is for small businesses and if this passes the city will lose a lot of the small businesses that are struggling to stay open. Congress Street use to be so full of people and businesses and now there are more for lease signs on vacant retail space do you really want to add more to that?

We as an adult's have the right to make our own choices in life and you are now trying to make it, so we do not have that right. I have lived in this city for 27 years and I have been working on Congress Street the whole time and have been watching the struggles of every person in the downtown district. The homeless, the mentally ill, the elderly the blue-collar workers and corporate employees do not have places to really shop for there needs on Congress Street. By taking flavored tobacco and vape products will not only hurt the store I manage it will hurt downtown just as much.

This city would lose so much tax dollars that it would hurt everyone that is still trying to afford to live in the city. In the meeting on the 9th, I sat in the zoom meeting and listened to you say that the city will not have money to help the homeless if you do not get the federal funding you need. Isn't this a more important situation you should be dealing with. And with me saying that you stop the sales of all the products you are trying to ban is this really going to help? I can answer that, and I know you can as well.

To me I feel you should be also more concerned about the crime's that are happening in this city, the illegal drug activities, rent control, the roads, and getting more businesses to come back to the downtown area.

Also, in the same meeting I listened to a school nurse talk about a middle school child STEALING their parents vape device and taking it to school. Well, no offense but that child should be taught at home about tobacco. Hold the parents accountable not everyone else!!!! Remember Maine does have the best grade for not selling to minors so why punish us for something that is obviously not the store's fault.

Thank you,

Julie Parker

Cigaret Shopper

579 Congress Street

Portland, Maine

A Flavored Tobacco Ban is Bad Policy -- Please Oppose 1 view



Tara Florentine <tflo02@att.net>
to publiccomment@portlandmaine.gov

Jan 8, 2022, 8:54:51 AM (4 days ago)

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,
Tara Florentine
2739 Rockford Rd
Shelby, NC 28152-9606

A Flavored Tobacco Ban is Bad Policy -- Please Oppose

Public Comment inbox



Joseph Rowe <rowej280@gmail.com>

6:40 AM (9 hours ago)

to publiccomment

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

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Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,

Joseph Rowe

37 Casco St

Apt 205

Portland, ME 04101-2932

A Flavored Tobacco Ban is Bad Policy -- Please Oppose

Public Comment inbox



Richard Hoyt <richard.t.hoyt@gmail.com>
to publiccomment

Thu, Jan 13, 7:10 PM (21 hours ago)

Dear Portland City Council,

As your constituent, I'm very disappointed to learn that the Portland City Council is considering a ban on menthol cigarettes, flavored dip, and flavored cigars for adults 21 and older. This would be adult prohibition and goes too far--I ask you to please oppose a ban on these tobacco products.

We all agree that kids shouldn't use tobacco products--that's why the law is 21. But banning legal flavored tobacco products and menthol cigarettes for adults 21 and older is too extreme and bad policy.

A ban wouldn't get rid of these products. Instead, it will just drive consumers to nearby towns or even worse--the illegal market--to get their products. As a result, a ban will increase crime, endanger consumers, and hurt small businesses and our communities.

Our local lawmakers should be focused on the economy, jobs, and addressing the rising cost of living--instead of limiting adult choices by banning legal products.

Please oppose this extreme proposal.

Sincerely,
Richard Hoyt
796 Brighton Ave
Portland, ME 04102-1016

MEMORANDUM
City Council Agenda Item

FROM:

DATE: January 7, 2022

SUBJECT: Order 141-21/22 Extending the Face Covering Mandate to March 7, 2022 -
Sponsored by Mayor Kate Snyder

SPONSOR: Councilor Andrew Zarro

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading 1/3/2022

Final Action 1/3/2022

Can action be taken at a later date: No Second reading requested waived and passage as an emergency requested on January 3, 2021, due to the rapidly spreading COVID-19 Omicron variant.

PRESENTATION: Please list the presenter(s), type, and length of presentation

I. SUMMARY

II. AGENDA DESCRIPTION

By Order 131-21/22, on January 3, 2022, the City Council adopted a face covering mandate that was effective on January 10, 2022. The masking requirement was aimed at slowing the spread of Covid-19.

Section 17-143 of the ordinance anticipates that the Council will regularly revisit the masking requirement and review continued need for it every 30 days. Approval of the order attached to this item would be based on a determination that the face covering ordinance should remain in effect and, on that basis, would extend the mandate to March 7, 2022, when the City Council meets and would be subject to review once again.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

Following extensive public comment and discussion by the Council during the December 20 meeting, this item proposes the adoption of a face covering mandate. It is modeled almost entirely on language recently adopted by Burlington, Vermont, with minor changes aimed at tailoring it to Portland's existing practices around COVID-19 (e.g. it does not adopt capacity restrictions in the same way that Burlington's ordinance does) and fitting it within the City's Code of Ordinances. As proposed, this mandate would be incorporated as part of Chapter 17 - the chapter of the City's code where a number of other public health-related requirements appear (e.g. tobacco regulation). Based on research conducted by the City's Office of Corporation Counsel - and as confirmed by representatives of Maine Municipal Association - a masking requirement may be adopted outside the context of an Emergency Proclamation (which are typically intended to be short-lived and temporary to allow communities to put in place longer-term approaches to manage ongoing crises) and adopted as an ordinance in the usual course under the City's Home Rule powers.

The rationale for the proposal remains the same as it did when the Council last took up this question. Namely, critical care hospitalizations in Maine have reached some of the highest numbers for the entire period of the Covid-19 pandemic, and that this is happening despite a high county-wide rate of vaccinations and is primarily the result of the delta and now omicron variants' contagiousness. As a result, state health officials, along with the United States Centers for Disease Control and Prevention officials and the Maine Center for Disease

Control officials, advise the use of all preventative measures, including the use of face coverings in public indoor spaces. It is hoped that these measures will succeed at slowing the relentless spread of Covid-19, especially among the immune-compromised and children under 5, who are not yet allowed to be vaccinated.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis that will not appear in the Agenda Description.

VII. RECOMMENDATION

Consistent with the recommendations made when the City Council considered a mask mandate in October 2021, the City's Department of Health and Human Services enthusiastically supports a masking requirement but does not believe that exceptions for businesses or individuals based on vaccination status represent best practice or are supported by current public health data. HHS staff, therefore, recommend adoption of the mandate with those exceptions removed.

VIII. LIST ATTACHMENTS

1. Ch. 17 Face Covering Mandate 30-day Extension 2.7.2022
2. Ch. 17 Face Covering Mandate 1.3.2022
3. 2/3/22 HHS Memo re: Face Covering Ordinance Review
4. 2/4/22 Memo - Libner
5. December 21, 2021 HHS Staff Recommendations on Indoor Mask Mandate
6. Council Request for Additional Information Regarding Indoor Mask Mandate (5) (1)
7. HHS Staff Recommendations on Indoor Mask Mandate (2) (1)

Prepared by:

Date: 01/07/2022

KATE SNYDER (MAYOR)
ANNA TREVORROW (1)
VICTORIA L. PELLETIER (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
ROBERTO RODRÍGUEZ (A/L)

ORDER EXTENDING THE FACE COVERING MANDATE TO MARCH 7, 2022

ORDERED, that the face covering mandate approved by Order 131-21/22 on January 3 and effective on January 5, 2022 is hereby extended to March 7, 2022.

Order 131-21/22

Motion to waive the second reading: 9-0 on 1/3/2022

Motion to amend to change effective date to January 5, 2022 and to amend to define "Vaccinated" according to current Federal Centers for Disease Control guidelines: 9-0 on 1/3/2022

Passage as amended as an emergency: 9-0 on 1/3/2022

Effective 1/3/2021

KATE SNYDER (MAYOR)
ANNA TREVORROW (1)
VICTORIA L. PELLETIER (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
ROBERTO RODRÍGUEZ (A/L)

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 17
Re: FACE COVERING MANDATE**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

- 1. That Sections 17-134 to 17-144 of the Portland City Code are hereby amended to read as follows:*

Chapter 17 OFFENSES, MISCELLANEOUS PROVISIONS*

Art. I. In General, §§ 17-1--17-14

...

Sec. 17-134--17-139. Reserved.

ARTICLE XII. PUBLIC FACE COVERING MANDATE

Sec. 17-139. Definitions.

For the purpose of this Section, the following terms shall have the following meaning:

Face covering means any cloth or tightly woven fabric that can be worn on an individual's face over their nose and mouth and substantially complies with the United States Center for Disease Control's recommended guidance for masks such as surgical masks, N95 respirators, double-layer cloth gators, or any similar mask that fits snugly around the nose and chin, has

multiple layers and/or inner filter pockets, and does not let light through when held up to a light source.

Person means any individual regardless of their status within a Public Building including but not limited to an employee, an owner, a customer, a licensee, an invitee, a visitor, or any other individual.

Public Building means any building or portion of a building within the City of Portland that is regularly accessible to the general public. For purposes of this ordinance, a Public Building shall not include a private residence or residential unit, a public pre-school or K through 12 school (which remains under the authority of the Board of Public Education), a church or other house of worship, office space where the occupant(s) can be physically separated from the general public, or the portions of a theater, gym, or athletic arena where all of the individuals performing, exercising, or playing have been vaccinated and where there is either space, a physical barrier, or ventilation system separates them from the general public or audience.

Vaccinated shall have the same meaning as the term "fully vaccinated," as defined by the Federal Centers for Disease Control and Prevention.

Sec. 17-140. Face Covering Mandate.

(a) Starting January 5, 2022, any Person shall wear Face Coverings over their nose and mouth any time they are in a Public Building, within the City of Portland, unless otherwise excepted in Section 17-141.

(b) Persons must also wear Face Coverings over their nose and mouth any time they are using or operating public transportation conveyances, including buses, trains, taxis, ride shares, vehicles for hire, or any other ride services within the City of Portland.

(c) Persons inside a Public Building or portion thereof may temporarily remove their Face Coverings to participate in the primary purpose of the business, such as eating or drinking, only to the extent that such removal occurs at an isolated location, such as a table or booth, and that any Person who removes such Face Coverings must restore their Face Coverings as soon as their activity is completed or to the extent that they

traverse or move about the premises away from their isolated location.

d) Nothing in this ordinance shall be interpreted to relieve a Person or business of any state or federal face covering obligations, and this ordinance shall be subordinate to any federal or state laws concerning vaccines or Face Coverings.

Sec. 17-141. Exceptions.

(a) Any Person under the age of 2, anyone with a medical condition that is complicated or irritated by a facial covering, or anyone with difficulty breathing, or anyone who is unconscious, incapacitated, or otherwise unable to remove the Face Covering without assistance is not required to wear a Face Covering.

(b) Any Person who is alone in a Public Building is not required to wear a Face Covering as long as they remain alone.

c) Any Person entering a business, or a portion of a business, located within a Public Building, including but not limited to retail, food and beverage, gym, theater, or similar high-traffic business, which actively screens and limits who may enter its premises to only Persons with established proof of vaccination for the COVID-19 Virus, will not be obligated to wear a Face Covering within the business, but only to the extent that the Person is actually screened and provides proof of vaccination.

Sec. 17-142. Posting Requirement.

Each Public Building and each separate business or separate premise within a Public Building must post signage at the entrance and at other appropriate locations stating that Persons entering are required to wear face coverings by order of the Portland City Council. Other locations can be alternative entrances (back doors, etc.) or at transaction locations such as registers. Signage requirements outlined in this Section (17-142) will have an effective date of January 10, 2022.

Sec. 17-143. Effective Period.

(a) Following its promulgation, the City Council shall review this ordinance every 30 days to reconsider and shall vote to either rescind or extend this ordinance for the ensuing 30 days.

(b) Enforcement of this ordinance may be suspended by an Executive Order promulgated by the City Manager prior to its expiration upon the determination by the City's Director of Health and Human Services that the seven day average of new cases for Cumberland County has dropped to the CDC's "moderate" transmission level for a period of ten consecutive days. Subsequently, prior to the expiration of the ordinance, enforcement may be reinstated by an Executive Order promulgated by the City Manager upon a determination by the City's Director of Health and Human Services that the seven-day average for Cumberland County has returned to "substantial" or "high" levels of transmission for ten consecutive days. Public notice of these Executive Orders shall be circulated publicly and on the City's website.

Sec. 17-144. Enforcement

(a) A violation of this section shall be a civil violation subject to the general penalty provisions of section 1-15 of the Portland City Code of Ordinances. A Person found violating this ordinance will also be directed to comply with the Face Covering mandate or will be obligated to leave the building or area where the offense occurred.

(b) The City's Local Health Officer or his or her designee is authorized to institute or cause to be instituted by and through the office of the corporation counsel, in the name of the city, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of the provisions of this article.

BE IT FURTHER ORDAINED, that this amendment is enacted as an Emergency, pursuant to Article II, Section 11 of the Portland City Charter, in order to make it effective immediately in order to best protect and the health and welfare of the people in the City of Portland, Maine.



To: City Council members

CC: Kristen Dow, Jessica Grondin, Tina Pettingill, Caity Hager

From: Public Health Division staff

Date: 2/3/22

Re: Face Covering Ordinance Review: Response to Council Questions from 1/3/22

MEMORANDUM

Background: This memorandum contains responses to questions posed by the City Council on 1/3/22 regarding Portland's Face Covering Ordinance as well as relevant COVID-19 numbers.

Information Requested by HHS&PS Committee Members:

Data on "all spaces"

- Are they all the same (gyms in particular)?

SARS-CoV-2 is transmitted by exposure to infectious respiratory fluids. The principal mode by which people are infected with SARS-CoV-2 (the virus that causes COVID-19) is through exposure to respiratory fluids carrying infectious virus. Exposure to infectious respiratory droplets happens in three ways: inhalation, deposition and touching. One of the mitigation strategies for COVID-19 is ventilation. Enclosed spaces with inadequate ventilation or air handling within which the concentration of exhaled respiratory fluids, especially very fine droplets and aerosol particles, can build-up in the air space. Size of the space, volume of people in a space and activity all impact the level of infection that could be in the air.

- What is the masking guidance for restaurants?

While there is no current CDC guidance specific to restaurants, there is general indoor gathering guidance which includes being vaccinated, avoiding crowds and poorly ventilated spaces, social distancing, wearing a well-fitted mask, and handwashing.

Compliance reporting

- Number of complaints and how they were resolved?
 - o 1/5/22 - 2/2/22: 77 complaints were filed via SeeClickFix and approximately 25 additional complaints were received by email and/or phone. This does not represent the number of unique complaints, as several businesses have received more than one and often after a complaint has been filed via SeeClickFix the complainant will reach out to LHO with additional information and/or to inquire about how the complaint will be resolved.

- o In order to resolve a complaint the LHO first reaches out to the business (by phone and/or email) and inquires about whether or not the business has been apprised of the Ordinance, if they have proper signage, if they need access to masks, and if they are experiencing difficulty in engaging customers/consumers in a conversation about mask wearing. If the business does not understand the vaccine exemption this is also discussed, as this seems to be one of the more common areas of misunderstanding. At the conclusion of the conversation the business owner/manager is informed that continued reports of non-compliance that can be substantiated can result in a fine of up to \$500/violation.
- o Businesses that have received more than one complaint are also followed up on in person by LHO to determine potential areas for improvement with compliance. The vast majority of businesses are doing their best to implement the ordinance while avoiding altercations with/turning away customers.

Time Dedication

- How much staff time has been dedicated to enforcement?
 - o From 1/5/22 - 2/3/22 64 hours were dedicated to education and enforcement regarding the Face Covering Ordinance by the LHO. This includes: procuring masks for businesses; reading and responding to emails; answering and returning calls; following up by phone, in writing, or in person with businesses that have had complaints filed against them; working with Corporation Counsel, the Director of Communications, the Deputy Director of Health and Human Services, and the Chief of Staff on inquiries from the media and members of the public; engaging in media interviews. This does not include time spent by additional staff.

Additional Information (not requested by Committee members)

Updated COVID-19 Numbers

- **Positivity rate in Cumberland County:**
 - o September 1, 2021: 3.26%
 - o December 16, 2021: 5%
 - o January 27, 2022: 15.1%
- **Statewide data from the ME CDC:**
 - o Hospitalized with COVID-19:
 - September 1, 2021: 187 (120 non-ICU; 67 ICU)
 - December 20, 2021: 380 (250 non-ICU; 130 ICU)
 - February 2, 2022: 344 (261 non-ICU; 83 ICU)
 - o Individuals on ventilators:
 - September 1, 2021: 32 individuals with COVID-19
 - December 20, 2021: 64 individuals with COVID-19
 - February 2, 2022: 38 individuals with COVID-19
 - o ICU beds in the state:

- September 1: Total of 328 Adult ICU beds with 42 ICU Beds available. 20% of ICU beds in the state are individuals with COVID-19 and 87% of our ICU beds are taken.
 - December 20: 318 Adult ICU beds with 44 available. 41% of ICU beds in the state are individuals with COVID-19 and 86% of our adult ICU beds are taken.
 - February 2: Total of 376 Adult ICU beds with 49 available. 27% of adult ICU beds in the state are adults with COVID-19. Total of 66 youth ICU beds with 8 available.
- Materials distributed
 - 31,800 masks as well as window decals and hand sanitizer were distributed to businesses at three different distribution events (two at City Hall and one at 39 Forest Ave). Masks were also available at City Hall after those distribution events. Decals were translated into six different languages. Information was updated on the City's public health website at <https://staythecourse.me>, including new posters that businesses could download and display to help inform the public. These materials were also translated into six languages.
 - At 39 Forest Ave event - 27 businesses picked up 3 boxes of 50 masks each, one gallon of sanitizer and signage.
- Minority Health Program Outreach
 - Minority Health Program translated "masks required" signage and flyers for businesses. They also translated outreach materials promoting mask, sanitizer and signage pick-up for businesses as well as a pop-up vaccine clinic. Translations were completed in French, Portuguese, Somali, Arabic and Spanish. Community Health Outreach workers were on-site at 39 Forest Ave on January 12th for a pop-up vaccine clinic and to distribute signage, masks and sanitizer to non-English speaking business owners.
- Community Messaging
 - The City communicated messaging about the mask mandate via a press release, website, website chatbot, Friday City News Round Up e-news alert, social media channels, staythecourse.me website, and multiple print, radio, and TV news reports. Social media reach for the announcement was very high, reaching 15,000-20,000 accounts.



To: Portland City Council

From: Dena Libner, Chief of Staff

Date: 2/4/22

Re: Information Requested for Order 141-21/22

Below, please find information requested by councilors prior to the Council's February 7, 2022 consideration of an extension of the mask mandate (Order 141-21/22).

1. Given that the Maine CDC has been de-emphasizing case counts as a metric for tracking the spread of COVID, what metrics should we be looking at and is that data readily available in the same way that case counts have been published on the Maine CDCs website? For example, the Press Herald has been writing about waste water testing a lot recently. Is that a metric we should be focusing on? Are there other ones?

On 2/2/22 Dr. Shah recommended looking at the following metrics:

- a. Hospitalization data, including the percentage of those in the hospital that are in the ICU or on a ventilator.
 - b. Wastewater data - data for Portland should be available on the Maine CDC website starting the week of 2/7/22 and the City will be monitoring the data once it is available.
 - c. Number of daily positive test results. On 2/2/22 Dr. Shah reported that there was a daily average of 1,665 daily positive results for the previous 7 day period and for the 7 day period before that, it was an average of 2,500 daily positive results. Please note, these numbers are not de-duplicated (one person may test positive several times in the same 7 day period).
2. Additionally, given that our mask mandate ordinance gives the Manager the ability to stop enforcement of the mask mandate based off the classification of spread as "Moderate" or lower for 10 consecutive days, do we need an amendment to the order to incorporate the metrics that are more applicable with this phase of the pandemic? This mostly assumes that we get a recommendation to consider other metrics in response to the above question.

Yes - if the Council wanted to change the basis of the City Manager's ability to stop enforcement, an amendment would be needed.

3. Lastly, what are the local hospitals like MaineHealth and Northern Light saying? Are they still overwhelmed and overburdened or are they starting to see relief? Masking won't prevent the spread of COVID entirely, so we need to be looking at the ability for

hospitals to care for the community as the biggest benchmark in my opinion. If they're not overburdened, then perhaps we can remove the mandate.

Maine Medical Center (MMC) is seeing a decline in patients with Covid-19. In mid-January, MMC had 97 hospitalized patients with Covid-19 at MMC, and on 2/4/22 there were 61. MMC also has far fewer staff out due to Covid, and they are starting to resume surgeries and procedures that had been delayed.

Staff have requested additional information from other institutions and will provide as it becomes available.



Health & Human Services Department
Kristen Dow, Director

MEMORANDUM

To: Danielle West, Interim City Manager

From: Kristen Dow, Director of Health & Human Services

Date: December 21, 2021

Re: Updated HHS Staff Recommendations for City of Portland Indoor Mask Mandate

At the December 20, 2021 City Council meeting, it was decided that an indoor mask mandate would be discussed at the January 3, 2022 meeting of the City Council. In preparation for this, the staff of the City's Health & Human Services Department has prepared an updated recommendation on a proposed mask mandate.

Since the September 1, 2021 memo from the Health & Human Services department recommending an indoor mask mandate the COVID-19 numbers in our state have increased dramatically:

- **Positivity rate in Cumberland County:**
 - September 1, 2021: 3.26%
 - December 16, 2021: 5%
- **Statewide data from the ME CDC:**
 - Hospitalized with COVID-19:
 - September 1, 2021: 187 (120 non-ICU; 67 ICU)
 - December 20, 2021: 380 (250 non-ICU; 130 ICU)
 - Individuals on ventilators:
 - September 1, 2021: 32 individuals with COVID-19
 - December 20, 2021: 64 individuals with COVID-19
 - ICU beds in the state:
 - September 1: Total of 328 Adult ICU beds with 42 ICU Beds available. 20% of ICU beds in the state are individuals with COVID-19 and 87% of our ICU beds are taken.
 - December 20: 318 Adult ICU beds with 44 available. 41% of ICU beds in the state are individuals with COVID-19 and 86% of our adult ICU beds are taken.

Additional items for consideration:

County level data:

- In the Health & Human Services Department we are committed to protecting all those who live, work and play in the city of Portland. The benefit of using county level data when considering an indoor mask mandate is the daytime population change in Portland. According to the City's 2017 Comprehensive Plan "As the state's largest city and urban center for Cumberland County, Portland is home to a large number of employers and jobs. The daily influx of workers means the city's daytime population is often substantially higher than its nighttime population (composed mainly of residents). In fact, the American Community Survey estimates that the city's population swells to over 96,000 people during daytime hours — an increase in population of over 40 percent."

Mitigation strategies:

- The Maine Department of Economic & Community Development offers this general guidance in their COVID-19 Prevention Checklist: Industry Guidance dated May 21, 2021:
 - "No single measure or action will completely prevent transmission of COVID-19. Use of multiple strategies—sometimes called layered mitigation—provides greater protection than implementing a single strategy alone. When multiple mitigation strategies—including masking, physical distancing, hand hygiene, and ventilation—are consistently and correctly used, risk of transmission is decreased."

Effectiveness of masking:

- Masks have been proven to [reduce COVID-19 transmission](#). Masks reduce the emission of virus-laden droplets and the inhalation of these droplets by the wearer. "The community benefit of masking for SARS-CoV-2 control is due to the combination of these effects; individual prevention benefit increases with increasing numbers of people using masks consistently and correctly."

HHS Staff Recommendations

Based on the above data and considerations, it is the continued recommendation of Health & Human Service Department staff that the City adopt a mandatory indoor mask mandate in all indoor public places in the City of Portland. We recommend the mandate go into effect immediately and is reconsidered on a monthly basis by the City Council using ME CDC data and trend analysis provided by the City's Health & Human Services Department to inform either the continuation or repeal of the mandate.



Health & Human Services Department
Kristen Dow, Director

MEMORANDUM

To: Mayor Snyder and Members of the Portland City Council

Cc: Jon P. Jennings, City Manager

From: Kristen Dow, Director of Health & Human Services
Tina Pettingill, Deputy Director of Health & Human Services

Date: September 16, 2021

Re: Council Request for Additional Information Regarding Indoor Mask Mandate

At the September 13, 2021 City Council meeting, it was requested that staff from the City's Health and Human Services Department provide additional information to the Council for consideration during discussions around a mask mandate in the City. Below is the additional information that was gathered in response to those requests:

Metrics

On July 27, 2021, the US CDC issued guidance for indoor mask use based on community transmission levels at the county level. The US CDC measures community transmission by looking at two data points: total new cases and percent positivity.

- **Total new cases** are calculated as the number of new cases in the past 7 days per 100,000 residents. This is calculated by dividing the total number of new infections in the county by the total population of the county. Then this number is multiplied by 100,000.
- **Percent positivity** is the percentage of positive COVID-19 tests in a county over the past 7 days. Percent positivity compares the number of newly reported cases to the number of people who were tested for COVID-19. The US CDC calculates this number by dividing the number of positive tests by the total number of tests in the county. For this calculation, only Nucleic Acid Amplification Tests (NAAT) are used, a PCR test is a type of NAAT test. Other tests such as an antigen or antibody test are not included in the US CDC's calculation for positivity rate. Home test results are also not included in this calculation.

Higher numbers of total cases and higher positivity rates indicate higher levels of community transmission. The US CDC uses these numbers together to get a complete picture of community

transmission. Percent positivity can vary depending on the volume of tests and the population being tested. High percentages of positive cases can mean:

- There are widespread infections in the community tested;
- Only those at greatest risk of infection within a community are being tested; and/or
- There are reporting processes or delays that skew the results.

As a result, considering both the new cases and percent positivity together is important because if a lot of people who are sick are not getting tested, then the number of reported cases will go down, but the actual number of cases in the community could be increasing. If only people who are severely ill are getting tested, then the percent positivity would be higher.

The US CDC has also clearly defined classifications of community transmission levels for decision-makers and individuals to use to make decisions about mask wearing using the new cases and percent positivity. If the values for each of these two metrics differ, then the higher of the two should be used to make decisions about mask use. (<https://www.cdc.gov/coronavirus/2019-ncov/more/aboutcovidcountycheck/>). Below is a summary of those classifications:

US CDC Defined Community Transmission Levels

Mask recommendation	Unvaccinated people should wear a mask in public, indoor settings		Everyone should wear a mask in public, indoor settings	
Transmission level	Low	Moderate	Substantial	High
Total new cases per 100,000 persons in the past 7 days	0-9.99	10-49.99	50-99.99	≥100
Percentage of NAATs that are positive during the past 7 days	0-4.99%	5-7.99%	8-9.99%	≥10.0%

County Data vs Portland Data

HHS staff has reached out to the ME CDC requesting Portland specific data for COVID 19. The representative from the ME CDC did say that case counts are available by zip code, but that the data is delayed and the positivity rate is not calculated by town or zip code. Below is the data that can be found by zip code for Portland zip codes 04101, 04102, 04103. Please note that data, was unavailable for two other Portland zip codes (04108 & 04109):

Date reported	count of cases this week
7/1 - 7/7	115
7/8 - 7/14	56
7/15 - 7/21	64

7/22 - 7/28	38
7/29 - 8/4	42
8/5 - 8/11	21
8/12 - 8/18	76
8/19 - 8/25	11
8/26 - 9/1	20
9/2 - 9/8	16
9/9 - 9/13	Complete data not available

****Case counts are reported based on where the individual lives.**

Given the incomplete data available for Portland, staff has recommended that Cumberland County data be used. One reason to consider using the County level data when analyzing positivity and transmission rates is the daytime population change in Portland. According to the City's 2017 Comprehensive Plan "As the state's largest city and urban center for Cumberland County, Portland is home to a large number of employers and jobs. The daily influx of workers means the city's daytime population is often substantially higher than its nighttime population (comprised mainly of residents). In fact, the American Community Survey estimates that the city's population swells to over 96,000 people during daytime hours — an increase in population of over 40 percent.

Another factor to consider is that Portland is an increasingly popular destination for tourists from all over the world, particularly in the summer months. According to the Maine Office of Tourism, in 2014 the Greater Portland/Casco Bay region was the primary region of visitation for 14% of the state's 37.9 million overnight and day visitors, or an estimated 5.3 million people. As the country transitions out of the Great Recession, tourism is on the rise. In fact, traffic volumes along the Maine Turnpike broke records in 2015, exceeding 79.5 million transactions — more than in any year in its 69-year history."

Anticipated City Cost Associated with an Indoor Mask Mandate

The potential costs that would be incurred by the City that are associated with the indoor mask mandate include the purchase of masks and the production of signage. First, with regard to the purchase of masks, the costs would be as provided below. This is less than the costs of masks last year and is due to the decreased cost of masks (\$6 per box as of 9/15/21 vs \$14.63 per box in August of 2020).

Potential Mask Mandate Costs		
Item	Quantity	Anticipated Cost
Masks	2000 boxes of 50	\$12,000 (\$6 per box)
Signage	500 decals	\$444
Total		\$12,444

* This financial information is based on quantities purchased for businesses previously during the pandemic.

Support and Enforcement

As with previous masking requirements, the City remains committed to supporting local businesses. Staff will once again do its best to provide signage and supplies to businesses. If there are community concerns around non-compliance of the mandate, those complaints can be directed to our Local Health Officer (LHO) in the City's Public Health Division. The LHO is required by Maine statute and is appointed by the City Manager for a term of three years. The LHO has a unique understanding of strategies to protect citizens from health related threats and is charged with monitoring the community through identifying and/or responding to immediate needs or trends related to health risks for individuals as well as the greater community. The LHO presently works in collaboration with the Permitting and Inspections Department to address common issues such as bed bugs, mold complaints, and hoarding. The LHO fields approximately 8-10 calls/week, of which approximately 1-2 require intervention beyond a phone call (referral to Permitting & Inspections, call to landlord or property manager, visit to site for inspection, etc). If Council chooses to do so, the LHO can be appointed as a constable and sworn in by the City Clerk (the Order to accomplish this goal has been drafted and included on the September 20th City Council agenda). This will give the LHO the ability to cite violations of the City's emergency order.

As has been done throughout the pandemic, if additional support is necessary to comply with this mandate, the HHS department can temporarily divert staff from other projects.

HHS has had discussions with municipal staff from Lexington and Salem Massachusetts, both of which have current indoor mask mandates. Staff in Lexington, Massachusetts reported high compliance with their mask mandate and indicated that a phone call to the business who may not be enforcing the mandate has been enough to gain compliance. Salem, Massachusetts, on the other hand, reported that they receive around 1-2 complaints per day and that they have a progressive approach to enforcement which consists of verbal education, written warnings and finally issuance of a citation/notice of violation. They did note, however, that to date no citations have been issued.



Health & Human Services Department
Kristen Dow, Director

MEMORANDUM

To: Jon P Jennings, City Manager

From: Kristen Dow, Director of Health & Human Services
Tina Pettingill, Deputy Director of Health & Human Services

Date: September 1, 2021

Re: Staff Recommendations for City of Portland Indoor Mask Mandate

At the August 23rd City Council meeting, it was requested that staff from the City's Health and Human Services Department provide information on transmission rates and the recommendations on a mask mandate in the City. Since that time, staff from the HHS Department have reviewed local, state and national data, trends and policies, consulted with the Maine CDC, and reviewed recommendations from local area hospitals. From this research, the following information was gathered:

- With few exceptions, Cumberland County has been wavering between substantial and high transmission rate throughout August.
- Even with a relatively high vaccination rate in Cumberland County (83.4% of eligible populations fully vaccinated), the County positivity rate hovers between 2.5-3%, rising from 1% earlier this summer. Given new evidence on the B.1.617.2 (Delta) variant, as of August 13, 2021, the CDC [recommends masking](#) when indoors for vaccinated and unvaccinated individuals. "If you are fully vaccinated, to maximize protection from the Delta variant and prevent possibly spreading it to others, wear a mask indoors in public if you are in an area [of substantial or high transmission](#)."
- CDC recommendation includes K-12 school age children, recommending universal indoor masking for all teachers, staff, students, and visitors to K-12 schools, regardless of vaccination status.
- Maine CDC stated that they would not take a specific stance on a mask mandate but urged the City to follow US CDC protocols which include masking in indoor environments.
- Masks have been proven to [reduce COVID-19 transmission](#). Masks reduce the emission of virus-laden droplets and the inhalation of these droplets by the wearer. "The community benefit of masking for SARS-CoV-2 control is due to the combination of

these effects; individual prevention benefit increases with increasing numbers of people using masks consistently and correctly.”

- Maine hospitals are at or near capacity with high new admission rates and a shortage of ICU beds to treat all diseases due to the COVID-19 surge. According to the 8/26 press conference, Maine Medical Center’s emergency department is full with patients having to stay in the emergency department because beds are not available.
- Maine hospital leaders pleaded with the general public through a [joint press conference](#) on August 26 to “get vaccinated if you are eligible, wear a mask indoors, practice physical distancing, clean your hands and use discretion when it comes to attending indoor gatherings.”
- Unlike earlier waves of this pandemic, young children (not eligible for vaccination) are impacted and being hospitalized.
- As of 8/31/21, seven states (Hawaii, Illinois, Louisiana, Nevada, New Mexico, Oregon and Washington), as well as the District of Columbia and Puerto Rico have mandated indoor mask use.
- [Over 40 cities and counties](#) across the US have issued, or re-issued, mask mandates including Raleigh, St. Louis, Baltimore, Atlanta, Lincoln and many others. Boston imposed a citywide mask mandate on Aug. 20 which covers all people over age 2 in indoor public places except when eating or drinking.
- 75% of Americans [support masking requirements](#) and these mandates have proven to be effective in [lowering community transmission of COVID-19](#).

HHS Staff Recommendations

It is the recommendation of staff that the City adopts a mandatory indoor mask mandate in all indoor public places in the City of Portland. We recommend the mandate go into effect immediately and remain until the CDC releases new mask guidance or when the Cumberland County transmission rate falls into the low or moderate level for at least 21 consecutive days.

Support and Enforcement

As with previous masking requirements, the City remains committed to supporting local businesses. Staff can provide signage and supplies to businesses as had been provided previously. A large [body of research](#) has shown that signs are effective in changing behavior in a variety of settings with between 75-96% of people complying with signage. Additionally, 85% of Americans are [currently wearing a mask](#) for all or most of the time.

If there are community concerns around non-compliance of the mandate, those complaints can be directed to our Local Health Officer (LHO) in the City’s Public Health Division.

----- Forwarded message -----

From: **Kate Snyder** <ksnyder@portlandmaine.gov>

Date: Mon, Jan 31, 2022 at 3:11 PM

Subject: Re: Portland's "Mask Mandate" Violates Numerous Federal/State Laws

To: Daren Hebold <dhebold@gmail.com>, Danielle West-Chuhta <dwchuhta@portlandmaine.gov>, Jen Thompson <jlt@portlandmaine.gov>, Dena Libner <dlibner@portlandmaine.gov>

Cc: Pious Ali <pali@portlandmaine.gov>, April Fournier - At Large <afournier@portlandmaine.gov>, Roberto Rodriguez <rrodriguez@portlandmaine.gov>, Anna Trevorow <atrevorow@portlandmaine.gov>, Victoria Pelletier <vpelletier@portlandmaine.gov>, Tae Chong - City number <tchong@portlandmaine.gov>, Andrew Zarro - D4 <azarro@portlandmaine.gov>, Mark Dion - D5 <mdion@portlandmaine.gov>

Dear Mr. Hebold,

Yes - we welcome public comment and engagement on all Council matters. Thank you for reaching out.

I have cc'd our City Manager and our Corporation Counsel here so that they're aware of your communication, as well.

Sincerely,
Kate Snyder

On Mon, Jan 31, 2022 at 2:54 PM Daren Hebold <dhebold@gmail.com> wrote:

Good afternoon Mayor Snyder,

You've requested feedback regarding the current "Mask Mandate" that was passed on January 3, 2022. I am a Portland businessman with three successful businesses here in Portland, and I have the following important feedback and legal notification for the City of Portland. I, my family, my employees, my customers and my clients are presently being harmed by the City of Portland's "Mask Mandate" in part due to what is outlined below. Would you or your staff please make this part of the official public record regarding Public Hearings for this topic.

Although I'm sure you and the City Council wholeheartedly believe your "mask mandate" is well intentioned, and also that its fashionable to issue illegitimate bureaucratic decrees & executive orders these days, know that I FULLY OBJECT TO THE ISSUANCE and reject the continuation of this harmful, impractical, unlawful and tyrannical ordinance. Such a matter is clearly and entirely up to each individual, not any governance body to decide. More specifically and quite egregiously, this ordinance VASTLY EXCEEDS your legal powers, authority and jurisdiction granted to you as a municipality and as public servants. You and the City of Portland are obviously in violation of numerous State and Federal laws.

You may wish to consult with your municipal attorney (and your own moral ethical conscience) regarding the following partial list of legal violations from which I, and many others, are suffering harm:

- How is the City of Portland entitled to pass ordinances, codes, mandates or decrees that are obviously in violation of state and federal statutory laws?
- How is the City of Portland entitled to deny me access to Places of Public Accommodation ("all publicly accessible buildings") based on arbitrary and harmful quid pro quo conditions, such as masks, vaccination status or similar?
- How is the City of Portland entitled to forcibly require medical interventions and/or procedures regarding my personal body?
- How is the City of Portland qualified and authorized to supersede the State of Maine in unilaterally creating Public Health Policy, including prescribing medical directives, without legislative approval??
- All of the above facts regarding your Ordinance drive the following conclusion: the City of Portland is currently violating countless Federal statutory laws and infringing upon citizens' basic civil rights. This absurd, unlawful and therefore unenforceable ordinance/mandate/decre is null and void on its face. In case you don't believe anything I've offered here, be sure to consult the [US Constitution First Amendment](#), [USC Title 42 Section 1983](#), the Maine State Constitution and the Portland City Charter, among other statutory laws.

You are now put on notice of this legal liability as you continue to deprive me, my family, my employees, customers and clients of our rights here in the City of Portland. This liability extends to the City of Portland as well to each of you Personally. As my representative(s) I order that you discontinue and rescind this ordinance at once.

Sincerely, Daren Hebold

Daren Hebold
[207-329-5092](tel:207-329-5092)

Intensive Care Nurse MMC/Masking 0 views



Stacey Abbott <smabbott16@gmail.com>

9:47 AM (7 hours ago)

to publiccomment@portlandmaine.gov

Good Day,

My name is Stacey Abbott I am a nurse at Maine Medical Centers Neonatal Intensive Care Unit. I have worked at MMC for 21 years.

I am vaccinated, boosted and complied to the Influenza Vaccine Mandate (or lose my job.) MMC has not enforced this with the Influenza Vaccine. This was to happen in November.

I DO NOT agree with mandated masking in the community for many valid reasons.

Unfortunately Covid-19 has turned into a political war. Views, opinions, behaviors at play. I see first hand the projection of one's own beliefs making permanent rules, mandates, policy changes and procedures based on internal fears and their own conditioning.

We are born sovereign. We navigate life and along the way our conditioning, relationships, experiences and our environment sets the lens how we see the world.

Many people don't want to grow up. They love being told what to do, how to navigate their every day lives. They walk around in a constant state of fear, conscious or unconscious.

I am an adult. It is not my responsibility to change someone else and make them less angry, more happy, fearful or sad. Think about this. Ask yourself. Am I coming to the table, angry, sad, vindictive because of what society has done to me? Do those emotions and feelings play into your votes? That is victim mentality.

I commend the Town of Falmouth for respecting the independence of its community. Treating the towns people as adults.

In my judgment most people wear masks not because of a mandate. They read the news, follow social media and live in fear, or simple make a decision to wear a mask.

Let us continue or learn to be sovereign. Act like adults, respect the whole community.

*For the record the staffing issues at Maine Medical Center are for the reasons above. Please google The Nurses Union meeting outside the hospital and witness Janel Crowley's projection onto the hospital. I know her well..all of the above. *Staffing issues/disconnect at MMC are because nurses have a unique opportunity to make 6K a week at other local/state hospitals. Most floors at hospitals are saturated with travelers in ALL States. And all states have COVID..Hmmm..gets you thinking..

*Many people at MMC are there with other issues and test for Covid and become part of the data. Asymptomatic. Snowmobile accidents, suicide attempts, parents of babies, heart attacks, eating disorders.

I ask the council to vote with good intentions that come from a place of clarity.

Best,

Stacey Abbott
22 Montreal Street
Portland, Me 04101

Sent from my iPhone

End mask mandates

Public Comment inbox



matt parry <mdparry29@gmail.com>

to publiccomment

Thu, Feb 3, 5:35 PM (17 hours ago)

Hi there!

I am a former medical assistant and current medical student.

I believe there is no longer any need for mask mandates as well as vaccine passports. This is now an endemic disease and people need to psychologically move on. This obsession with covid is destroying the fabric of our society.

I have attached a list of sources which show how lockdown policies have been detrimental

All the Detrimental Effects of Lockdowns Divided by Causes:

Mental health:

1 in 5 adults developed mental disorders - <https://www.thehindubusinessline.com/news/science/1-in-5-adults-developed-pandemic-related-mental-disorders-analysis/article33417333.ece>

1 in 4 young adults suicidal - <https://thehill.com/changing-america/well-being/mental-health/527380-75-percent-of-young-adults-mentally-struggling-with>

Effects of isolation on elderly - (1) <https://pubmed.ncbi.nlm.nih.gov/25697700/>

(7) <https://www.glasgowtimes.co.uk/news/18590724.sedation-manage-lockdown-distress-may-led-dementia-deaths/>

Effects of isolation on the future health of children

<https://jamanetwork.com/journals/jamapediatrics/fullarticle/205331>

<https://www.unicef.org.uk/wp-content/uploads/2020/04/Unicef-UK-Children-In-Lockdown-Coronavirus-Impacts-Snapshot.pdf>

Mental illness in children rising due to lockdowns - <https://newschannel20.com/news/local/hospitals-see-high-rates-of-mental-illness-in-children-during-pandemic>

Half of young adults showing signs of depression - <https://fee.org/articles/harvard-researchers-nearly-half-of-young-adults-showing-signs-of-depression-amid-pandemic/>

The mental health of students - <https://www.bbc.co.uk/news/education-55105044>

Suicidal thoughts greater in those under restrictions and unchanged in those without any - <https://www.sciencedirect.com/science/article/pii/S0165178120323477>

Prevalence of depression before and after in the US - <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2770146>

Cases of depression in the US have tripled - <https://www.medicalnewstoday.com/articles/us-cases-of-depression-have-tripled-during-the-covid-19-pandemic>

US Census shows 48% of Wa adults have depression - <https://www.census.gov/data/tables/2020/demo/hhp/hhp15.html#tables>

Lockdowns pose great threat to mental health - <https://www.theguardian.com/society/2020/dec/27/covid-poses-greatest-threat-to-mental-health-since-second-world-war>

Suicides:

<https://abc7news.com/suicide-covid-19-coronavirus-rates-during-pandemic-death-by/6201962/> <https://www.ctvnews.ca/health/coronavirus/dealing-with-a-lot-suicide-crisis-calls-mount-during-covid-19-pandemic-1.5215056>

Suicides among black people spiked during lockdowns - <https://www.baltimoresun.com/health/bs-hs-black-suicides-pandemic-20201216-2g46em2d2nd5vjwu7q2uq5x6y-story.html>

Suicides up sharply in Toronto - <https://www.theglobeandmail.com/canada/toronto/article-suicides-on-the-ttc-have-risen-sharply-over-the-last-eight-months/>

Trends in suicide during the pandemic - <https://www.bmj.com/content/371/bmj.m4352> Canadians in quarantine twice as likely to have suicidal thoughts - <https://www.cbc.ca/news/canada/british-columbia/quarantine-mental-health-1.5809865>

Military suicides up 20% - <https://www.latimes.com/world-nation/story/2020-09-27/military-suicides-increase-covid-19-pandemic>

Suicides up among children - <https://dfw.cbslocal.com/2020/09/24/cook-childrens-alarming-rise-suicide-patients/>

Economy and Poverty:

8 million Americans pushed into poverty - <https://www.washingtonpost.com/business/2020/12/16/poverty-rising/> A year of lockdowns has destroyed a decade of progress - <https://www.cbc.ca/news/politics/covid-19-development-progress-reversed-1.5849383>

10k Canadian restaurants gone forever - <https://www.narcity.com/en-ca/eat-drink/canadian-restaurant-closures-reach-10000-in-2020-the-job-loss-numbers-are-shocking>

150 million people forced into extreme poverty - <https://www.worldbank.org/en/news/press-release/2020/10/07/covid-19-to-add-as-many-as-150-million-extreme-poor-by-2021>

10k US restaurants forced to close - <https://www.cnn.com/2020/12/08/business/restaurant-closures-coronavirus/index.html>

Economic toll on young Americans - <https://www.theguardian.com/world/2020/dec/09/coronavirus-young-economy-unemployment-mental-health>

2 million UK families pushed into poverty - <https://www.theguardian.com/society/2020/dec/09/covid-driven-recession-likely-to-push-2m-uk-families-into-poverty>

NYC bankruptcies surge 40% - <https://www.cnbc.com/2020/09/29/new-york-bankruptcies-reportedly-surge-40percent-during-pandemic.html>

National lockdowns pushing up to 100 million people into poverty - https://www.economist.com/international/2020/09/26/the-pandemic-is-plunging-millions-back-into-extreme-poverty?fsrc=scn/tw/te/bl/ed/fromplaguetopenurythepandemicisplungingmillionsbackintoextremepovertyinternational&__twitter_impression=true

European small businesses closing - <https://www.bloomberg.com/news/articles/2020-10-22/half-of-europe-s-smaller-businesses-risk-bankruptcy-within-year?sref=RJ2RIMrh>

New Zealand's success story pushed 70k children into poverty - <https://www.tvnz.co.nz/one-news/new-zealand/covid-19-deals-big-blow-reducing-child-poverty-in-nz>

Hunger and Starvation:

UNICEF for the first time having to feed UK children - <https://www.bbc.com/news/uk-england-devon-55348047> 168k child hunger deaths predicted in Africa - <https://apnews.com/article/africa-hunger-study-coronavirus-children-0e2a17d63163d8558d203b2824a844fe> <https://www.researchsquare.com/article/rs-123716/v1>

82% increase in food insecurity - <https://www.wfp.org/news/world-food-programme-assist-largest-number-hungry-people-ever-coronavirus-devastates-poor>

6k children a die die thanks to lockdown hunger - <https://pcpj.org/2020/10/11/6000-children-die-of-hunger-caused-by-corona-every-day/>

Almost 1.2 million babies could die because of lockdowns - <https://www.marketwatch.com/story/almost-12-million-babies-could-die-during-the-pandemic-but-not-from-the-coronavirus-2020-07-02>

Hunger crisis to affect up to 132 million people in sub-Saharan Africa because of lockdowns - <https://www.nature.com/articles/d41586-020-02281-w?sf236625656=1>

Other Effects on Children:

Poor students suffering in online classes - <https://www.bloomberg.com/news/articles/2020-12-21/affluent-families-ditch-public-schools-widening-u-s-inequality>

Lockdowns fuel child labor - <https://www.theeastafrican.co.ke/tea/rest-of-africa/lockdown-fuels-child-labour-in-zimbabwe-3230912>

Negatives of school closures more than benefits - <https://www.unicef.org/media/86881/file/Averting-a-lost-covid-generation-world-childrens-day-data-and-advocacy-brief-2020.pdf>

Negative impacts of lockdowns on children - <https://www.unicef.org.uk/wp-content/uploads/2020/04/Unicef-UK-Children-In-Lockdown-Coronavirus-Impacts-Snapshot.pdf>

Sharp rise of eating disorders in children - <https://www.bbc.co.uk/news/health-55468632>

Substance Abuse:

OD deaths at highest point in 12 month period - <https://www.cdc.gov/media/releases/2020/p1218-overdose-deaths-covid-19.html>

Canadian OD deaths - (1) <https://edmonton.ctvnews.ca/mobile/alberta-sets-record-904-opioid-deaths-to-date-in-2020-cites-covid-19-as-factor-1.5238113>

US ODs rising - <https://www.cnn.com/2020/12/18/us/cdc-pandemic-fatal-drug-overdoses-rise/index.html> Every week of lockdowns increases binge drinking -

<https://www.sciencedaily.com/releases/2020/12/201207091306.html>

Domestic/Sexual Abuse:

US lockdowns trigger surge in domestic abuse - <https://www.webmd.com/lung/news/20200410/us-lockdowns-trigger-surge-in-domestic-violence>

Child abuse up - <https://www.wcvb.com/article/health-experts-note-pandemics-possible-impacts-on-child-abuse/34932582>

School closures inhibit child abuse reports - <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7441889/>

Domestic violence up - <https://www.king5.com/article/news/community/incidents-of-domestic-violence-are-skyrocketing-during-covid/281-c8d650b6-b568-437b-948c-861768e92a57>

Abuse more severe during lockdowns - <https://www.stcatharinesstandard.ca/ts/news/canada/2020/11/25/canada-wide-survey-of-womens-shelters-shows-abuse-more-severe-during-pandemic.html>

Child sexual abuse underreported during lockdowns - <https://www.bbc.co.uk/news/uk-54169197>

Undiagnosed Diseases:

Cancer diagnoses down - (1) <https://www.cancernetwork.com/view/delay-in-cancer-screening-and-diagnosis-during-the-covid-19-pandemic-what-is-the-cost>

(6) 35k excess cancer deaths thanks to lockdowns - <https://archive.is/ZKmaj>

Portion of excess deaths due to lockdowns - (1) <https://www.nytimes.com/interactive/2020/12/13/us/deaths-covid-other-causes.html?action=click&module=Top%20Stories&pgtype=Homepage>

Excess cardiac deaths - <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7293523/>

33% drop in heart attack patients, 58% drop in stroke patients - <https://news.harvard.edu/gazette/story/2020/05/dramatic-drops-in-er-visits-likely-led-to-uncounted-deaths/>

Stress related heart problems up thanks to the stress of lockdowns - <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2768093>

15k extra Alzheimer deaths not related to COVID - <https://www.wsj.com/articles/coronavirus-pandemic-led-to-surge-in-alzheimers-deaths-11593345601>

People dying because of lockdowns - <https://www.heart.org/en/news/2020/07/10/more-people-are-dying-during-the-pandemic-and-not-just-from-covid-19>

Comment on Agenda Item - Order 141-21/22

Public Comment inbox



Ashley Kulesza <ashleykulesza@gmail.com>

10:20 AM (1 hour ago)

to publiccomment

As a Portland, ME resident I would like to be heard at the February 7, 2022, City Council meeting. I would like the opportunity to outline reasons for opposing the mask mandate.

The mandate order clearly states: "The masking requirement was aimed at slowing the spread of COVID-19." I am confident this mandate had the best of intentions when enacted. However, current data suggests the mandate is no longer necessary. The current cases are declining, and the hospitalization and death rates have been stable since 2021. The Omicron variant did result in a modest and momentary case increase in January of 2022, however the severity of the resulting illness was far less than the original outbreak in 2019/2020/2021. Additionally, the trend of cases is decreasing.

The Centers for Disease Control currently estimates a COVID-19 survival rate of 99.99 percent for people younger than 50 (CDC). There is no need to require young people, especially young and healthy people to wear a mask. Moreover, there has been a substantial decrease in patients on ventilators, based on the latest data as of 2022 (Maine.gov COVID-19: Maine Data)

There is no state (nor country for that matter) where an executive order, or local mandate requiring masks has had any statistical significance on reduction of COVID cases (Yinon Weiss, the Federalist). Mask mandates are not effective at "slowing the spread."

I am a scientist by education and profession. Trained at one of Maine's best college's, I take science seriously. If this council really wanted to "follow the science," this mandate would be repealed. States that have no mask mandates are thriving compared to the states and cities that do have mask mandates.

Aside from scientific objections, I also bristle at the assault on personal choice. Personal freedom is a fiercely held tradition for Mainers going back centuries to the birth of our nation. In the absence of clear scientific evidence making mask-wearing truly a matter of life-or-death, personal choice and liberties must be respected. Each person has the right to choose how to live their life. Since the science shows that masks do not prevent the spread, there is no public health benefit to require them.

Personal circumstances dictate health choices, not the government or elected officials. You, the elected body, do not know my medical history, nor do you have any right to know or dictate it. I care about my life, my medical choices and how to live my life day to day. If I choose to wear or not wear a mask, that is my choice. In addition, I care deeply about my neighbors. If I thought not wearing a mask would jeopardize their health or life, I would gladly and voluntarily wear one. But it simply is not the case.

I know each and every member of this council cares deeply about the people of Portland, and the traditions and values that make Maine, Maine. I believe the science makes this mandate not necessary, and the values of Mainers make this mandate unwelcome. The citizens and occupants of the City of Portland request this mandate be repealed.

Sincerely,
Ashley Kulesza

Bibliography

South Med J. 2021 Sep; 114(9): 597–602. Published online 2021 Sep 3.

"Analysis of the Effects of COVID-19 Mask Mandates on Hospital Resource Consumption and Mortality at the County Level"
Authors: Steven G. Schauer, DO, MS, Jason F. Naylor, PA-C, Michael D. April, MD, PhD, Brandon M. Carius, PA-C, and Ian L. Hudson, DO, MPH

2021 Feb 12;70(6):212-216. doi: 10.15585/mmwr.mm7006e2. Decline in COVID-19 Hospitalization Growth Rates Associated with Statewide Mask Mandates - 10 States, March-October 2020 Authors: Heesoo Joo, Gabrielle F Miller, Gregory Sunshine, Maxim Gakh, Jamison Pike, Fiona P Havers, Lindsay Kim, Regen Weber, Sebnem Dugmeoglu, Christina Watson, Fátima Coron
State of Maine COVID Website <https://www.maine.gov/dhhs/mecdc/infectious-disease/epi/airborne/coronavirus/data.shtml>

"These 12 Graphs Show Mask Mandates Do Nothing To Stop COVID" Author Yinon Weiss is a tech entrepreneur, a U.S. military veteran, and holds a degree in bioengineering from U.C. Berkeley – the Federalist 2021

Order #141-21/22

Public Comment inbox



Diane Davison <dmdavison5@gmail.com>

11:23 AM (38 minutes ago)

to Kate, mdion, Tae, Andrew, pali, atrevorrow, vpelletier, rrodriguez, afournier, publiccomment, Citymanager

👉 Please see attached

City of Portland Mask Mandate
2.7.22

Mayor Snyder, Councilors and Manager West;

Blessedly, the Covid pandemic is steadily becoming endemic.

Therefore, mask mandates should be revoked immediately allowing individual businesses to decide for themselves whether to require masks or not. As we heard in January, this blanket mandate for "all Portland businesses" caused genuine concern and undue hardship on numerous business owners who had taken measures to install expensive ventilation equipment and self-enforce safety basics such as capacity limits, social distancing, and hand washing/sanitation. It is their right and responsibility to enforce appropriate safety protocols within their own establishments.

Consider:

- Less severity within the positive test results; less hospitalizations; less ICU beds for Covid patients and less C-19 patients requiring ventilators.
- 2.2.22: Maine CDC ended contact tracing for COVID-19 - hospitalizations decreased 21% since January Omicron peak.
- 2.4.22: Portland Press Herald reports: **Number of critical care patients with COVID-19 hits lowest point in Maine since November**

Dr. Scott Gottlieb, former director of the FDA and current board member at Pfizer, recently stated: *"declining Covid-19 cases should be a signal to policymakers that it is time to lift more pandemic-related restrictions". Cases on the east coast continue to decline dramatically; conditions are improving; evidence we've moved from pandemic to endemic."*

I wish to request report from Council regarding the following:

- how the January mask mandate was managed
- its efficacy over this past month and
- how you've evaluated the success of January's mask mandate.

Other countries have totally eliminated mask mandates and vax passports and are allowing people to return to the workplace. We need community. We need to be able to see each other's facial expressions. This is especially critical for children.

I urge Council to repeal the mask mandates for Portland citizens!

Respectfully,
Diane Davison, Portland

Public Comment for 2/7 City Council Meeting

Public Comment inbox



Hunter Wood <woodhr4@gmail.com>

Sun, Feb 6, 1:33 PM (20 hours ago)

to publiccomment

Hello,

I'm requesting that the attached document be included for written public comment regarding Order 141-21/22: Extending the Face Covering Mandate to March 7, 2022. Thank you.

Respectfully,
Hunter Wood

Remove the Mask Mandate

Public Comment inbox



'IHJ4' via Public Comment

8:01 AM (2 hours ago)

to publiccomment@portlandmaine.gov, afournier@portlandmaine.gov, rrodriguez@portlandmaine.gov, pali@p

The time has come to remove the uncalled for mask mandate from Portland.

Westbrook and Falmouth have common sense and business is booming.

This has been an unenforceable useless waste of time and resources.

This mandate has done nothing but create division among what was once a great city.

The reporting site is disgusting people judging one another in a public space designed for public shaming with no facts or information about the other person.

This mandate has hurt businesses and has been based on your personal fear and misinformation. Check the data yourselves.

Look up the facts the cloth masks are ineffective, the N9 make people sick when worn incorrectly which is most of the time.

You will be responsible for making more people sick with your lack of medical training and forcing your fear on others. You are the City Council not a medical board.



'jirving2200' via Public Comment

9:55 AM (13 minutes ago)

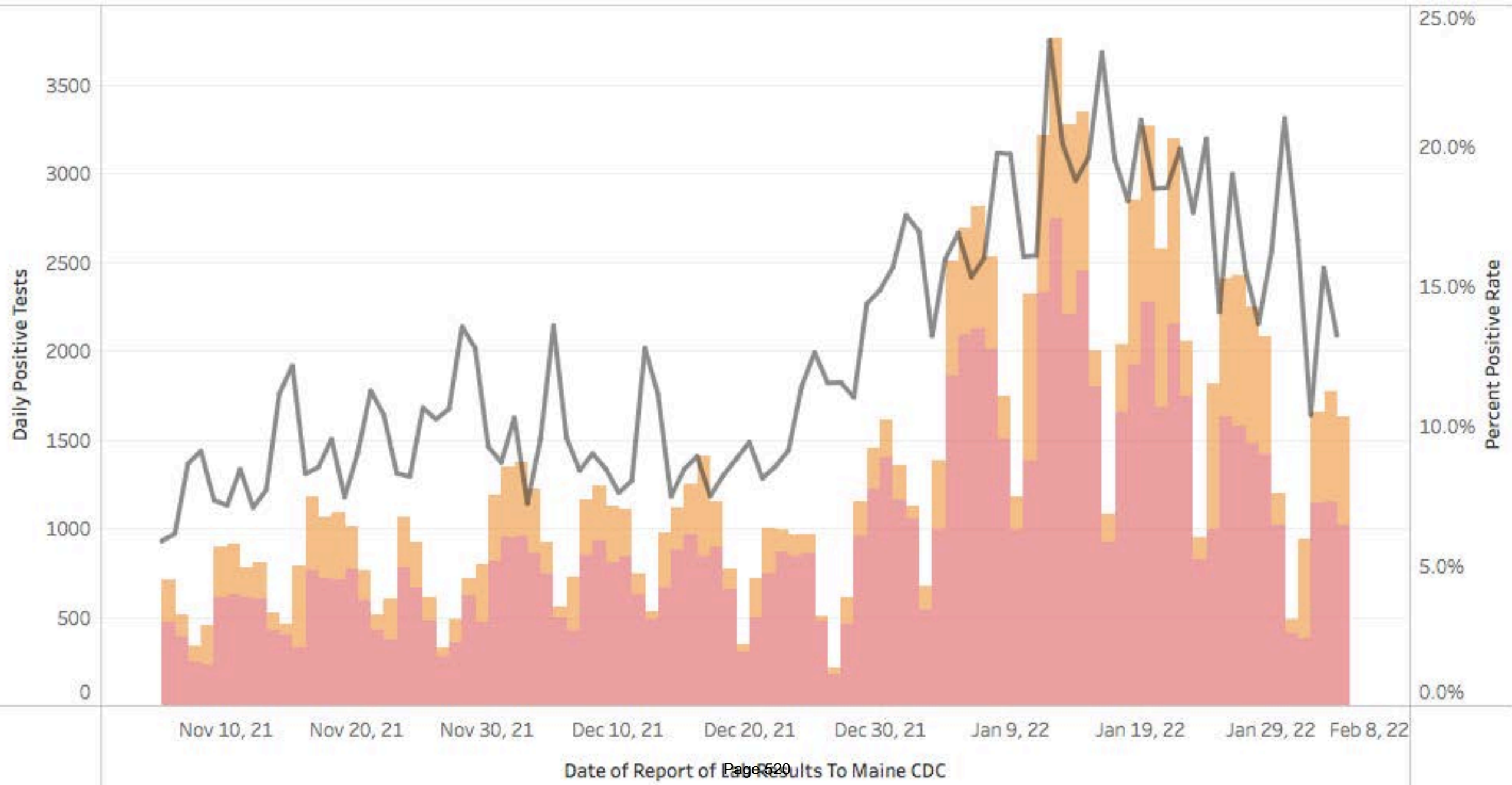
to publiccomment@portlandmaine.gov

To whom it may concern,

It is time to remove the mask mandate.

Let's think about what the REAL objective of the mask mandate is, at least what you claim it to be, to protect people from getting COVID-19. While besides the fact that case data from the CDC for Maine shows that this has not worked (attached to this email) as cases have risen after you imposed this mandate. We also have to think logistically about how this mandate is being enforced. You have told businesses not to get into conflict with customers, which is great as they should not be put in this position at all. So you offer a site where you can tattle on business or even people and this will be "taken care of" by Bridget Rauscher. Well unless she can be in the location when the person or business is not following the mandate I do not see what affect it has. She can not go to every location where the rule is not being followed and force it to be. If businesses want to create their own mandate fine they can do so and enforce it as they see fit, if they don't want to they should not be forced to with the risk being on their business and their staff. Individuals should be able to decide where they are comfortable, if a business chooses not to have a mask mandate then those who are afraid can choose not to shop there and same vice versa. Every individual should have the right to personal choice, we are not all stupid, we can make our own personal health decisions at this point. I have and will continue to make the personal choice to shop and eat in Falmouth or Westbrook or any town with common business sense that has not forced this mandates. I hope you can make the right decision

and not let things like money or "following in line" influence your decision. I hope you can truly read and take in public comment and facts to make your decision and not let other states influence your choice. Thank you.



Comment Submission for Extension of Mask Mandate

Public Comment inbox



Julie Kiger <julie@portlandpoweryoga.com>
to publiccomment

10:07 AM (2 minutes ago)

Just one month after the mask mandate was passed, my business is already struggling. Last year, the state mask mandate resulted in a hugely significant blow to our business and path to recovery, due to the nature of the service we provide. If it hadn't been for the PPP and state DECD funds that we received last year while that was in place, we wouldn't be here right now. I have no such back up or support available to me this time around.

Our service, or "product" is a yoga class done in a hot and humid room. When the mandate began, I sought legal counsel on how best to comply with the mandate as written. As such, I reduced capacity to 50% to allow for more space to people to have "isolated spots" in which they were given the option to remove their masks "while performing the primary purpose of the business." I know that this would impact my bottom line, but not as much as requiring masks during class would, so I made the change. Masks were still required in all common areas and when people got up or were out and about away from their isolated spot.

It was brought to my attention that operating in this way was not considered being in compliance. The reasoning was that one could only remove their masks in public for eating or drinking. But that's not what the ordinance says. It doesn't say only for eating and drinking. It says "such as" eating or drinking. Engaging in the "primary purpose of our business" (exercising in a hot and humid room) *is just as impossible for most people to do as drinking and eating with a mask on.* Given the amount of sweat that goes on during class, many of my members just can't practice with a mask on, they have tremendous difficulty breathing. Our numbers have dropped off significantly in the past few weeks.

It made sense to me at the time of passage that the ordinance was written in this way to allow for leeway for situations such as mine. Apparently that is not the case.

This interpretation somehow also assumes that people are putting masks back on their faces at their tables when they are not eating and drinking, which we all know is not the case. You can't tell me that people sitting at their tables in a restaurant (for however long it takes to have a meal) talking, laughing, sharing air is ANY different than individuals performing a stationary exercise on their own mat in a room together for one hour or less. How is it acceptable from an enforcement perspective of the City for people to sit together maskless for the duration of their meal, not just when putting things in and out of their mouth, but it's not acceptable for us to allow patrons to remove their masks just for the duration of their exercise? Especially with all of the mitigation efforts that we already have in place? There is no logic to this.

And the cost of there being no logic to this could very well be my business, the critical service that we provide, and the livelihoods of my employees. Normally this is my busiest time of year, and I had been hoping for a good first quarter to continue to make a dent in the past two years, and instead I find myself once again fighting for survival with absolutely no funding support from the city.

Part of my frustration is coming from the fear of losing my business, and I recognize that. But this scenario is pretty unfair. If the ordinance were being enforced as it was written, meaning that masks could be allowed to be removed for my patrons for the duration of the class, then it wouldn't be.

My request is that if the mask mandate is going to continue, that there be an explicit exception for businesses such as mine where people can go back to having masks be optional for group fitness activities.

I have invested an incredible amount of money in ensuring the air quality of the studio room and gotten filtration equipment specifically designed to mitigate the spread of COVID so that people didn't have to wear masks. The service that we provide is so essential right now. The collective trauma of this pandemic is palpable, I see it, I feel it, I understand it. The service that we provide for the overall wellbeing of our patrons is absolutely crucial.

I think there's a notion that all things are pretty equal, and putting on a mask to go to work or go shopping is the same thing as putting one on for hot yoga, but for us, that couldn't be further from the truth. The determination that it's workable for my patrons to do that, and subsequently requiring them to do so would have a worthwhile positive effect on the public good while having a minimal impact to the business is a gross, incorrect assumption.

I'm not trying to be difficult, and of course we intend to comply with the law. But this could very easily be a matter of life or death for my small business as we prepare to enter the 3rd year of the pandemic. So we're looking hard (and I hope respectfully) to find ways that we can stay in business and it seems to me that the Council purposely built some flexibility into the ordinance for businesses like ours to do just that. Since that doesn't appear the case in practice or enforcement by the City, my request is for you all to please, please consider passing an exception for people engaged in this type of physical activity where mask wearing is not possible.

Thank you.

Julie Kiger
Owner
Portland Power Yoga
84 Cove St.
Portland, Maine 04101
portlandpoweryoga.com
207.761.HEAT
julie@portlandpoweryoga.com



kellyannc23 via Public Comment

Sun, Feb 6, 8:53 AM (1 day ago)

to ksnyder, mdion, tchong, Azarro, pali, atrevorrow, vpelletier, rrodriguez, afournier, publiccomment, Citymana

I will not be going to Portland for anything until you lift your mask mandates.

Thank you,

Kelly Hewey

207-650-6505

Order #141

Public Comment inbox



Kevin Sheridan <kms9969@gmail.com>

Sat, Feb 5, 9:31 AM (2 days ago)

to publiccomment

I'm a resident of Gilman St in the west end. Former business owner and now independent contractor for a gym. If you look at the numbers for cases and hospitalizations there is no need to have a mask mandate in place. It seems more like it's more about keeping power than it's about actual health and wellness.

The data doesn't lie. Stop manipulating it to fit your personal opinions and emotions.

(Please excuse any errors in grammar as this reply was sent from my iPhone)



Megan Clouse <megan@meganclouse.com>
to publiccomment@portlandmaine.gov

10:55 AM (59 minutes ago)

Hello.

It is time to stop the mask mandates. We are so far past any efforts to “slow the spread”. If people wish to make it their personal choice, then that is up to them, but to mandate people to continue to cover their face after nearly two years of this is outrageous.

For what it matters - because we are just two people - but we have completely stopped supporting any business that requires masks and we know we are not alone.

We are asking for this to stop.

Megan Clouse
Boothbay, Maine

(no subject)

Public Comment inbox



Nicole Chaison <thehausfrau@gmail.com>

9:50 AM (17 minutes ago)

to publiccomment

Dear City Council Members--

I'm writing to you because I'm very concerned that the city's mandates are based on outdated and flawed information. If kept in place, the mandates will continue to have negative effects on health, undermine our city economy, and further erode public trust.

I appreciate that your desire is to keep people safe. But these mandates are not keeping people safe. They have failed--and they are based on outdated modeling done two years ago, before we understood much about covid. I want to see Portland businesses thrive, but I now do all of my shopping (groceries, clothing, hardware, home goods, etc.) as well as dining out in other towns nearby that don't have these mandates. I support them because they are making logical decisions about not requiring masks/vaccinations, based on updated information.

Over the past year, I have amassed a collection of more than 30 studies and articles (see links below), all concluding that masks do not work to stop the spread of covid. Even the NIH itself has published studies showing that masks do not stop transmission of viral particles (the CDC has admitted this). However, masks do significantly lower oxygen saturation levels, increase carbon dioxide levels, as well as offer the perfect environment for the growth of bacteria, which can contribute to a host of poor health outcomes.

The study (published in the MMWR) that the CDC uses to continue mandating masking is deeply flawed. Dr. Vinay Prasad, who analyzed the flawed data, writes, "The paper is entirely, irredeemably flawed. Its flaws are so evident that it should not have been published nor promoted. When an issue is deeply polarizing, publishing bad science helps no one. It cannot convince skeptics, proponents don't need convincing, and it deepens mistrust in institutions." Here is a link to Dr. Prasad's analysis: <https://vinayprasadmmdmph.substack.com/p/mask-studies-reach-a-new-scientific>

In addition, Johns Hopkins just released a meta analysis last week in which they show that the mandates put in place to "stop the spread" of covid not only didn't work, but they actually caused harm to people. On masking, the study states: "Liu et al. (2021) conclude that 'fourteen of sixteen identified randomized controlled trials comparing face masks to no mask controls failed to find statistically significant benefit in the intent-to-treat populations.'...There is moderate certainty evidence that wearing a mask probably makes little or no difference to the outcome of laboratory-confirmed influenza compared to not wearing a mask (RR 0.91, 95% CI 0.66 to 1.26; 6 trials; 3005 participants)" (Jefferson et al. (2020))."

It's time to recognize that science is not set in stone but is ever-changing and evolving. We now know that those at risk of serious illness from covid are the very elderly and those with multiple comorbidities. We also know that the vaccines do not stop transmission or infection, according to the CDC.

But I don't need to rely on the CDC to tell me these things. My eyes and ears show me. For example, the box of surgical masks we keep at the front desk at work for clients who forget to bring one (since the mask mandates started again) reads as follows: "Intended use: General purpose infection control to minimize bacteria exhaled by the wearer." I looked up the size of bacteria (1 - 3um) and the size of the coronavirus (0.1 - 0.5um). So this shows that the virus is 2.2 - 6.6 smaller than bacteria. How does this even make sense? Mandating people to wear this mask to stop a virus?

In addition, over the past several weeks, twelve countries and two Canadian Provinces have paid attention to the updated information that shows that the vaccines and masks do not work to stop the spread of covid. So they have adapted their thinking and have overturned or significantly reduced their outmoded, outdated mandates based on new evidence. These countries include Sweden, Denmark, Switzerland, Norway, Finland, Ireland, the Netherlands, Italy, Lithuania, the Czech Republic, Israel, and England-- as well as the provinces of Ontario and Quebec in Canada.

Keeping outmoded mandates in place that don't make any sense is eroding trust in our government, as well as our leaders on the state and city level. How can I trust leaders who are relying on "science" that is almost two years old now?

We need to follow the updated science and adjust. We need to take a bigger view of the long-term harms of these mandates for people and our businesses, who have followed CDC and city policies unfailingly for the past twenty-three months--to no avail. If there are people who would like to wear a mask when they are out and about, then that's their choice. But mandating them? How does that even make sense anymore?

Sincerely,
Nicole Chaison
72 East Kidder Street
Portland, ME 04103
207-807-1167

STUDIES ABOUT MASKS:

5 NIH/National Library of Medicine studies from 2004-2020, all finding verifiable negative health effects from wearing a face mask, including scientifically verified reduction in blood oxygen level:

<https://pubmed.ncbi.nlm.nih.gov/29395560/>

<https://pubmed.ncbi.nlm.nih.gov/32590322/>

<https://pubmed.ncbi.nlm.nih.gov/15340662/>

<https://pubmed.ncbi.nlm.nih.gov/26579222/>

<https://pubmed.ncbi.nlm.nih.gov/31159777/>

Cloth Mask Study:

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4420971/>

Masks actually cause harm:

<https://trialsitenews.com/childrens-face-masks-increase-carbon-dioxide-6-fold-over-acceptable-levels/>

Studies on Mask inefficacy:

<https://www.medrxiv.org/content/10.1101/2020.04.01.20049528v1>

<https://www.medrxiv.org/content/10.1101/2020.03.30.20047217v2>

<https://www.nejm.org/doi/full/10.1056/NEJMp2006372>

<https://jamanetwork.com/journals/jama/fullarticle/2749214>

<https://www.cmaj.ca/content/188/8/567>

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5779801/>

<https://pubmed.ncbi.nlm.nih.gov/19216002/>

<https://aaqr.org/articles/aaqr-13-06-0a-0201.pdf>

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4420971/>

<https://academic.oup.com/cid/article/65/11/1934/4068747>

https://www.jstage.jst.go.jp/article/bio/23/2/23_61/_pdf/-char/en

<https://link.springer.com/article/10.1007/BF01658736>

[https://www.journalofhospitalinfection.com/article/0195-6701\(91\)90148-2/pdf](https://www.journalofhospitalinfection.com/article/0195-6701(91)90148-2/pdf)

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2493952/pdf/annrcse01509-0009.pdf>

<https://web.archive.org/web/20200717141836/https://www.cidrap.umn.edu/news-perspective/2020/04/commentary-masks-all-covid-19-not-based-sound-data>

<https://www.nap.edu/catalog/25776/rapid-expert-consultation-on-the-effectiveness-of-fabric-masks-for-the-covid-19-pandemic-april-8-2020>

<https://www.nap.edu/read/25776/chapter/1#6>

https://wwwnc.cdc.gov/eid/article/26/5/19-0994_article

<https://academic.oup.com/annweh/article/54/7/789/202744>

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6599448/>

<https://www.acpjournals.org/doi/10.7326/M20-1342>

<https://link.springer.com/article/10.1007/s00392-020-01704-y>

<https://clinmedjournals.org/articles/jide/journal-of-infectious-diseases-and-epidemiology-jide-6-130.php?jid=jide>



smccart1@maine.rr.com

Sun, Feb 6, 1:16 PM (20 hours ago)

to publiccomment

Good afternoon Mayor Snyder and councilors. I am writing today to support ending the mask mandate. It is widely known that masks do very little to curtail the spread of covid 19, so in my opinion, we did not need the mandate in the first place.

As a State, we are closing in on 1 million vaccinations, and 73% of Mainer's are vaccinated. All indications are that we are past the peak of omicron. Hospitalization rate are down, the positivity rate is down and the wastewater testing shows that the virus is on the downslope .

This should be enough evidence to end this mandate, and I hope that you do.

Thank you

Shaun McCarthy

500 Baxter Blvd

President, Dock Fore inc

Remove Mask Mandate.

Public Comment inbox



'Stacie Boilard' via Public Comment

Fri, Feb 4, 3:59 PM (3 days ago)

to publiccomment@portlandmaine.gov

I would like to vote for Removal of the Mask Mandate.

Attached are the statics for the State of Maine Cumberland county.

The rate is only 1% of the population and doesn't warrant a wear mask mandate.

A Mandate is not a law.

Our children suffering far more with this Mandate.

Our companies are suffering.

There were 14 Deaths in 2022 in the State of Maine for Covid

There were 107 Deaths in 2021 in the State of Maine for Covid

There were 155 Deaths in 2021 in the State of Maine for Covid

The Death rates have gone down in the State of Maine. People are better at taking care of this Bad Cold.

According to the CDC Statistics for Maine for Deaths in these areas:

2017 - Death from Flu 301

2016 - Death from Flu 231

2015 - Death from Flu 333

2014 - Death from Flu 258

I wonder how many of the deaths from the Statistics for Covid should have been classified as the Flu there is no data as

2018, 2019 , 2020 data is missing.

According to the CDC Statistics for Maine for Deaths in these areas:

2017 - Death from Cancer 3391

2016 - Death from Cancer 3375

2015 - Death from Cancer 3398

2014 - Death from Cancer 3209

According to the CDC Statistics for Maine for Deaths in these areas:

2017 - Death from Heart Disease 2844

2016 - Death from Heart Disease 2907

2015 - Death from Heart Disease 3009

2014 - Death from Heart Disease 2776

We should be pushing health over fear!

You willing to distroy childrens and peoples health as a pose to treating the symtpons.

COVID PREVENTION AND/OR TREATMENT

Take Daily

VITAMIN D 2000-5000mg

VITAMIN C 1000mg

ZINC 150mg

VITAMIN A 10,000 IU

QUECETIN

IVERMECTIN - 18mg If Sick or Prevent

|

Science Says Healthy People Should Not Wear Masks

Masks **reduce intake of oxygen**, leading to carbon dioxide toxicity

Germs are trapped near your mouth and nose, **increasing risk of infection**

Wearing a mask causes you to **touch your face more frequently**

There is **no scientific evidence** that supports healthy people wearing masks

Masks **obscure your facial features** and impede normal social interaction

Masks make it **hard for hearing-impaired people** to understand you

Masks **symbolize suppression of speech**

MASKS DO NOT PREVENT SPREAD OF VIRUS

Links to other websites with mask info and data:

20 Reasons Masks are unsafe [click here](#)

Much ado about Corona: [click here](#)

Face Masks do no prevent viruses [click here](#)

Face mask evidence [click here](#)

<https://www.aier.org/article/masking-a-careful-review-of-the-evidence/>

[MASKS DON'T WORK — THE HEALTHY AMERICAN™](#)

**MASKS DON'T WORK — THE HEALTHY
AMERICAN™**

Science says healthy people should not wear masks. CDC has zero evidence supporting healthy people wearing masks.

Stacie Boilard

Date	Patient_Coun ty	Case_Statu s	Total_C ases	Completed_ Isolations	Deaths	Hospitalizations	Population_ 2018	Percent of Population Total Cases	Percent of Population that was hospitalized Since Covid Start	Percent of Population of Death Since Covid Start
2/3/2022	Cumberland	Confirmed	300	0	0	1	293557	0.102195%		
2/2/2022	Cumberland	Confirmed	375	0	0	0	293557	0.127744%		
2/1/2022	Cumberland	Confirmed	444	0	0	2	293557	0.151248%		
1/31/2022	Cumberland	Confirmed	475	0	1	0	293557	0.161808%		
1/30/2022	Cumberland	Confirmed	0	0	0	1	293557	0.000000%		
1/29/2022	Cumberland	Confirmed	0	0	0	1	293557	0.000000%		
1/28/2022	Cumberland	Confirmed	321	0	1	2	293557	0.109348%		
1/27/2022	Cumberland	Confirmed	337	0	0	2	293557	0.114799%		
1/26/2022	Cumberland	Confirmed	294	0	0	2	293557	0.100151%		
1/25/2022	Cumberland	Confirmed	331	0	3	0	293557	0.112755%		
1/24/2022	Cumberland	Confirmed	302	0	1	1	293557	0.102876%		
1/23/2022	Cumberland	Confirmed	0	0	2	1	293557	0.000000%		
1/22/2022	Cumberland	Confirmed	0	0	0	5	293557	0.000000%		
1/21/2022	Cumberland	Confirmed	344	0	0	1	293557	0.117183%		
1/20/2022	Cumberland	Confirmed	274	0	1	3	293557	0.093338%		
1/19/2022	Cumberland	Confirmed	344	0	1	4	293557	0.117183%		
1/18/2022	Cumberland	Confirmed	320	0	0	0	293557	0.109008%		
1/17/2022	Cumberland	Confirmed	121	0	0	3	293557	0.041219%		
1/16/2022	Cumberland	Confirmed	0	0	2	2	293557	0.000000%		
1/15/2022	Cumberland	Confirmed	0	0	0	1	293557	0.000000%		
1/14/2022	Cumberland	Confirmed	331	0	2	5	293557	0.112755%		
1/13/2022	Cumberland	Confirmed	333	0	0	3	293557	0.113436%		
1/12/2022	Cumberland	Confirmed	326	0	1	1	293557	0.111052%		
1/11/2022	Cumberland	Confirmed	344	0	1	1	293557	0.117183%		
1/10/2022	Cumberland	Confirmed	336	0	0	2	293557	0.114458%		
1/9/2022	Cumberland	Confirmed	0	0	1	2	293557	0.000000%		
1/8/2022	Cumberland	Confirmed	0	0	1	2	293557	0.000000%		
1/7/2022	Cumberland	Confirmed	305	0	1	0	293557	0.103898%		

1/6/2022	Cumberland	Confirmed	304	0	0	5	293557	0.103557%
1/5/2022	Cumberland	Confirmed	374	0	0	0	293557	0.127403%
1/4/2022	Cumberland	Confirmed	301	0	0	5	293557	0.102535%
1/3/2022	Cumberland	Confirmed	171	0	0	2	293557	0.058251%
1/2/2022	Cumberland	Confirmed	0	0	1	5	293557	0.000000%
1/1/2022	Cumberland	Confirmed	0	0	0	3	293557	0.000000%
12/31/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
12/30/2021	Cumberland	Confirmed	138	0	0	2	293557	0.047010%
12/29/2021	Cumberland	Confirmed	131	0	1	3	293557	0.044625%
12/28/2021	Cumberland	Confirmed	163	0	0	0	293557	0.055526%
12/27/2021	Cumberland	Confirmed	227	0	1	1	293557	0.077327%
12/26/2021	Cumberland	Confirmed	0	0	3	0	293557	0.000000%
12/25/2021	Cumberland	Confirmed	0	0	1	0	293557	0.000000%
12/24/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
12/23/2021	Cumberland	Confirmed	129	0	1	1	293557	0.043944%
12/22/2021	Cumberland	Confirmed	166	0	0	1	293557	0.056548%
12/21/2021	Cumberland	Confirmed	189	0	0	4	293557	0.064383%
12/20/2021	Cumberland	Confirmed	132	0	0	0	293557	0.044966%
12/19/2021	Cumberland	Confirmed	0	0	1	0	293557	0.000000%
12/18/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
12/17/2021	Cumberland	Confirmed	104	0	1	0	293557	0.035428%
12/16/2021	Cumberland	Confirmed	138	0	3	4	293557	0.047010%
12/15/2021	Cumberland	Confirmed	231	0	0	0	293557	0.078690%
12/14/2021	Cumberland	Confirmed	237	0	0	0	293557	0.080734%
12/13/2021	Cumberland	Confirmed	118	0	0	2	293557	0.040197%
12/12/2021	Cumberland	Confirmed	0	0	1	0	293557	0.000000%
12/11/2021	Cumberland	Confirmed	0	0	2	2	293557	0.000000%
12/10/2021	Cumberland	Confirmed	88	0	1	1	293557	0.029977%
12/9/2021	Cumberland	Confirmed	169	0	0	2	293557	0.057570%
12/8/2021	Cumberland	Confirmed	168	0	1	1	293557	0.057229%
12/7/2021	Cumberland	Confirmed	140	0	0	1	293557	0.047691%
12/6/2021	Cumberland	Confirmed	98	0	0	0	293557	0.033384%
12/5/2021	Cumberland	Confirmed	1	0	0	3	293557	0.000341%
12/4/2021	Cumberland	Confirmed	0	0	0	1	293557	0.000000%

12/3/2021	Cumberland	Confirmed	78	0	0	1	293557	0.026571%
12/2/2021	Cumberland	Confirmed	74	0	0	3	293557	0.025208%
12/1/2021	Cumberland	Confirmed	88	0	0	0	293557	0.029977%
11/30/2021	Cumberland	Confirmed	90	0	0	0	293557	0.030658%
11/29/2021	Cumberland	Confirmed	131	0	0	0	293557	0.044625%
11/28/2021	Cumberland	Confirmed	0	0	0	2	293557	0.000000%
11/27/2021	Cumberland	Confirmed	0	0	0	1	293557	0.000000%
11/26/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
11/25/2021	Cumberland	Confirmed	0	0	2	0	293557	0.000000%
11/24/2021	Cumberland	Confirmed	48	0	0	1	293557	0.016351%
11/23/2021	Cumberland	Confirmed	95	0	0	2	293557	0.032362%
11/22/2021	Cumberland	Confirmed	142	0	1	0	293557	0.048372%
11/21/2021	Cumberland	Confirmed	0	0	1	2	293557	0.000000%
11/20/2021	Cumberland	Confirmed	0	0	0	4	293557	0.000000%
11/19/2021	Cumberland	Confirmed	69	0	2	3	293557	0.023505%
11/18/2021	Cumberland	Confirmed	138	0	1	1	293557	0.047010%
11/17/2021	Cumberland	Confirmed	101	0	0	5	293557	0.034406%
11/16/2021	Cumberland	Confirmed	145	0	0	3	293557	0.049394%
11/15/2021	Cumberland	Confirmed	118	0	0	0	293557	0.040197%
11/14/2021	Cumberland	Confirmed	0	0	1	2	293557	0.000000%
11/13/2021	Cumberland	Confirmed	0	0	1	0	293557	0.000000%
11/12/2021	Cumberland	Confirmed	73	0	0	1	293557	0.024867%
11/11/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
11/10/2021	Cumberland	Confirmed	91	0	1	2	293557	0.030999%
11/9/2021	Cumberland	Confirmed	109	0	0	2	293557	0.037131%
11/8/2021	Cumberland	Confirmed	80	0	2	1	293557	0.027252%
11/7/2021	Cumberland	Confirmed	0	0	1	2	293557	0.000000%
11/6/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
11/5/2021	Cumberland	Confirmed	58	0	1	1	293557	0.019758%
11/4/2021	Cumberland	Confirmed	66	0	0	0	293557	0.022483%
11/3/2021	Cumberland	Confirmed	72	0	0	0	293557	0.024527%
11/2/2021	Cumberland	Confirmed	67	0	1	0	293557	0.022824%
11/1/2021	Cumberland	Confirmed	87	0	2	0	293557	0.029636%
10/31/2021	Cumberland	Confirmed	0	0	0	1	293557	0.000000%

10/30/2021	Cumberland	Confirmed	0	0	0	2	293557	0.000000%
10/29/2021	Cumberland	Confirmed	47	0	4	0	293557	0.016011%
10/28/2021	Cumberland	Confirmed	44	0	0	1	293557	0.014989%
10/27/2021	Cumberland	Confirmed	102	0	2	1	293557	0.034746%
10/26/2021	Cumberland	Confirmed	75	0	0	1	293557	0.025549%
10/25/2021	Cumberland	Confirmed	77	0	1	0	293557	0.026230%
10/24/2021	Cumberland	Confirmed	0	0	0	1	293557	0.000000%
10/23/2021	Cumberland	Confirmed	0	0	1	0	293557	0.000000%
10/22/2021	Cumberland	Confirmed	73	0	1	2	293557	0.024867%
10/21/2021	Cumberland	Confirmed	56	0	0	2	293557	0.019076%
10/20/2021	Cumberland	Confirmed	70	0	0	2	293557	0.023845%
10/19/2021	Cumberland	Confirmed	61	0	1	1	293557	0.020780%
10/18/2021	Cumberland	Confirmed	99	0	1	3	293557	0.033724%
10/17/2021	Cumberland	Confirmed	0	0	2	2	293557	0.000000%
10/16/2021	Cumberland	Confirmed	0	0	0	1	293557	0.000000%
10/15/2021	Cumberland	Confirmed	35	0	0	0	293557	0.011923%
10/14/2021	Cumberland	Confirmed	76	0	1	0	293557	0.025889%
10/13/2021	Cumberland	Confirmed	93	0	1	2	293557	0.031680%
10/12/2021	Cumberland	Confirmed	78	0	0	1	293557	0.026571%
10/11/2021	Cumberland	Confirmed	0	0	1	3	293557	0.000000%
10/10/2021	Cumberland	Confirmed	0	0	0	1	293557	0.000000%
10/9/2021	Cumberland	Confirmed	0	0	0	1	293557	0.000000%
10/8/2021	Cumberland	Confirmed	82	0	0	2	293557	0.027933%
10/7/2021	Cumberland	Confirmed	59	0	0	2	293557	0.020098%
10/6/2021	Cumberland	Confirmed	82	0	1	0	293557	0.027933%
10/5/2021	Cumberland	Confirmed	111	0	0	5	293557	0.037812%
10/4/2021	Cumberland	Confirmed	90	0	0	1	293557	0.030658%
10/3/2021	Cumberland	Confirmed	0	0	0	2	293557	0.000000%
10/2/2021	Cumberland	Confirmed	0	0	0	2	293557	0.000000%
10/1/2021	Cumberland	Confirmed	83	0	0	1	293557	0.028274%
9/30/2021	Cumberland	Confirmed	129	0	1	0	293557	0.043944%
9/29/2021	Cumberland	Confirmed	39	0	0	0	293557	0.013285%
9/28/2021	Cumberland	Confirmed	79	0	0	0	293557	0.026911%
9/27/2021	Cumberland	Confirmed	56	0	0	0	293557	0.019076%

9/26/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
9/25/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
9/24/2021	Cumberland	Confirmed	41	0	0	1	293557	0.013967%
9/23/2021	Cumberland	Confirmed	53	0	0	1	293557	0.018054%
9/22/2021	Cumberland	Confirmed	76	0	1	0	293557	0.025889%
9/21/2021	Cumberland	Confirmed	66	0	2	2	293557	0.022483%
9/20/2021	Cumberland	Confirmed	65	0	1	1	293557	0.022142%
9/19/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
9/18/2021	Cumberland	Confirmed	0	0	0	1	293557	0.000000%
9/17/2021	Cumberland	Confirmed	59	0	0	0	293557	0.020098%
9/16/2021	Cumberland	Confirmed	38	0	0	0	293557	0.012945%
9/15/2021	Cumberland	Confirmed	79	0	0	2	293557	0.026911%
9/14/2021	Cumberland	Confirmed	54	0	0	0	293557	0.018395%
9/13/2021	Cumberland	Confirmed	54	0	0	1	293557	0.018395%
9/12/2021	Cumberland	Confirmed	0	0	0	1	293557	0.000000%
9/11/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
9/10/2021	Cumberland	Confirmed	76	0	1	0	293557	0.025889%
9/9/2021	Cumberland	Confirmed	23	0	1	1	293557	0.007835%
9/8/2021	Cumberland	Confirmed	65	0	1	1	293557	0.022142%
9/7/2021	Cumberland	Confirmed	106	0	0	2	293557	0.036109%
9/6/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
9/5/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
9/4/2021	Cumberland	Confirmed	0	0	1	2	293557	0.000000%
9/3/2021	Cumberland	Confirmed	44	0	0	1	293557	0.014989%
9/2/2021	Cumberland	Confirmed	48	0	0	1	293557	0.016351%
9/1/2021	Cumberland	Confirmed	59	0	0	1	293557	0.020098%
8/31/2021	Cumberland	Confirmed	40	0	0	2	293557	0.013626%
8/30/2021	Cumberland	Confirmed	41	0	0	2	293557	0.013967%
8/29/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
8/28/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
8/27/2021	Cumberland	Confirmed	65	0	0	0	293557	0.022142%
8/26/2021	Cumberland	Confirmed	32	0	1	1	293557	0.010901%
8/25/2021	Cumberland	Confirmed	2	0	0	1	293557	0.000681%
8/24/2021	Cumberland	Confirmed	29	0	0	0	293557	0.009879%

8/23/2021	Cumberland	Confirmed	32	0	0	0	293557	0.010901%
8/22/2021	Cumberland	Confirmed	0	0	2	0	293557	0.000000%
8/21/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
8/20/2021	Cumberland	Confirmed	15	0	0	0	293557	0.005110%
8/19/2021	Cumberland	Confirmed	21	0	0	0	293557	0.007154%
8/18/2021	Cumberland	Confirmed	17	0	0	0	293557	0.005791%
8/17/2021	Cumberland	Confirmed	18	0	0	1	293557	0.006132%
8/16/2021	Cumberland	Confirmed	29	0	0	0	293557	0.009879%
8/15/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
8/14/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
8/13/2021	Cumberland	Confirmed	15	0	0	0	293557	0.005110%
8/12/2021	Cumberland	Confirmed	10	0	0	0	293557	0.003406%
8/11/2021	Cumberland	Confirmed	17	0	0	1	293557	0.005791%
8/10/2021	Cumberland	Confirmed	17	0	0	0	293557	0.005791%
8/9/2021	Cumberland	Confirmed	38	0	0	1	293557	0.012945%
8/8/2021	Cumberland	Confirmed	0	0	0	1	293557	0.000000%
8/7/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
8/6/2021	Cumberland	Confirmed	34	0	1	0	293557	0.011582%
8/5/2021	Cumberland	Confirmed	16	0	0	0	293557	0.005450%
8/4/2021	Cumberland	Confirmed	26	0	0	1	293557	0.008857%
8/3/2021	Cumberland	Confirmed	15	0	0	1	293557	0.005110%
8/2/2021	Cumberland	Confirmed	40	0	0	0	293557	0.013626%
8/1/2021	Cumberland	Confirmed	0	0	0	1	293557	0.000000%
7/31/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
7/30/2021	Cumberland	Confirmed	12	0	0	0	293557	0.004088%
7/29/2021	Cumberland	Confirmed	10	0	0	0	293557	0.003406%
7/28/2021	Cumberland	Confirmed	13	0	0	1	293557	0.004428%
7/27/2021	Cumberland	Confirmed	5	0	0	0	293557	0.001703%
7/26/2021	Cumberland	Confirmed	29	0	0	0	293557	0.009879%
7/25/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
7/24/2021	Cumberland	Confirmed	0	0	1	1	293557	0.000000%
7/23/2021	Cumberland	Confirmed	11	0	0	2	293557	0.003747%
7/22/2021	Cumberland	Confirmed	7	0	0	0	293557	0.002385%
7/21/2021	Cumberland	Confirmed	7	0	0	0	293557	0.002385%

7/20/2021	Cumberland	Confirmed	11	0	0	0	293557	0.003747%
7/19/2021	Cumberland	Confirmed	13	0	0	0	293557	0.004428%
7/18/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
7/17/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
7/16/2021	Cumberland	Confirmed	9	0	0	0	293557	0.003066%
7/15/2021	Cumberland	Confirmed	8	0	0	0	293557	0.002725%
7/14/2021	Cumberland	Confirmed	9	0	0	0	293557	0.003066%
7/13/2021	Cumberland	Confirmed	6	0	0	0	293557	0.002044%
7/12/2021	Cumberland	Confirmed	7	0	0	1	293557	0.002385%
7/11/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
7/10/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
7/9/2021	Cumberland	Confirmed	2	0	0	0	293557	0.000681%
7/8/2021	Cumberland	Confirmed	4	0	0	2	293557	0.001363%
7/7/2021	Cumberland	Confirmed	6	0	0	0	293557	0.002044%
7/6/2021	Cumberland	Confirmed	5	0	0	0	293557	0.001703%
7/5/2021	Cumberland	Confirmed	0	0	0	1	293557	0.000000%
7/4/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
7/3/2021	Cumberland	Confirmed	1	0	0	0	293557	0.000341%
7/2/2021	Cumberland	Confirmed	8	0	1	0	293557	0.002725%
7/1/2021	Cumberland	Confirmed	5	0	0	0	293557	0.001703%
6/30/2021	Cumberland	Confirmed	1	0	0	0	293557	0.000341%
6/29/2021	Cumberland	Confirmed	2	0	0	0	293557	0.000681%
6/28/2021	Cumberland	Confirmed	3	0	0	0	293557	0.001022%
6/27/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
6/26/2021	Cumberland	Confirmed	1	0	0	0	293557	0.000341%
6/25/2021	Cumberland	Confirmed	4	0	0	0	293557	0.001363%
6/24/2021	Cumberland	Confirmed	4	0	0	0	293557	0.001363%
6/23/2021	Cumberland	Confirmed	3	0	0	1	293557	0.001022%
6/22/2021	Cumberland	Confirmed	4	0	0	0	293557	0.001363%
6/21/2021	Cumberland	Confirmed	2	0	0	0	293557	0.000681%
6/20/2021	Cumberland	Confirmed	2	0	0	1	293557	0.000681%
6/19/2021	Cumberland	Confirmed	3	0	0	0	293557	0.001022%
6/18/2021	Cumberland	Confirmed	5	0	0	1	293557	0.001703%
6/17/2021	Cumberland	Confirmed	7	0	0	0	293557	0.002385%

6/16/2021	Cumberland	Confirmed	1	0	0	0	293557	0.000341%
6/15/2021	Cumberland	Confirmed	4	0	0	0	293557	0.001363%
6/14/2021	Cumberland	Confirmed	2	0	0	1	293557	0.000681%
6/13/2021	Cumberland	Confirmed	1	0	0	0	293557	0.000341%
6/12/2021	Cumberland	Confirmed	2	0	0	0	293557	0.000681%
6/11/2021	Cumberland	Confirmed	8	0	0	0	293557	0.002725%
6/10/2021	Cumberland	Confirmed	6	0	1	0	293557	0.002044%
6/9/2021	Cumberland	Confirmed	3	0	0	0	293557	0.001022%
6/8/2021	Cumberland	Confirmed	4	0	0	0	293557	0.001363%
6/7/2021	Cumberland	Confirmed	6	0	0	0	293557	0.002044%
6/6/2021	Cumberland	Confirmed	7	0	0	0	293557	0.002385%
6/5/2021	Cumberland	Confirmed	4	0	0	2	293557	0.001363%
6/4/2021	Cumberland	Confirmed	3	0	0	0	293557	0.001022%
6/3/2021	Cumberland	Confirmed	7	0	1	0	293557	0.002385%
6/2/2021	Cumberland	Confirmed	4	0	0	1	293557	0.001363%
6/1/2021	Cumberland	Confirmed	7	0	0	1	293557	0.002385%
5/31/2021	Cumberland	Confirmed	4	0	1	0	293557	0.001363%
5/30/2021	Cumberland	Confirmed	3	0	0	0	293557	0.001022%
5/29/2021	Cumberland	Confirmed	4	0	0	0	293557	0.001363%
5/28/2021	Cumberland	Confirmed	18	0	0	0	293557	0.006132%
5/27/2021	Cumberland	Confirmed	11	0	0	0	293557	0.003747%
5/26/2021	Cumberland	Confirmed	16	0	0	1	293557	0.005450%
5/25/2021	Cumberland	Confirmed	15	0	0	1	293557	0.005110%
5/24/2021	Cumberland	Confirmed	6	0	0	1	293557	0.002044%
5/23/2021	Cumberland	Confirmed	11	0	0	0	293557	0.003747%
5/22/2021	Cumberland	Confirmed	7	0	0	1	293557	0.002385%
5/21/2021	Cumberland	Confirmed	13	0	1	0	293557	0.004428%
5/20/2021	Cumberland	Confirmed	14	0	0	2	293557	0.004769%
5/19/2021	Cumberland	Confirmed	21	0	1	0	293557	0.007154%
5/18/2021	Cumberland	Confirmed	21	0	0	0	293557	0.007154%
5/17/2021	Cumberland	Confirmed	6	0	0	1	293557	0.002044%
5/16/2021	Cumberland	Confirmed	15	0	1	2	293557	0.005110%
5/15/2021	Cumberland	Confirmed	21	0	0	0	293557	0.007154%
5/14/2021	Cumberland	Confirmed	17	0	0	1	293557	0.005791%

5/13/2021	Cumberland	Confirmed	30	0	1	1	293557	0.010219%
5/12/2021	Cumberland	Confirmed	21	0	0	1	293557	0.007154%
5/11/2021	Cumberland	Confirmed	24	0	1	1	293557	0.008176%
5/10/2021	Cumberland	Confirmed	17	0	0	0	293557	0.005791%
5/9/2021	Cumberland	Confirmed	16	0	0	0	293557	0.005450%
5/8/2021	Cumberland	Confirmed	14	0	0	1	293557	0.004769%
5/7/2021	Cumberland	Confirmed	38	0	0	0	293557	0.012945%
5/6/2021	Cumberland	Confirmed	20	0	1	1	293557	0.006813%
5/5/2021	Cumberland	Confirmed	36	0	1	1	293557	0.012263%
5/4/2021	Cumberland	Confirmed	56	0	0	0	293557	0.019076%
5/3/2021	Cumberland	Confirmed	29	0	0	1	293557	0.009879%
5/2/2021	Cumberland	Confirmed	31	0	0	0	293557	0.010560%
5/1/2021	Cumberland	Confirmed	35	0	0	0	293557	0.011923%
4/30/2021	Cumberland	Confirmed	22	0	0	2	293557	0.007494%
4/29/2021	Cumberland	Confirmed	39	0	0	1	293557	0.013285%
4/28/2021	Cumberland	Confirmed	26	0	0	0	293557	0.008857%
4/27/2021	Cumberland	Confirmed	46	0	0	0	293557	0.015670%
4/26/2021	Cumberland	Confirmed	46	0	0	0	293557	0.015670%
4/25/2021	Cumberland	Confirmed	32	0	0	0	293557	0.010901%
4/24/2021	Cumberland	Confirmed	24	0	1	0	293557	0.008176%
4/23/2021	Cumberland	Confirmed	54	0	1	0	293557	0.018395%
4/22/2021	Cumberland	Confirmed	64	0	0	2	293557	0.021802%
4/21/2021	Cumberland	Confirmed	73	0	0	0	293557	0.024867%
4/20/2021	Cumberland	Confirmed	77	0	0	0	293557	0.026230%
4/19/2021	Cumberland	Confirmed	13	0	0	0	293557	0.004428%
4/18/2021	Cumberland	Confirmed	65	0	0	1	293557	0.022142%
4/17/2021	Cumberland	Confirmed	33	0	0	0	293557	0.011241%
4/16/2021	Cumberland	Confirmed	37	0	0	0	293557	0.012604%
4/15/2021	Cumberland	Confirmed	77	0	0	0	293557	0.026230%
4/14/2021	Cumberland	Confirmed	101	0	0	2	293557	0.034406%
4/13/2021	Cumberland	Confirmed	87	0	0	1	293557	0.029636%
4/12/2021	Cumberland	Confirmed	71	0	1	0	293557	0.024186%
4/11/2021	Cumberland	Confirmed	42	0	0	1	293557	0.014307%
4/10/2021	Cumberland	Confirmed	30	0	0	0	293557	0.010219%

4/9/2021	Cumberland	Confirmed	50	0	0	1	293557	0.017032%
4/8/2021	Cumberland	Confirmed	67	0	1	0	293557	0.022824%
4/7/2021	Cumberland	Confirmed	36	0	0	1	293557	0.012263%
4/6/2021	Cumberland	Confirmed	85	0	0	0	293557	0.028955%
4/5/2021	Cumberland	Confirmed	22	0	0	1	293557	0.007494%
4/4/2021	Cumberland	Confirmed	21	0	0	0	293557	0.007154%
4/3/2021	Cumberland	Confirmed	30	0	0	1	293557	0.010219%
4/2/2021	Cumberland	Confirmed	30	0	0	0	293557	0.010219%
4/1/2021	Cumberland	Confirmed	40	0	0	0	293557	0.013626%
3/31/2021	Cumberland	Confirmed	41	0	0	2	293557	0.013967%
3/30/2021	Cumberland	Confirmed	36	0	0	1	293557	0.012263%
3/29/2021	Cumberland	Confirmed	31	0	0	1	293557	0.010560%
3/28/2021	Cumberland	Confirmed	31	0	1	0	293557	0.010560%
3/27/2021	Cumberland	Confirmed	25	0	0	1	293557	0.008516%
3/26/2021	Cumberland	Confirmed	32	0	0	1	293557	0.010901%
3/25/2021	Cumberland	Confirmed	7	1	0	0	293557	0.002385%
3/24/2021	Cumberland	Confirmed	35	2	0	0	293557	0.011923%
3/23/2021	Cumberland	Confirmed	41	1	0	0	293557	0.013967%
3/22/2021	Cumberland	Confirmed	20	2	0	1	293557	0.006813%
3/21/2021	Cumberland	Confirmed	33	1	1	1	293557	0.011241%
3/20/2021	Cumberland	Confirmed	15	1	0	0	293557	0.005110%
3/19/2021	Cumberland	Confirmed	37	0	0	1	293557	0.012604%
3/18/2021	Cumberland	Confirmed	41	1	0	1	293557	0.013967%
3/17/2021	Cumberland	Confirmed	28	0	1	2	293557	0.009538%
3/16/2021	Cumberland	Confirmed	24	0	0	1	293557	0.008176%
3/15/2021	Cumberland	Confirmed	38	0	0	1	293557	0.012945%
3/14/2021	Cumberland	Confirmed	15	0	0	1	293557	0.005110%
3/13/2021	Cumberland	Confirmed	25	0	0	0	293557	0.008516%
3/12/2021	Cumberland	Confirmed	31	0	0	4	293557	0.010560%
3/11/2021	Cumberland	Confirmed	33	0	0	3	293557	0.011241%
3/10/2021	Cumberland	Confirmed	29	0	0	0	293557	0.009879%
3/9/2021	Cumberland	Confirmed	31	0	0	1	293557	0.010560%
3/8/2021	Cumberland	Confirmed	34	3	0	2	293557	0.011582%
3/7/2021	Cumberland	Confirmed	23	0	0	0	293557	0.007835%

3/6/2021	Cumberland	Confirmed	29	1	0	0	293557	0.009879%
3/5/2021	Cumberland	Confirmed	40	1	0	0	293557	0.013626%
3/4/2021	Cumberland	Confirmed	27	1	1	2	293557	0.009198%
3/3/2021	Cumberland	Confirmed	32	2	0	1	293557	0.010901%
3/2/2021	Cumberland	Confirmed	18	0	0	2	293557	0.006132%
3/1/2021	Cumberland	Confirmed	28	1	1	0	293557	0.009538%
2/28/2021	Cumberland	Confirmed	26	2	0	0	293557	0.008857%
2/27/2021	Cumberland	Confirmed	24	0	0	2	293557	0.008176%
2/26/2021	Cumberland	Confirmed	37	2	1	0	293557	0.012604%
2/25/2021	Cumberland	Confirmed	36	0	1	1	293557	0.012263%
2/24/2021	Cumberland	Confirmed	29	1	0	1	293557	0.009879%
2/23/2021	Cumberland	Confirmed	21	0	0	2	293557	0.007154%
2/22/2021	Cumberland	Confirmed	23	1	0	0	293557	0.007835%
2/21/2021	Cumberland	Confirmed	15	1	0	0	293557	0.005110%
2/20/2021	Cumberland	Confirmed	19	0	0	0	293557	0.006472%
2/19/2021	Cumberland	Confirmed	29	0	0	1	293557	0.009879%
2/18/2021	Cumberland	Confirmed	16	0	0	0	293557	0.005450%
2/17/2021	Cumberland	Confirmed	44	1	1	2	293557	0.014989%
2/16/2021	Cumberland	Confirmed	11	0	0	0	293557	0.003747%
2/15/2021	Cumberland	Confirmed	14	1	0	3	293557	0.004769%
2/14/2021	Cumberland	Confirmed	20	0	0	0	293557	0.006813%
2/13/2021	Cumberland	Confirmed	16	1	0	0	293557	0.005450%
2/12/2021	Cumberland	Confirmed	28	1	1	1	293557	0.009538%
2/11/2021	Cumberland	Confirmed	33	0	0	2	293557	0.011241%
2/10/2021	Cumberland	Confirmed	22	1	0	0	293557	0.007494%
2/9/2021	Cumberland	Confirmed	39	0	0	0	293557	0.013285%
2/8/2021	Cumberland	Confirmed	36	0	1	2	293557	0.012263%
2/7/2021	Cumberland	Confirmed	39	1	1	0	293557	0.013285%
2/6/2021	Cumberland	Confirmed	30	0	0	0	293557	0.010219%
2/5/2021	Cumberland	Confirmed	35	2	1	0	293557	0.011923%
2/4/2021	Cumberland	Confirmed	37	1	1	0	293557	0.012604%
2/3/2021	Cumberland	Confirmed	42	1	0	1	293557	0.014307%
2/2/2021	Cumberland	Confirmed	65	4	0	1	293557	0.022142%
2/1/2021	Cumberland	Confirmed	37	1	0	1	293557	0.012604%

1/31/2021	Cumberland	Confirmed	59	1	1	1	293557	0.020098%
1/30/2021	Cumberland	Confirmed	32	2	3	1	293557	0.010901%
1/29/2021	Cumberland	Confirmed	70	2	0	2	293557	0.023845%
1/28/2021	Cumberland	Confirmed	55	3	2	1	293557	0.018736%
1/27/2021	Cumberland	Confirmed	63	7	2	1	293557	0.021461%
1/26/2021	Cumberland	Confirmed	96	6	2	1	293557	0.032702%
1/25/2021	Cumberland	Confirmed	81	6	3	2	293557	0.027593%
1/24/2021	Cumberland	Confirmed	52	7	4	1	293557	0.017714%
1/23/2021	Cumberland	Confirmed	20	2	3	3	293557	0.006813%
1/22/2021	Cumberland	Confirmed	73	6	3	4	293557	0.024867%
1/21/2021	Cumberland	Confirmed	144	8	7	0	293557	0.049054%
1/20/2021	Cumberland	Confirmed	107	2	1	2	293557	0.036449%
1/19/2021	Cumberland	Confirmed	133	7	1	2	293557	0.045306%
1/18/2021	Cumberland	Confirmed	51	11	1	2	293557	0.017373%
1/17/2021	Cumberland	Confirmed	76	0	1	2	293557	0.025889%
1/16/2021	Cumberland	Confirmed	45	4	4	2	293557	0.015329%
1/15/2021	Cumberland	Confirmed	65	36	4	2	293557	0.022142%
1/14/2021	Cumberland	Confirmed	158	10	3	1	293557	0.053823%
1/13/2021	Cumberland	Confirmed	334	7	0	4	293557	0.113777%
1/12/2021	Cumberland	Confirmed	129	8	4	1	293557	0.043944%
1/11/2021	Cumberland	Confirmed	81	10	4	3	293557	0.027593%
1/10/2021	Cumberland	Confirmed	69	14	0	2	293557	0.023505%
1/9/2021	Cumberland	Confirmed	39	2	1	3	293557	0.013285%
1/8/2021	Cumberland	Confirmed	111	9	2	1	293557	0.037812%
1/7/2021	Cumberland	Confirmed	212	16	0	1	293557	0.072218%
1/6/2021	Cumberland	Confirmed	120	6	0	2	293557	0.040878%
1/5/2021	Cumberland	Confirmed	135	8	2	3	293557	0.045988%
1/4/2021	Cumberland	Confirmed	62	11	0	5	293557	0.021120%
1/3/2021	Cumberland	Confirmed	68	5	1	1	293557	0.023164%
1/2/2021	Cumberland	Confirmed	43	10	0	2	293557	0.014648%
1/1/2021	Cumberland	Confirmed	83	15	3	2	293557	0.028274%
12/31/2020	Cumberland	Confirmed	171	12	2	2	293557	0.058251%
12/30/2020	Cumberland	Confirmed	137	11	2	4	293557	0.046669%
12/29/2020	Cumberland	Confirmed	132	9	5	2	293557	0.044966%

12/28/2020	Cumberland	Confirmed	105	17	0	4	293557	0.035768%
12/27/2020	Cumberland	Confirmed	105	30	3	1	293557	0.035768%
12/26/2020	Cumberland	Confirmed	102	20	2	3	293557	0.034746%
12/25/2020	Cumberland	Confirmed	0	18	0	1	293557	0.000000%
12/24/2020	Cumberland	Confirmed	125	10	1	0	293557	0.042581%
12/23/2020	Cumberland	Confirmed	166	8	3	2	293557	0.056548%
12/22/2020	Cumberland	Confirmed	155	12	1	0	293557	0.052801%
12/21/2020	Cumberland	Confirmed	64	17	1	7	293557	0.021802%
12/20/2020	Cumberland	Confirmed	80	15	4	0	293557	0.027252%
12/19/2020	Cumberland	Confirmed	47	12	0	6	293557	0.016011%
12/18/2020	Cumberland	Confirmed	114	10	1	0	293557	0.038834%
12/17/2020	Cumberland	Confirmed	86	9	1	2	293557	0.029296%
12/16/2020	Cumberland	Confirmed	126	13	0	2	293557	0.042922%
12/15/2020	Cumberland	Confirmed	115	20	0	1	293557	0.039175%
12/14/2020	Cumberland	Confirmed	128	17	0	7	293557	0.043603%
12/13/2020	Cumberland	Confirmed	54	12	0	1	293557	0.018395%
12/12/2020	Cumberland	Confirmed	94	27	1	1	293557	0.032021%
12/11/2020	Cumberland	Confirmed	122	20	1	2	293557	0.041559%
12/10/2020	Cumberland	Confirmed	71	20	3	6	293557	0.024186%
12/9/2020	Cumberland	Confirmed	92	14	0	3	293557	0.031340%
12/8/2020	Cumberland	Confirmed	85	16	1	6	293557	0.028955%
12/7/2020	Cumberland	Confirmed	69	15	1	1	293557	0.023505%
12/6/2020	Cumberland	Confirmed	78	4	2	3	293557	0.026571%
12/5/2020	Cumberland	Confirmed	60	19	1	4	293557	0.020439%
12/4/2020	Cumberland	Confirmed	78	31	0	4	293557	0.026571%
12/3/2020	Cumberland	Confirmed	36	14	0	3	293557	0.012263%
12/2/2020	Cumberland	Confirmed	40	29	1	2	293557	0.013626%
12/1/2020	Cumberland	Confirmed	28	16	0	2	293557	0.009538%
11/30/2020	Cumberland	Confirmed	40	41	0	2	293557	0.013626%
11/29/2020	Cumberland	Confirmed	46	30	0	1	293557	0.015670%
11/28/2020	Cumberland	Confirmed	30	36	0	0	293557	0.010219%
11/27/2020	Cumberland	Confirmed	0	22	0	7	293557	0.000000%
11/26/2020	Cumberland	Confirmed	0	11	0	0	293557	0.000000%
11/25/2020	Cumberland	Confirmed	28	31	0	1	293557	0.009538%

11/24/2020	Cumberland	Confirmed	39	46	0	1	293557	0.013285%
11/23/2020	Cumberland	Confirmed	39	54	0	2	293557	0.013285%
11/22/2020	Cumberland	Confirmed	37	44	0	1	293557	0.012604%
11/21/2020	Cumberland	Confirmed	64	21	0	1	293557	0.021802%
11/20/2020	Cumberland	Confirmed	29	24	1	0	293557	0.009879%
11/19/2020	Cumberland	Confirmed	34	48	0	3	293557	0.011582%
11/18/2020	Cumberland	Confirmed	32	32	0	1	293557	0.010901%
11/17/2020	Cumberland	Confirmed	33	40	0	0	293557	0.011241%
11/16/2020	Cumberland	Confirmed	57	68	0	0	293557	0.019417%
11/15/2020	Cumberland	Confirmed	48	42	0	2	293557	0.016351%
11/14/2020	Cumberland	Confirmed	27	34	0	3	293557	0.009198%
11/13/2020	Cumberland	Confirmed	24	40	0	0	293557	0.008176%
11/12/2020	Cumberland	Confirmed	34	77	0	0	293557	0.011582%
11/11/2020	Cumberland	Confirmed	33	21	0	0	293557	0.011241%
11/10/2020	Cumberland	Confirmed	26	24	0	1	293557	0.008857%
11/9/2020	Cumberland	Confirmed	30	28	0	2	293557	0.010219%
11/8/2020	Cumberland	Confirmed	60	33	0	3	293557	0.020439%
11/7/2020	Cumberland	Confirmed	19	20	0	1	293557	0.006472%
11/6/2020	Cumberland	Confirmed	36	18	0	2	293557	0.012263%
11/5/2020	Cumberland	Confirmed	56	23	0	1	293557	0.019076%
11/4/2020	Cumberland	Confirmed	39	22	0	1	293557	0.013285%
11/3/2020	Cumberland	Confirmed	63	19	0	0	293557	0.021461%
11/2/2020	Cumberland	Confirmed	43	5	0	1	293557	0.014648%
11/1/2020	Cumberland	Confirmed	19	6	0	0	293557	0.006472%
10/31/2020	Cumberland	Confirmed	14	7	0	0	293557	0.004769%
10/30/2020	Cumberland	Confirmed	23	9	0	1	293557	0.007835%
10/29/2020	Cumberland	Confirmed	40	3	0	0	293557	0.013626%
10/28/2020	Cumberland	Confirmed	22	5	0	1	293557	0.007494%
10/27/2020	Cumberland	Confirmed	13	4	0	0	293557	0.004428%
10/26/2020	Cumberland	Confirmed	10	8	0	0	293557	0.003406%
10/25/2020	Cumberland	Confirmed	2	5	0	0	293557	0.000681%
10/24/2020	Cumberland	Confirmed	14	3	0	0	293557	0.004769%
10/23/2020	Cumberland	Confirmed	14	2	0	0	293557	0.004769%
10/22/2020	Cumberland	Confirmed	6	7	0	0	293557	0.002044%

10/21/2020	Cumberland	Confirmed	3	5	0	0	293557	0.001022%
10/20/2020	Cumberland	Confirmed	5	6	0	0	293557	0.001703%
10/19/2020	Cumberland	Confirmed	1	3	0	0	293557	0.000341%
10/18/2020	Cumberland	Confirmed	2	3	0	0	293557	0.000681%
10/17/2020	Cumberland	Confirmed	4	2	0	0	293557	0.001363%
10/16/2020	Cumberland	Confirmed	10	7	0	0	293557	0.003406%
10/15/2020	Cumberland	Confirmed	6	4	0	0	293557	0.002044%
10/14/2020	Cumberland	Confirmed	2	2	0	0	293557	0.000681%
10/13/2020	Cumberland	Confirmed	4	3	0	0	293557	0.001363%
10/12/2020	Cumberland	Confirmed	5	1	0	0	293557	0.001703%
10/11/2020	Cumberland	Confirmed	1	6	0	0	293557	0.000341%
10/10/2020	Cumberland	Confirmed	2	4	0	0	293557	0.000681%
10/9/2020	Cumberland	Confirmed	8	3	0	0	293557	0.002725%
10/8/2020	Cumberland	Confirmed	1	6	0	0	293557	0.000341%
10/7/2020	Cumberland	Confirmed	12	5	0	0	293557	0.004088%
10/6/2020	Cumberland	Confirmed	1	6	0	0	293557	0.000341%
10/5/2020	Cumberland	Confirmed	3	1	0	0	293557	0.001022%
10/4/2020	Cumberland	Confirmed	5	6	0	0	293557	0.001703%
10/3/2020	Cumberland	Confirmed	6	4	0	0	293557	0.002044%
10/2/2020	Cumberland	Confirmed	5	3	0	0	293557	0.001703%
10/1/2020	Cumberland	Confirmed	7	5	0	0	293557	0.002385%
9/30/2020	Cumberland	Confirmed	4	3	0	0	293557	0.001363%
9/29/2020	Cumberland	Confirmed	10	9	0	1	293557	0.003406%
9/28/2020	Cumberland	Confirmed	3	7	0	0	293557	0.001022%
9/27/2020	Cumberland	Confirmed	1	3	0	0	293557	0.000341%
9/26/2020	Cumberland	Confirmed	3	2	0	0	293557	0.001022%
9/25/2020	Cumberland	Confirmed	4	2	0	0	293557	0.001363%
9/24/2020	Cumberland	Confirmed	1	8	0	0	293557	0.000341%
9/23/2020	Cumberland	Confirmed	9	5	0	0	293557	0.003066%
9/22/2020	Cumberland	Confirmed	1	3	0	0	293557	0.000341%
9/21/2020	Cumberland	Confirmed	4	6	0	0	293557	0.001363%
9/20/2020	Cumberland	Confirmed	2	9	0	0	293557	0.000681%
9/19/2020	Cumberland	Confirmed	10	1	0	0	293557	0.003406%
9/18/2020	Cumberland	Confirmed	3	1	0	0	293557	0.001022%

9/17/2020	Cumberland	Confirmed	3	3	0	1	293557	0.001022%
9/16/2020	Cumberland	Confirmed	3	0	0	0	293557	0.001022%
9/15/2020	Cumberland	Confirmed	4	1	0	1	293557	0.001363%
9/14/2020	Cumberland	Confirmed	0	1	0	0	293557	0.000000%
9/13/2020	Cumberland	Confirmed	1	6	0	0	293557	0.000341%
9/12/2020	Cumberland	Confirmed	8	1	0	0	293557	0.002725%
9/11/2020	Cumberland	Confirmed	10	2	0	0	293557	0.003406%
9/10/2020	Cumberland	Confirmed	5	10	0	1	293557	0.001703%
9/9/2020	Cumberland	Confirmed	4	0	0	0	293557	0.001363%
9/8/2020	Cumberland	Confirmed	2	4	0	0	293557	0.000681%
9/7/2020	Cumberland	Confirmed	3	2	0	0	293557	0.001022%
9/6/2020	Cumberland	Confirmed	3	7	0	1	293557	0.001022%
9/5/2020	Cumberland	Confirmed	1	4	0	0	293557	0.000341%
9/4/2020	Cumberland	Confirmed	3	2	0	0	293557	0.001022%
9/3/2020	Cumberland	Confirmed	6	0	0	1	293557	0.002044%
9/2/2020	Cumberland	Confirmed	7	3	0	0	293557	0.002385%
9/1/2020	Cumberland	Confirmed	1	1	0	0	293557	0.000341%
8/31/2020	Cumberland	Confirmed	4	6	0	0	293557	0.001363%
8/30/2020	Cumberland	Confirmed	4	5	0	0	293557	0.001363%
8/29/2020	Cumberland	Confirmed	2	2	0	0	293557	0.000681%
8/28/2020	Cumberland	Confirmed	5	5	0	0	293557	0.001703%
8/27/2020	Cumberland	Confirmed	5	5	0	1	293557	0.001703%
8/26/2020	Cumberland	Confirmed	3	4	0	1	293557	0.001022%
8/25/2020	Cumberland	Confirmed	2	6	0	0	293557	0.000681%
8/24/2020	Cumberland	Confirmed	2	2	0	0	293557	0.000681%
8/23/2020	Cumberland	Confirmed	1	8	0	0	293557	0.000341%
8/22/2020	Cumberland	Confirmed	2	3	0	0	293557	0.000681%
8/21/2020	Cumberland	Confirmed	2	6	0	0	293557	0.000681%
8/20/2020	Cumberland	Confirmed	4	6	0	1	293557	0.001363%
8/19/2020	Cumberland	Confirmed	4	4	0	0	293557	0.001363%
8/18/2020	Cumberland	Confirmed	5	4	0	1	293557	0.001703%
8/17/2020	Cumberland	Confirmed	8	2	0	0	293557	0.002725%
8/16/2020	Cumberland	Confirmed	4	7	0	0	293557	0.001363%
8/15/2020	Cumberland	Confirmed	3	4	1	0	293557	0.001022%

8/14/2020	Cumberland	Confirmed	9	7	0	0	293557	0.003066%
8/13/2020	Cumberland	Confirmed	6	2	0	0	293557	0.002044%
8/12/2020	Cumberland	Confirmed	4	4	0	1	293557	0.001363%
8/11/2020	Cumberland	Confirmed	7	4	0	0	293557	0.002385%
8/10/2020	Cumberland	Confirmed	1	8	0	1	293557	0.000341%
8/9/2020	Cumberland	Confirmed	4	0	0	0	293557	0.001363%
8/8/2020	Cumberland	Confirmed	5	3	0	0	293557	0.001703%
8/7/2020	Cumberland	Confirmed	5	5	0	1	293557	0.001703%
8/6/2020	Cumberland	Confirmed	3	3	0	0	293557	0.001022%
8/5/2020	Cumberland	Confirmed	8	6	0	1	293557	0.002725%
8/4/2020	Cumberland	Confirmed	7	8	0	1	293557	0.002385%
8/3/2020	Cumberland	Confirmed	3	8	1	1	293557	0.001022%
8/2/2020	Cumberland	Confirmed	1	2	0	0	293557	0.000341%
8/1/2020	Cumberland	Confirmed	4	6	0	0	293557	0.001363%
7/31/2020	Cumberland	Confirmed	2	10	0	0	293557	0.000681%
7/30/2020	Cumberland	Confirmed	8	4	0	0	293557	0.002725%
7/29/2020	Cumberland	Confirmed	5	4	0	0	293557	0.001703%
7/28/2020	Cumberland	Confirmed	11	6	0	1	293557	0.003747%
7/27/2020	Cumberland	Confirmed	4	12	0	1	293557	0.001363%
7/26/2020	Cumberland	Confirmed	3	2	0	0	293557	0.001022%
7/25/2020	Cumberland	Confirmed	4	1	0	0	293557	0.001363%
7/24/2020	Cumberland	Confirmed	12	12	0	1	293557	0.004088%
7/23/2020	Cumberland	Confirmed	4	11	0	0	293557	0.001363%
7/22/2020	Cumberland	Confirmed	11	15	0	0	293557	0.003747%
7/21/2020	Cumberland	Confirmed	10	16	0	1	293557	0.003406%
7/20/2020	Cumberland	Confirmed	5	14	0	0	293557	0.001703%
7/19/2020	Cumberland	Confirmed	8	6	1	0	293557	0.002725%
7/18/2020	Cumberland	Confirmed	11	11	0	1	293557	0.003747%
7/17/2020	Cumberland	Confirmed	7	8	0	0	293557	0.002385%
7/16/2020	Cumberland	Confirmed	18	8	0	0	293557	0.006132%
7/15/2020	Cumberland	Confirmed	10	10	0	0	293557	0.003406%
7/14/2020	Cumberland	Confirmed	9	9	0	0	293557	0.003066%
7/13/2020	Cumberland	Confirmed	8	27	0	0	293557	0.002725%
7/12/2020	Cumberland	Confirmed	14	9	0	0	293557	0.004769%

7/11/2020	Cumberland	Confirmed	10	21	1	1	293557	0.003406%
7/10/2020	Cumberland	Confirmed	8	27	0	0	293557	0.002725%
7/9/2020	Cumberland	Confirmed	9	17	0	1	293557	0.003066%
7/8/2020	Cumberland	Confirmed	18	14	0	0	293557	0.006132%
7/7/2020	Cumberland	Confirmed	10	11	0	0	293557	0.003406%
7/6/2020	Cumberland	Confirmed	6	17	0	2	293557	0.002044%
7/5/2020	Cumberland	Confirmed	4	10	1	0	293557	0.001363%
7/4/2020	Cumberland	Confirmed	9	14	2	0	293557	0.003066%
7/3/2020	Cumberland	Confirmed	9	10	2	0	293557	0.003066%
7/2/2020	Cumberland	Confirmed	21	19	0	2	293557	0.007154%
7/1/2020	Cumberland	Confirmed	18	14	1	1	293557	0.006132%
6/30/2020	Cumberland	Confirmed	15	8	0	2	293557	0.005110%
6/29/2020	Cumberland	Confirmed	17	26	0	0	293557	0.005791%
6/28/2020	Cumberland	Confirmed	10	13	0	1	293557	0.003406%
6/27/2020	Cumberland	Confirmed	21	8	0	0	293557	0.007154%
6/26/2020	Cumberland	Confirmed	25	14	1	2	293557	0.008516%
6/25/2020	Cumberland	Confirmed	20	13	0	1	293557	0.006813%
6/24/2020	Cumberland	Confirmed	41	6	0	1	293557	0.013967%
6/23/2020	Cumberland	Confirmed	13	15	0	3	293557	0.004428%
6/22/2020	Cumberland	Confirmed	10	16	1	0	293557	0.003406%
6/21/2020	Cumberland	Confirmed	3	9	0	0	293557	0.001022%
6/20/2020	Cumberland	Confirmed	7	7	0	0	293557	0.002385%
6/19/2020	Cumberland	Confirmed	17	22	0	3	293557	0.005791%
6/18/2020	Cumberland	Confirmed	17	15	0	0	293557	0.005791%
6/17/2020	Cumberland	Confirmed	33	15	0	1	293557	0.011241%
6/16/2020	Cumberland	Confirmed	9	23	1	0	293557	0.003066%
6/15/2020	Cumberland	Confirmed	5	24	0	0	293557	0.001703%
6/14/2020	Cumberland	Confirmed	6	8	0	1	293557	0.002044%
6/13/2020	Cumberland	Confirmed	20	10	0	2	293557	0.006813%
6/12/2020	Cumberland	Confirmed	24	29	0	1	293557	0.008176%
6/11/2020	Cumberland	Confirmed	20	17	0	1	293557	0.006813%
6/10/2020	Cumberland	Confirmed	22	11	0	2	293557	0.007494%
6/9/2020	Cumberland	Confirmed	15	20	0	0	293557	0.005110%
6/8/2020	Cumberland	Confirmed	12	42	0	1	293557	0.004088%

6/7/2020	Cumberland	Confirmed	4	16	1	0	293557	0.001363%
6/6/2020	Cumberland	Confirmed	16	11	0	0	293557	0.005450%
6/5/2020	Cumberland	Confirmed	21	18	0	3	293557	0.007154%
6/4/2020	Cumberland	Confirmed	17	32	2	2	293557	0.005791%
6/3/2020	Cumberland	Confirmed	19	29	0	0	293557	0.006472%
6/2/2020	Cumberland	Confirmed	21	17	0	0	293557	0.007154%
6/1/2020	Cumberland	Confirmed	14	45	0	0	293557	0.004769%
5/31/2020	Cumberland	Confirmed	15	8	2	2	293557	0.005110%
5/30/2020	Cumberland	Confirmed	29	17	2	3	293557	0.009879%
5/29/2020	Cumberland	Confirmed	27	16	2	0	293557	0.009198%
5/28/2020	Cumberland	Confirmed	11	19	2	0	293557	0.003747%
5/27/2020	Cumberland	Confirmed	20	28	1	1	293557	0.006813%
5/26/2020	Cumberland	Confirmed	9	14	2	3	293557	0.003066%
5/25/2020	Cumberland	Confirmed	13	9	2	1	293557	0.004428%
5/24/2020	Cumberland	Confirmed	7	15	1	4	293557	0.002385%
5/23/2020	Cumberland	Confirmed	23	15	0	4	293557	0.007835%
5/22/2020	Cumberland	Confirmed	36	16	0	5	293557	0.012263%
5/21/2020	Cumberland	Confirmed	47	21	0	1	293557	0.016011%
5/20/2020	Cumberland	Confirmed	23	18	2	8	293557	0.007835%
5/19/2020	Cumberland	Confirmed	25	9	0	5	293557	0.008516%
5/18/2020	Cumberland	Confirmed	9	23	0	1	293557	0.003066%
5/17/2020	Cumberland	Confirmed	15	2	1	3	293557	0.005110%
5/16/2020	Cumberland	Confirmed	13	16	1	2	293557	0.004428%
5/15/2020	Cumberland	Confirmed	18	10	0	3	293557	0.006132%
5/14/2020	Cumberland	Confirmed	16	11	1	4	293557	0.005450%
5/13/2020	Cumberland	Confirmed	18	16	1	3	293557	0.006132%
5/12/2020	Cumberland	Confirmed	20	16	2	5	293557	0.006813%
5/11/2020	Cumberland	Confirmed	8	15	0	3	293557	0.002725%
5/10/2020	Cumberland	Confirmed	5	4	0	0	293557	0.001703%
5/9/2020	Cumberland	Confirmed	16	3	0	0	293557	0.005450%
5/8/2020	Cumberland	Confirmed	13	5	0	1	293557	0.004428%
5/7/2020	Cumberland	Confirmed	26	9	0	1	293557	0.008857%
5/6/2020	Cumberland	Confirmed	43	10	0	5	293557	0.014648%
5/5/2020	Cumberland	Confirmed	13	12	0	0	293557	0.004428%

5/4/2020	Cumberland	Confirmed	7	14	0	0	293557	0.002385%
5/3/2020	Cumberland	Confirmed	5	0	2	2	293557	0.001703%
5/2/2020	Cumberland	Confirmed	17	6	1	1	293557	0.005791%
5/1/2020	Cumberland	Confirmed	9	13	0	0	293557	0.003066%
4/30/2020	Cumberland	Confirmed	16	12	2	2	293557	0.005450%
4/29/2020	Cumberland	Confirmed	10	6	1	1	293557	0.003406%
4/28/2020	Cumberland	Confirmed	5	16	0	1	293557	0.001703%
4/27/2020	Cumberland	Confirmed	6	9	1	2	293557	0.002044%
4/26/2020	Cumberland	Confirmed	4	3	0	0	293557	0.001363%
4/25/2020	Cumberland	Confirmed	14	5	0	0	293557	0.004769%
4/24/2020	Cumberland	Confirmed	9	7	0	1	293557	0.003066%
4/23/2020	Cumberland	Confirmed	13	5	1	1	293557	0.004428%
4/22/2020	Cumberland	Confirmed	16	7	0	3	293557	0.005450%
4/21/2020	Cumberland	Confirmed	9	8	3	0	293557	0.003066%
4/20/2020	Cumberland	Confirmed	6	14	1	1	293557	0.002044%
4/19/2020	Cumberland	Confirmed	2	4	3	0	293557	0.000681%
4/18/2020	Cumberland	Confirmed	10	7	0	0	293557	0.003406%
4/17/2020	Cumberland	Confirmed	9	12	1	0	293557	0.003066%
4/16/2020	Cumberland	Confirmed	19	8	0	2	293557	0.006472%
4/15/2020	Cumberland	Confirmed	4	11	1	1	293557	0.001363%
4/14/2020	Cumberland	Confirmed	7	9	0	0	293557	0.002385%
4/13/2020	Cumberland	Confirmed	30	15	0	2	293557	0.010219%
4/12/2020	Cumberland	Confirmed	7	2	1	0	293557	0.002385%
4/11/2020	Cumberland	Confirmed	8	8	0	0	293557	0.002725%
4/10/2020	Cumberland	Confirmed	8	10	0	2	293557	0.002725%
4/9/2020	Cumberland	Confirmed	7	16	1	0	293557	0.002385%
4/8/2020	Cumberland	Confirmed	7	4	1	1	293557	0.002385%
4/7/2020	Cumberland	Confirmed	9	10	1	1	293557	0.003066%
4/6/2020	Cumberland	Confirmed	4	12	2	2	293557	0.001363%
4/5/2020	Cumberland	Confirmed	11	3	1	2	293557	0.003747%
4/4/2020	Cumberland	Confirmed	7	4	0	1	293557	0.002385%
4/3/2020	Cumberland	Confirmed	9	11	0	2	293557	0.003066%
4/2/2020	Cumberland	Confirmed	18	19	0	0	293557	0.006132%
4/1/2020	Cumberland	Confirmed	13	13	2	5	293557	0.004428%

3/31/2020	Cumberland	Confirmed	23	6	1	3	293557	0.007835%
3/30/2020	Cumberland	Confirmed	15	6	1	1	293557	0.005110%
3/29/2020	Cumberland	Confirmed	11	9	1	1	293557	0.003747%
3/28/2020	Cumberland	Confirmed	22	6	1	1	293557	0.007494%
3/27/2020	Cumberland	Confirmed	28	7	0	2	293557	0.009538%
3/26/2020	Cumberland	Confirmed	7	4	1	5	293557	0.002385%
3/25/2020	Cumberland	Confirmed	13	5	0	6	293557	0.004428%
3/24/2020	Cumberland	Confirmed	7	1	0	6	293557	0.002385%
3/23/2020	Cumberland	Confirmed	10	2	0	2	293557	0.003406%
3/22/2020	Cumberland	Confirmed	15	1	0	1	293557	0.005110%
3/21/2020	Cumberland	Confirmed	3	1	0	5	293557	0.001022%
3/20/2020	Cumberland	Confirmed	5	2	0	3	293557	0.001703%
3/19/2020	Cumberland	Confirmed	5	0	0	0	293557	0.001703%
3/18/2020	Cumberland	Confirmed	5	0	0	2	293557	0.001703%
3/17/2020	Cumberland	Confirmed	7	1	0	1	293557	0.002385%
3/16/2020	Cumberland	Confirmed	2	0	0	0	293557	0.000681%
3/15/2020	Cumberland	Confirmed	6	0	0	1	293557	0.002044%
3/14/2020	Cumberland	Confirmed	6	0	0	0	293557	0.002044%
3/13/2020	Cumberland	Confirmed	2	0	0	2	293557	0.000681%
3/12/2020	Cumberland	Confirmed	0	0	0	0	293557	0
282							690	0.00235048

Councilors, this is not an emergency.

Because the city of Portland and the nation as a whole has failed to identify any objective metric that would indicate an end to the pandemic, we have allowed governments to implement mandates and restrictions on personal liberties with no checks or balances.

So I'll ask the city 3 fundamental questions that all citizens should demand answers to:

- 1) What exactly is the metric for success that defines when all restrictions are to be lifted?
- 2) Is a restriction on basic individual rights proportionate to the problem at hand?
- 3) Are you sure that your mandates will do more good than harm?

Answering the first two questions is a matter of metrics. It cannot be positive cases, as increased testing only leads to increased cases, and cases are not indicative of severity. Is it vaccination rates? Is a [90%+ vaccination rate](#) too low? Is it death rate? [Fewer than 3 people per week](#) have died in Cumberland County due to COVID - is that truly severe enough for population wide mandates?

Statistics like these indicate that mandates at this point are more a result of a desire to "feel" safe. While individuals have a right to some degree of safety, the spectrum of risk tolerance throughout our society is far too wide to condone the abrogation of one individual's rights in exchange for another. One's desire to feel safe stops at the point where it compels someone else to act in a manner they would not otherwise. Subjective feelings are not justification for governmental action on anyone's behalf. It is illegal, immoral, and authoritarian.

Everyone has access to defense against COVID: vaccines, boosters, masks, natural immunity, lifestyle changes, and most importantly, individual judgment. We need to remember that the baseline operating conditions in our society do not include governmental restrictions to public spaces based on the feelings of certain members of society. If individuals or businesses are truly concerned for their safety, why are we not suggesting that those individuals wear two masks? Three? Because that would be silly? I don't believe that I should have to wear a mask to satisfy someone else's risk tolerance, so who's definition of "safe" is more valid? The solution is to allow individuals to make decisions for themselves, not dispense with the rights of others on their behalf.

Lastly, we need to consider that our solutions may cause far more harm than good.

How do we justify increases in mental health issues, particularly among young people? Or that [K-12 students](#) are behind by at least months, if not years in math and reading, which could lead to a decrease in lifelong earning potential? How have local businesses done economically? What have been the social ramifications of polarizing our communities? How many personal relationships have been damaged as a result of tensions created by mandates? Have any of you considered these unintended consequences of your purportedly well-meaning mandates? I suspect you have not.

Respectfully,
Hunter Wood

----- Forwarded message -----

From: **Kate Snyder** <ksnyder@portlandmaine.gov>

Date: Mon, Jan 31, 2022 at 3:11 PM

Subject: Re: Portland's "Mask Mandate" Violates Numerous Federal/State Laws

To: Daren Hebold <dhebold@gmail.com>, Danielle West-Chuhta <dwchuhta@portlandmaine.gov>, Jen Thompson <jlt@portlandmaine.gov>, Dena Libner <dlibner@portlandmaine.gov>

Cc: Pious Ali <pali@portlandmaine.gov>, April Fournier - At Large <afournier@portlandmaine.gov>, Roberto Rodriguez <rrodriguez@portlandmaine.gov>, Anna Trevorow <atrevorow@portlandmaine.gov>, Victoria Pelletier <vpelletier@portlandmaine.gov>, Tae Chong - City number <tchong@portlandmaine.gov>, Andrew Zarro - D4 <azarro@portlandmaine.gov>, Mark Dion - D5 <mdion@portlandmaine.gov>

Dear Mr. Hebold,

Yes - we welcome public comment and engagement on all Council matters. Thank you for reaching out.

I have cc'd our City Manager and our Corporation Counsel here so that they're aware of your communication, as well.

Sincerely,
Kate Snyder

On Mon, Jan 31, 2022 at 2:54 PM Daren Hebold <dhebold@gmail.com> wrote:

Good afternoon Mayor Snyder,

You've requested feedback regarding the current "Mask Mandate" that was passed on January 3, 2022. I am a Portland businessman with three successful businesses here in Portland, and I have the following important feedback and legal notification for the City of Portland. I, my family, my employees, my customers and my clients are presently being harmed by the City of Portland's "Mask Mandate" in part due to what is outlined below. Would you or your staff please make this part of the official public record regarding Public Hearings for this topic.

Although I'm sure you and the City Council wholeheartedly believe your "mask mandate" is well intentioned, and also that its fashionable to issue illegitimate bureaucratic decrees & executive orders these days, know that I FULLY OBJECT TO THE ISSUANCE and reject the continuation of this harmful, impractical, unlawful and tyrannical ordinance. Such a matter is clearly and entirely up to each individual, not any governance body to decide. More specifically and quite egregiously, this ordinance VASTLY EXCEEDS your legal powers, authority and jurisdiction granted to you as a municipality and as public servants. You and the City of Portland are obviously in violation of numerous State and Federal laws.

You may wish to consult with your municipal attorney (and your own moral ethical conscience) regarding the following partial list of legal violations from which I, and many others, are suffering harm:

- How is the City of Portland entitled to pass ordinances, codes, mandates or decrees that are obviously in violation of state and federal statutory laws?
- How is the City of Portland entitled to deny me access to Places of Public Accommodation ("all publicly accessible buildings") based on arbitrary and harmful quid pro quo conditions, such as masks, vaccination status or similar?
- How is the City of Portland entitled to forcibly require medical interventions and/or procedures regarding my personal body?
- How is the City of Portland qualified and authorized to supersede the State of Maine in unilaterally creating Public Health Policy, including prescribing medical directives, without legislative approval??
- All of the above facts regarding your Ordinance drive the following conclusion: the City of Portland is currently violating countless Federal statutory laws and infringing upon citizens' basic civil rights. This absurd, unlawful and therefore unenforceable ordinance/mandate/decre is null and void on its face. In case you don't believe anything I've offered here, be sure to consult the [US Constitution First Amendment](#), [USC Title 42 Section 1983](#), the Maine State Constitution and the Portland City Charter, among other statutory laws.

You are now put on notice of this legal liability as you continue to deprive me, my family, my employees, customers and clients of our rights here in the City of Portland. This liability extends to the City of Portland as well to each of you Personally. As my representative(s) I order that you discontinue and rescind this ordinance at once.

Sincerely, Daren Hebold

Daren Hebold
[207-329-5092](tel:207-329-5092)

Intensive Care Nurse MMC/Masking 0 views



Stacey Abbott <smabbott16@gmail.com>

9:47 AM (7 hours ago)

to publiccomment@portlandmaine.gov

Good Day,

My name is Stacey Abbott I am a nurse at Maine Medical Centers Neonatal Intensive Care Unit. I have worked at MMC for 21 years.

I am vaccinated, boosted and complied to the Influenza Vaccine Mandate (or lose my job.) MMC has not enforced this with the Influenza Vaccine. This was to happen in November.

I DO NOT agree with mandated masking in the community for many valid reasons.

Unfortunately Covid-19 has turned into a political war. Views, opinions, behaviors at play. I see first hand the projection of one's own beliefs making permanent rules, mandates, policy changes and procedures based on internal fears and their own conditioning.

We are born sovereign. We navigate life and along the way our conditioning, relationships, experiences and our environment sets the lens how we see the world.

Many people don't want to grow up. They love being told what to do, how to navigate their every day lives. They walk around in a constant state of fear, conscious or unconscious.

I am an adult. It is not my responsibility to change someone else and make them less angry, more happy, fearful or sad. Think about this. Ask yourself. Am I coming to the table, angry, sad, vindictive because of what society has done to me? Do those emotions and feelings play into your votes? That is victim mentality.

I commend the Town of Falmouth for respecting the independence of its community. Treating the towns people as adults.

In my judgment most people wear masks not because of a mandate. They read the news, follow social media and live in fear, or simple make a decision to wear a mask.

Let us continue or learn to be sovereign. Act like adults, respect the whole community.

*For the record the staffing issues at Maine Medical Center are for the reasons above. Please google The Nurses Union meeting outside the hospital and witness Janel Crowley's projection onto the hospital. I know her well..all of the above. *Staffing issues/disconnect at MMC are because nurses have a unique opportunity to make 6K a week at other local/state hospitals. Most floors at hospitals are saturated with travelers in ALL States. And all states have COVID..Hmmm..gets you thinking..

*Many people at MMC are there with other issues and test for Covid and become part of the data. Asymptomatic. Snowmobile accidents, suicide attempts, parents of babies, heart attacks, eating disorders.

I ask the council to vote with good intentions that come from a place of clarity.

Best,

Stacey Abbott
22 Montreal Street
Portland, Me 04101

Sent from my iPhone

End mask mandates

Public Comment inbox



matt parry <mdparry29@gmail.com>

to publiccomment

Thu, Feb 3, 5:35 PM (17 hours ago)

Hi there!

I am a former medical assistant and current medical student.

I believe there is no longer any need for mask mandates as well as vaccine passports. This is now an endemic disease and people need to psychologically move on. This obsession with covid is destroying the fabric of our society.

I have attached a list of sources which show how lockdown policies have been detrimental

All the Detrimental Effects of Lockdowns Divided by Causes:

Mental health:

1 in 5 adults developed mental disorders - <https://www.thehindubusinessline.com/news/science/1-in-5-adults-developed-pandemic-related-mental-disorders-analysis/article33417333.ece>

1 in 4 young adults suicidal - <https://thehill.com/changing-america/well-being/mental-health/527380-75-percent-of-young-adults-mentally-struggling-with>

Effects of isolation on elderly - (1) <https://pubmed.ncbi.nlm.nih.gov/25697700/>

(7) <https://www.glasgowtimes.co.uk/news/18590724.sedation-manage-lockdown-distress-may-led-dementia-deaths/>

Effects of isolation on the future health of children

<https://jamanetwork.com/journals/jamapediatrics/fullarticle/205331>

<https://www.unicef.org.uk/wp-content/uploads/2020/04/Unicef-UK-Children-In-Lockdown-Coronavirus-Impacts-Snapshot.pdf>

Mental illness in children rising due to lockdowns - <https://newschannel20.com/news/local/hospitals-see-high-rates-of-mental-illness-in-children-during-pandemic>

Half of young adults showing signs of depression - <https://fee.org/articles/harvard-researchers-nearly-half-of-young-adults-showing-signs-of-depression-amid-pandemic/>

The mental health of students - <https://www.bbc.co.uk/news/education-55105044>

Suicidal thoughts greater in those under restrictions and unchanged in those without any - <https://www.sciencedirect.com/science/article/pii/S0165178120323477>

Prevalence of depression before and after in the US - <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2770146>

Cases of depression in the US have tripled - <https://www.medicalnewstoday.com/articles/us-cases-of-depression-have-tripled-during-the-covid-19-pandemic>

US Census shows 48% of Wa adults have depression - <https://www.census.gov/data/tables/2020/demo/hhp/hhp15.html#tables>

Lockdowns pose great threat to mental health - <https://www.theguardian.com/society/2020/dec/27/covid-poses-greatest-threat-to-mental-health-since-second-world-war>

Suicides:

<https://abc7news.com/suicide-covid-19-coronavirus-rates-during-pandemic-death-by/6201962/> <https://www.ctvnews.ca/health/coronavirus/dealing-with-a-lot-suicide-crisis-calls-mount-during-covid-19-pandemic-1.5215056>

Suicides among black people spiked during lockdowns - <https://www.baltimoresun.com/health/bs-hs-black-suicides-pandemic-20201216-2g46em2d2nd5vjwu7q2uq5x6y-story.html>

Suicides up sharply in Toronto - <https://www.theglobeandmail.com/canada/toronto/article-suicides-on-the-ttc-have-risen-sharply-over-the-last-eight-months/>

Trends in suicide during the pandemic - <https://www.bmj.com/content/371/bmj.m4352> Canadians in quarantine twice as likely to have suicidal thoughts - <https://www.cbc.ca/news/canada/british-columbia/quarantine-mental-health-1.5809865>

Military suicides up 20% - <https://www.latimes.com/world-nation/story/2020-09-27/military-suicides-increase-covid-19-pandemic>

Suicides up among children - <https://dfw.cbslocal.com/2020/09/24/cook-childrens-alarming-rise-suicide-patients/>

Economy and Poverty:

8 million Americans pushed into poverty - <https://www.washingtonpost.com/business/2020/12/16/poverty-rising/> A year of lockdowns has destroyed a decade of progress - <https://www.cbc.ca/news/politics/covid-19-development-progress-reversed-1.5849383>

10k Canadian restaurants gone forever - <https://www.narcity.com/en-ca/eat-drink/canadian-restaurant-closures-reach-10000-in-2020-the-job-loss-numbers-are-shocking>

150 million people forced into extreme poverty - <https://www.worldbank.org/en/news/press-release/2020/10/07/covid-19-to-add-as-many-as-150-million-extreme-poor-by-2021>

10k US restaurants forced to close - <https://www.cnn.com/2020/12/08/business/restaurant-closures-coronavirus/index.html>

Economic toll on young Americans - <https://www.theguardian.com/world/2020/dec/09/coronavirus-young-economy-unemployment-mental-health>

2 million UK families pushed into poverty - <https://www.theguardian.com/society/2020/dec/09/covid-driven-recession-likely-to-push-2m-uk-families-into-poverty>

NYC bankruptcies surge 40% - <https://www.cnbc.com/2020/09/29/new-york-bankruptcies-reportedly-surge-40percent-during-pandemic.html>

National lockdowns pushing up to 100 million people into poverty - https://www.economist.com/international/2020/09/26/the-pandemic-is-plunging-millions-back-into-extreme-poverty?fsrc=scn/tw/te/bl/ed/fromplaguetopenurythepandemicisplungingmillionsbackintoextremepovertyinternational&__twitter_impression=true

European small businesses closing - <https://www.bloomberg.com/news/articles/2020-10-22/half-of-europe-s-smaller-businesses-risk-bankruptcy-within-year?sref=RJ2RIMrh>

New Zealand's success story pushed 70k children into poverty - <https://www.tvnz.co.nz/one-news/new-zealand/covid-19-deals-big-blow-reducing-child-poverty-in-nz>

Hunger and Starvation:

UNICEF for the first time having to feed UK children - <https://www.bbc.com/news/uk-england-devon-55348047> 168k child hunger deaths predicted in Africa - <https://apnews.com/article/africa-hunger-study-coronavirus-children-0e2a17d63163d8558d203b2824a844fe> <https://www.researchsquare.com/article/rs-123716/v1>

82% increase in food insecurity - <https://www.wfp.org/news/world-food-programme-assist-largest-number-hungry-people-ever-coronavirus-devastates-poor>

6k children a die die thanks to lockdown hunger - <https://pcpj.org/2020/10/11/6000-children-die-of-hunger-caused-by-corona-every-day/>

Almost 1.2 million babies could die because of lockdowns - <https://www.marketwatch.com/story/almost-12-million-babies-could-die-during-the-pandemic-but-not-from-the-coronavirus-2020-07-02>

Hunger crisis to affect up to 132 million people in sub-Saharan Africa because of lockdowns - <https://www.nature.com/articles/d41586-020-02281-w?sf236625656=1>

Other Effects on Children:

Poor students suffering in online classes - <https://www.bloomberg.com/news/articles/2020-12-21/affluent-families-ditch-public-schools-widening-u-s-inequality>

Lockdowns fuel child labor - <https://www.theeastafrican.co.ke/tea/rest-of-africa/lockdown-fuels-child-labour-in-zimbabwe-3230912>

Negatives of school closures more than benefits - <https://www.unicef.org/media/86881/file/Averting-a-lost-covid-generation-world-childrens-day-data-and-advocacy-brief-2020.pdf>

Negative impacts of lockdowns on children - <https://www.unicef.org.uk/wp-content/uploads/2020/04/Unicef-UK-Children-In-Lockdown-Coronavirus-Impacts-Snapshot.pdf>

Sharp rise of eating disorders in children - <https://www.bbc.co.uk/news/health-55468632>

Substance Abuse:

OD deaths at highest point in 12 month period - <https://www.cdc.gov/media/releases/2020/p1218-overdose-deaths-covid-19.html>

Canadian OD deaths - (1) <https://edmonton.ctvnews.ca/mobile/alberta-sets-record-904-opioid-deaths-to-date-in-2020-cites-covid-19-as-factor-1.5238113>

US ODs rising - <https://www.cnn.com/2020/12/18/us/cdc-pandemic-fatal-drug-overdoses-rise/index.html> Every week of lockdowns increases binge drinking -

<https://www.sciencedaily.com/releases/2020/12/201207091306.html>

Domestic/Sexual Abuse:

US lockdowns trigger surge in domestic abuse - <https://www.webmd.com/lung/news/20200410/us-lockdowns-trigger-surge-in-domestic-violence>

Child abuse up - <https://www.wcvb.com/article/health-experts-note-pandemics-possible-impacts-on-child-abuse/34932582>

School closures inhibit child abuse reports - <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7441889/>

Domestic violence up - <https://www.king5.com/article/news/community/incidents-of-domestic-violence-are-skyrocketing-during-covid/281-c8d650b6-b568-437b-948c-861768e92a57>

Abuse more severe during lockdowns - <https://www.stcatharinesstandard.ca/ts/news/canada/2020/11/25/canada-wide-survey-of-womens-shelters-shows-abuse-more-severe-during-pandemic.html>

Child sexual abuse underreported during lockdowns - <https://www.bbc.co.uk/news/uk-54169197>

Undiagnosed Diseases:

Cancer diagnoses down - (1) <https://www.cancernetwork.com/view/delay-in-cancer-screening-and-diagnosis-during-the-covid-19-pandemic-what-is-the-cost>

(6) 35k excess cancer deaths thanks to lockdowns - <https://archive.is/ZKmaj>

Portion of excess deaths due to lockdowns - (1) <https://www.nytimes.com/interactive/2020/12/13/us/deaths-covid-other-causes.html?action=click&module=Top%20Stories&pgtype=Homepage>

Excess cardiac deaths - <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7293523/>

33% drop in heart attack patients, 58% drop in stroke patients - <https://news.harvard.edu/gazette/story/2020/05/dramatic-drops-in-er-visits-likely-led-to-uncounted-deaths/>

Stress related heart problems up thanks to the stress of lockdowns - <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2768093>

15k extra Alzheimer deaths not related to COVID - <https://www.wsj.com/articles/coronavirus-pandemic-led-to-surge-in-alzheimers-deaths-11593345601>

People dying because of lockdowns - <https://www.heart.org/en/news/2020/07/10/more-people-are-dying-during-the-pandemic-and-not-just-from-covid-19>

Comment on Agenda Item - Order 141-21/22

Public Comment inbox



Ashley Kulesza <ashleykulesza@gmail.com>

10:20 AM (1 hour ago)

to publiccomment

As a Portland, ME resident I would like to be heard at the February 7, 2022, City Council meeting. I would like the opportunity to outline reasons for opposing the mask mandate.

The mandate order clearly states: "The masking requirement was aimed at slowing the spread of COVID-19." I am confident this mandate had the best of intentions when enacted. However, current data suggests the mandate is no longer necessary. The current cases are declining, and the hospitalization and death rates have been stable since 2021. The Omicron variant did result in a modest and momentary case increase in January of 2022, however the severity of the resulting illness was far less than the original outbreak in 2019/2020/2021. Additionally, the trend of cases is decreasing.

The Centers for Disease Control currently estimates a COVID-19 survival rate of 99.99 percent for people younger than 50 (CDC). There is no need to require young people, especially young and healthy people to wear a mask. Moreover, there has been a substantial decrease in patients on ventilators, based on the latest data as of 2022 (Maine.gov COVID-19: Maine Data)

There is no state (nor country for that matter) where an executive order, or local mandate requiring masks has had any statistical significance on reduction of COVID cases (Yinon Weiss, the Federalist). Mask mandates are not effective at "slowing the spread."

I am a scientist by education and profession. Trained at one of Maine's best college's, I take science seriously. If this council really wanted to "follow the science," this mandate would be repealed. States that have no mask mandates are thriving compared to the states and cities that do have mask mandates.

Aside from scientific objections, I also bristle at the assault on personal choice. Personal freedom is a fiercely held tradition for Mainers going back centuries to the birth of our nation. In the absence of clear scientific evidence making mask-wearing truly a matter of life-or-death, personal choice and liberties must be respected. Each person has the right to choose how to live their life. Since the science shows that masks do not prevent the spread, there is no public health benefit to require them.

Personal circumstances dictate health choices, not the government or elected officials. You, the elected body, do not know my medical history, nor do you have any right to know or dictate it. I care about my life, my medical choices and how to live my life day to day. If I choose to wear or not wear a mask, that is my choice. In addition, I care deeply about my neighbors. If I thought not wearing a mask would jeopardize their health or life, I would gladly and voluntarily wear one. But it simply is not the case.

I know each and every member of this council cares deeply about the people of Portland, and the traditions and values that make Maine, Maine. I believe the science makes this mandate not necessary, and the values of Mainers make this mandate unwelcome. The citizens and occupants of the City of Portland request this mandate be repealed.

Sincerely,
Ashley Kulesza

Bibliography

South Med J. 2021 Sep; 114(9): 597–602. Published online 2021 Sep 3.

"Analysis of the Effects of COVID-19 Mask Mandates on Hospital Resource Consumption and Mortality at the County Level"
Authors: Steven G. Schauer, DO, MS, Jason F. Naylor, PA-C, Michael D. April, MD, PhD, Brandon M. Carius, PA-C, and Ian L. Hudson, DO, MPH

2021 Feb 12;70(6):212-216. doi: 10.15585/mmwr.mm7006e2. Decline in COVID-19 Hospitalization Growth Rates Associated with Statewide Mask Mandates - 10 States, March-October 2020 Authors: Heesoo Joo, Gabrielle F Miller, Gregory Sunshine, Maxim Gakh, Jamison Pike, Fiona P Havers, Lindsay Kim, Regen Weber, Sebnem Dugmeoglu, Christina Watson, Fátima Coron
State of Maine COVID Website <https://www.maine.gov/dhhs/mecdc/infectious-disease/epi/airborne/coronavirus/data.shtml>

"These 12 Graphs Show Mask Mandates Do Nothing To Stop COVID" Author Yinon Weiss is a tech entrepreneur, a U.S. military veteran, and holds a degree in bioengineering from U.C. Berkeley – the Federalist 2021

Order #141-21/22

Public Comment inbox



Diane Davison <dmdavison5@gmail.com>

11:23 AM (38 minutes ago)

to Kate, mdion, Tae, Andrew, pali, atrevorrow, vpelletier, rrodriguez, afournier, publiccomment, Citymanager

👉 Please see attached

City of Portland Mask Mandate
2.7.22

Mayor Snyder, Councilors and Manager West;

Blessedly, the Covid pandemic is steadily becoming endemic.

Therefore, mask mandates should be revoked immediately allowing individual businesses to decide for themselves whether to require masks or not. As we heard in January, this blanket mandate for "all Portland businesses" caused genuine concern and undue hardship on numerous business owners who had taken measures to install expensive ventilation equipment and self-enforce safety basics such as capacity limits, social distancing, and hand washing/sanitation. It is their right and responsibility to enforce appropriate safety protocols within their own establishments.

Consider:

- Less severity within the positive test results; less hospitalizations; less ICU beds for Covid patients and less C-19 patients requiring ventilators.
- 2.2.22: Maine CDC ended contact tracing for COVID-19 - hospitalizations decreased 21% since January Omicron peak.
- 2.4.22: Portland Press Herald reports: **Number of critical care patients with COVID-19 hits lowest point in Maine since November**

Dr. Scott Gottlieb, former director of the FDA and current board member at Pfizer, recently stated: *"declining Covid-19 cases should be a signal to policymakers that it is time to lift more pandemic-related restrictions". Cases on the east coast continue to decline dramatically; conditions are improving; evidence we've moved from pandemic to endemic."*

I wish to request report from Council regarding the following:

- how the January mask mandate was managed
- its efficacy over this past month and
- how you've evaluated the success of January's mask mandate.

Other countries have totally eliminated mask mandates and vax passports and are allowing people to return to the workplace. We need community. We need to be able to see each other's facial expressions. This is especially critical for children.

I urge Council to repeal the mask mandates for Portland citizens!

Respectfully,
Diane Davison, Portland

Public Comment for 2/7 City Council Meeting

Public Comment inbox



Hunter Wood <woodhr4@gmail.com>

Sun, Feb 6, 1:33 PM (20 hours ago)

to publiccomment

Hello,

I'm requesting that the attached document be included for written public comment regarding Order 141-21/22: Extending the Face Covering Mandate to March 7, 2022. Thank you.

Respectfully,
Hunter Wood

Remove the Mask Mandate

Public Comment inbox



'IHJ4' via Public Comment

8:01 AM (2 hours ago)

to publiccomment@portlandmaine.gov, afournier@portlandmaine.gov, rrodriguez@portlandmaine.gov, pali@p

The time has come to remove the uncalled for mask mandate from Portland.

Westbrook and Falmouth have common sense and business is booming.

This has been an unenforceable useless waste of time and resources.

This mandate has done nothing but create division among what was once a great city.

The reporting site is disgusting people judging one another in a public space designed for public shaming with no facts or information about the other person.

This mandate has hurt businesses and has been based on your personal fear and misinformation. Check the data yourselves.

Look up the facts the cloth masks are ineffective, the N9 make people sick when worn incorrectly which is most of the time.

You will be responsible for making more people sick with your lack of medical training and forcing your fear on others. You are the City Council not a medical board.



'jirving2200' via Public Comment

9:55 AM (13 minutes ago)

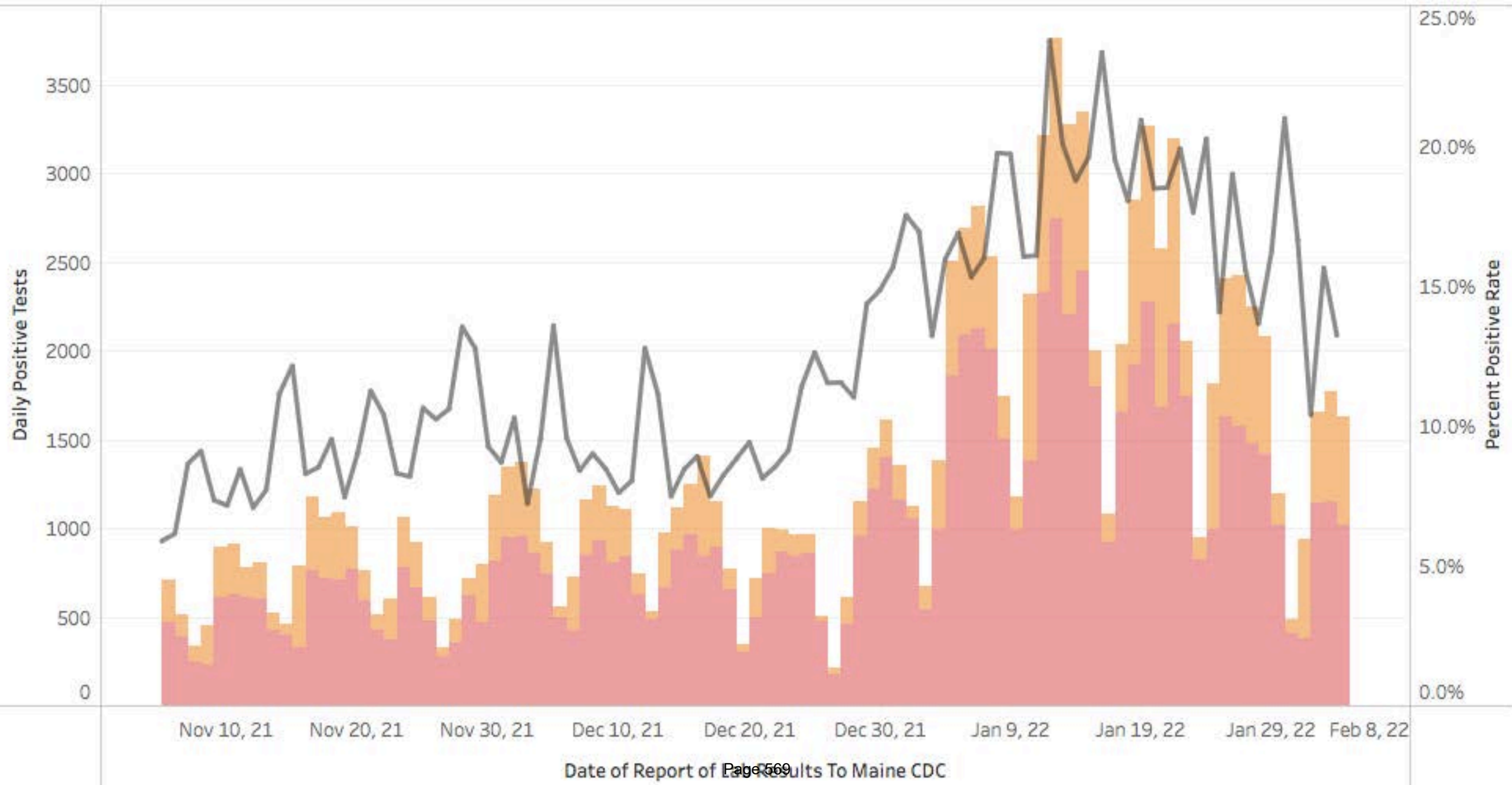
to publiccomment@portlandmaine.gov

To whom it may concern,

It is time to remove the mask mandate.

Let's think about what the REAL objective of the mask mandate is, at least what you claim it to be, to protect people from getting COVID-19. While besides the fact that case data from the CDC for Maine shows that this has not worked (attached to this email) as cases have risen after you imposed this mandate. We also have to think logistically about how this mandate is being enforced. You have told businesses not to get into conflict with customers, which is great as they should not be put in this position at all. So you offer a site where you can tattle on business or even people and this will be "taken care of" by Bridget Rauscher. Well unless she can be in the location when the person or business is not following the mandate I do not see what affect it has. She can not go to every location where the rule is not being followed and force it to be. If businesses want to create their own mandate fine they can do so and enforce it as they see fit, if they don't want to they should not be forced to with the risk being on their business and their staff. Individuals should be able to decide where they are comfortable, if a business chooses not to have a mask mandate then those who are afraid can choose not to shop there and same vice versa. Every individual should have the right to personal choice, we are not all stupid, we can make our own personal health decisions at this point. I have and will continue to make the personal choice to shop and eat in Falmouth or Westbrook or any town with common business sense that has not forced this mandates. I hope you can make the right decision

and not let things like money or "following in line" influence your decision. I hope you can truly read and take in public comment and facts to make your decision and not let other states influence your choice. Thank you.



Comment Submission for Extension of Mask Mandate

Public Comment inbox



Julie Kiger <julie@portlandpoweryoga.com>
to publiccomment

10:07 AM (2 minutes ago)

Just one month after the mask mandate was passed, my business is already struggling. Last year, the state mask mandate resulted in a hugely significant blow to our business and path to recovery, due to the nature of the service we provide. If it hadn't been for the PPP and state DECD funds that we received last year while that was in place, we wouldn't be here right now. I have no such back up or support available to me this time around.

Our service, or "product" is a yoga class done in a hot and humid room. When the mandate began, I sought legal counsel on how best to comply with the mandate as written. As such, I reduced capacity to 50% to allow for more space to people to have "isolated spots" in which they were given the option to remove their masks "while performing the primary purpose of the business." I know that this would impact my bottom line, but not as much as requiring masks during class would, so I made the change. Masks were still required in all common areas and when people got up or were out and about away from their isolated spot.

It was brought to my attention that operating in this way was not considered being in compliance. The reasoning was that one could only remove their masks in public for eating or drinking. But that's not what the ordinance says. It doesn't say only for eating and drinking. It says "such as" eating or drinking. Engaging in the "primary purpose of our business" (exercising in a hot and humid room) *is just as impossible for most people to do as drinking and eating with a mask on.* Given the amount of sweat that goes on during class, many of my members just can't practice with a mask on, they have tremendous difficulty breathing. Our numbers have dropped off significantly in the past few weeks.

It made sense to me at the time of passage that the ordinance was written in this way to allow for leeway for situations such as mine. Apparently that is not the case.

This interpretation somehow also assumes that people are putting masks back on their faces at their tables when they are not eating and drinking, which we all know is not the case. You can't tell me that people sitting at their tables in a restaurant (for however long it takes to have a meal) talking, laughing, sharing air is ANY different than individuals performing a stationary exercise on their own mat in a room together for one hour or less. How is it acceptable from an enforcement perspective of the City for people to sit together maskless for the duration of their meal, not just when putting things in and out of their mouth, but it's not acceptable for us to allow patrons to remove their masks just for the duration of their exercise? Especially with all of the mitigation efforts that we already have in place? There is no logic to this.

And the cost of there being no logic to this could very well be my business, the critical service that we provide, and the livelihoods of my employees. Normally this is my busiest time of year, and I had been hoping for a good first quarter to continue to make a dent in the past two years, and instead I find myself once again fighting for survival with absolutely no funding support from the city.

Part of my frustration is coming from the fear of losing my business, and I recognize that. But this scenario is pretty unfair. If the ordinance were being enforced as it was written, meaning that masks could be allowed to be removed for my patrons for the duration of the class, then it wouldn't be.

My request is that if the mask mandate is going to continue, that there be an explicit exception for businesses such as mine where people can go back to having masks be optional for group fitness activities.

I have invested an incredible amount of money in ensuring the air quality of the studio room and gotten filtration equipment specifically designed to mitigate the spread of COVID so that people didn't have to wear masks. The service that we provide is so essential right now. The collective trauma of this pandemic is palpable, I see it, I feel it, I understand it. The service that we provide for the overall wellbeing of our patrons is absolutely crucial.

I think there's a notion that all things are pretty equal, and putting on a mask to go to work or go shopping is the same thing as putting one on for hot yoga, but for us, that couldn't be further from the truth. The determination that it's workable for my patrons to do that, and subsequently requiring them to do so would have a worthwhile positive effect on the public good while having a minimal impact to the business is a gross, incorrect assumption.

I'm not trying to be difficult, and of course we intend to comply with the law. But this could very easily be a matter of life or death for my small business as we prepare to enter the 3rd year of the pandemic. So we're looking hard (and I hope respectfully) to find ways that we can stay in business and it seems to me that the Council purposely built some flexibility into the ordinance for businesses like ours to do just that. Since that doesn't appear the case in practice or enforcement by the City, my request is for you all to please, please consider passing an exception for people engaged in this type of physical activity where mask wearing is not possible.

Thank you.

Julie Kiger
Owner
Portland Power Yoga
84 Cove St.
Portland, Maine 04101
portlandpoweryoga.com
207.761.HEAT
julie@portlandpoweryoga.com



kellyannc23 via Public Comment

Sun, Feb 6, 8:53 AM (1 day ago)

to ksnyder, mdion, tchong, Azarro, pali, atrevorrow, vpelletier, rrodriguez, afournier, publiccomment, Citymana

I will not be going to Portland for anything until you lift your mask mandates.

Thank you,

Kelly Hewey

207-650-6505

Order #141

Public Comment inbox



Kevin Sheridan <kms9969@gmail.com>

Sat, Feb 5, 9:31 AM (2 days ago)

to publiccomment

I'm a resident of Gilman St in the west end. Former business owner and now independent contractor for a gym. If you look at the numbers for cases and hospitalizations there is no need to have a mask mandate in place. It seems more like it's more about keeping power than it's about actual health and wellness.

The data doesn't lie. Stop manipulating it to fit your personal opinions and emotions.

(Please excuse any errors in grammar as this reply was sent from my iPhone)



Megan Clouse <megan@meganclouse.com>
to publiccomment@portlandmaine.gov

10:55 AM (59 minutes ago)

Hello.

It is time to stop the mask mandates. We are so far past any efforts to “slow the spread”. If people wish to make it their personal choice, then that is up to them, but to mandate people to continue to cover their face after nearly two years of this is outrageous.

For what it matters - because we are just two people - but we have completely stopped supporting any business that requires masks and we know we are not alone.

We are asking for this to stop.

Megan Clouse
Boothbay, Maine

(no subject)

Public Comment inbox



Nicole Chaison <thehausfrau@gmail.com>

9:50 AM (17 minutes ago)

to publiccomment

Dear City Council Members--

I'm writing to you because I'm very concerned that the city's mandates are based on outdated and flawed information. If kept in place, the mandates will continue to have negative effects on health, undermine our city economy, and further erode public trust.

I appreciate that your desire is to keep people safe. But these mandates are not keeping people safe. They have failed--and they are based on outdated modeling done two years ago, before we understood much about covid. I want to see Portland businesses thrive, but I now do all of my shopping (groceries, clothing, hardware, home goods, etc.) as well as dining out in other towns nearby that don't have these mandates. I support them because they are making logical decisions about not requiring masks/vaccinations, based on updated information.

Over the past year, I have amassed a collection of more than 30 studies and articles (see links below), all concluding that masks do not work to stop the spread of covid. Even the NIH itself has published studies showing that masks do not stop transmission of viral particles (the CDC has admitted this). However, masks do significantly lower oxygen saturation levels, increase carbon dioxide levels, as well as offer the perfect environment for the growth of bacteria, which can contribute to a host of poor health outcomes.

The study (published in the MMWR) that the CDC uses to continue mandating masking is deeply flawed. Dr. Vinay Prasad, who analyzed the flawed data, writes, "The paper is entirely, irredeemably flawed. Its flaws are so evident that it should not have been published nor promoted. When an issue is deeply polarizing, publishing bad science helps no one. It cannot convince skeptics, proponents don't need convincing, and it deepens mistrust in institutions." Here is a link to Dr. Prasad's analysis: <https://vinayprasadmmdmph.substack.com/p/mask-studies-reach-a-new-scientific>

In addition, Johns Hopkins just released a meta analysis last week in which they show that the mandates put in place to "stop the spread" of covid not only didn't work, but they actually caused harm to people. On masking, the study states: "Liu et al. (2021) conclude that 'fourteen of sixteen identified randomized controlled trials comparing face masks to no mask controls failed to find statistically significant benefit in the intent-to-treat populations.'...There is moderate certainty evidence that wearing a mask probably makes little or no difference to the outcome of laboratory-confirmed influenza compared to not wearing a mask (RR 0.91, 95% CI 0.66 to 1.26; 6 trials; 3005 participants)" (Jefferson et al. (2020))."

It's time to recognize that science is not set in stone but is ever-changing and evolving. We now know that those at risk of serious illness from covid are the very elderly and those with multiple comorbidities. We also know that the vaccines do not stop transmission or infection, according to the CDC.

But I don't need to rely on the CDC to tell me these things. My eyes and ears show me. For example, the box of surgical masks we keep at the front desk at work for clients who forget to bring one (since the mask mandates started again) reads as follows: "Intended use: General purpose infection control to minimize bacteria exhaled by the wearer." I looked up the size of bacteria (1 - 3um) and the size of the coronavirus (0.1 - 0.5um). So this shows that the virus is 2.2 - 6.6 smaller than bacteria. How does this even make sense? Mandating people to wear this mask to stop a virus?

In addition, over the past several weeks, twelve countries and two Canadian Provinces have paid attention to the updated information that shows that the vaccines and masks do not work to stop the spread of covid. So they have adapted their thinking and have overturned or significantly reduced their outmoded, outdated mandates based on new evidence. These countries include Sweden, Denmark, Switzerland, Norway, Finland, Ireland, the Netherlands, Italy, Lithuania, the Czech Republic, Israel, and England-- as well as the provinces of Ontario and Quebec in Canada.

Keeping outmoded mandates in place that don't make any sense is eroding trust in our government, as well as our leaders on the state and city level. How can I trust leaders who are relying on "science" that is almost two years old now?

We need to follow the updated science and adjust. We need to take a bigger view of the long-term harms of these mandates for people and our businesses, who have followed CDC and city policies unfailingly for the past twenty-three months--to no avail. If there are people who would like to wear a mask when they are out and about, then that's their choice. But mandating them? How does that even make sense anymore?

Sincerely,
Nicole Chaison
72 East Kidder Street
Portland, ME 04103
207-807-1167

STUDIES ABOUT MASKS:

5 NIH/National Library of Medicine studies from 2004-2020, all finding verifiable negative health effects from wearing a face mask, including scientifically verified reduction in blood oxygen level:

<https://pubmed.ncbi.nlm.nih.gov/29395560/>

<https://pubmed.ncbi.nlm.nih.gov/32590322/>

<https://pubmed.ncbi.nlm.nih.gov/15340662/>

<https://pubmed.ncbi.nlm.nih.gov/26579222/>

<https://pubmed.ncbi.nlm.nih.gov/31159777/>

Cloth Mask Study:

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4420971/>

Masks actually cause harm:

<https://trialsitenews.com/childrens-face-masks-increase-carbon-dioxide-6-fold-over-acceptable-levels/>

Studies on Mask inefficacy:

<https://www.medrxiv.org/content/10.1101/2020.04.01.20049528v1>

<https://www.medrxiv.org/content/10.1101/2020.03.30.20047217v2>

<https://www.nejm.org/doi/full/10.1056/NEJMp2006372>

<https://jamanetwork.com/journals/jama/fullarticle/2749214>

<https://www.cmaj.ca/content/188/8/567>

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5779801/>

<https://pubmed.ncbi.nlm.nih.gov/19216002/>

<https://aaqr.org/articles/aaqr-13-06-0a-0201.pdf>

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4420971/>

<https://academic.oup.com/cid/article/65/11/1934/4068747>

https://www.jstage.jst.go.jp/article/bio/23/2/23_61/_pdf/-char/en

<https://link.springer.com/article/10.1007/BF01658736>

[https://www.journalofhospitalinfection.com/article/0195-6701\(91\)90148-2/pdf](https://www.journalofhospitalinfection.com/article/0195-6701(91)90148-2/pdf)

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2493952/pdf/annrcse01509-0009.pdf>

<https://web.archive.org/web/20200717141836/https://www.cidrap.umn.edu/news-perspective/2020/04/commentary-masks-all-covid-19-not-based-sound-data>

<https://www.nap.edu/catalog/25776/rapid-expert-consultation-on-the-effectiveness-of-fabric-masks-for-the-covid-19-pandemic-april-8-2020>

<https://www.nap.edu/read/25776/chapter/1#6>

https://wwwnc.cdc.gov/eid/article/26/5/19-0994_article

<https://academic.oup.com/annweh/article/54/7/789/202744>

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6599448/>

<https://www.acpjournals.org/doi/10.7326/M20-1342>

<https://link.springer.com/article/10.1007/s00392-020-01704-y>

<https://clinmedjournals.org/articles/jide/journal-of-infectious-diseases-and-epidemiology-jide-6-130.php?jid=jide>



smccart1@maine.rr.com

to publiccomment

Sun, Feb 6, 1:16 PM (20 hours ago)

Good afternoon Mayor Snyder and councilors. I am writing today to support ending the mask mandate. It is widely known that masks do very little to curtail the spread of covid 19, so in my opinion, we did not need the mandate in the first place.

As a State, we are closing in on 1 million vaccinations, and 73% of Mainer's are vaccinated. All indications are that we are past the peak of omicron. Hospitalization rate are down, the positivity rate is down and the wastewater testing shows that the virus is on the downslope .

This should be enough evidence to end this mandate, and I hope that you do.

Thank you

Shaun McCarthy

500 Baxter Blvd

President, Dock Fore inc

Remove Mask Mandate.

Public Comment inbox



'Stacie Boilard' via Public Comment

Fri, Feb 4, 3:59 PM (3 days ago)

to publiccomment@portlandmaine.gov

I would like to vote for Removal of the Mask Mandate.

Attached are the statics for the State of Maine Cumberland county.

The rate is only 1% of the population and doesn't warrant a wear mask mandate.

A Mandate is not a law.

Our children suffering far more with this Mandate.

Our companies are suffering.

There were 14 Deaths in 2022 in the State of Maine for Covid

There were 107 Deaths in 2021 in the State of Maine for Covid

There were 155 Deaths in 2021 in the State of Maine for Covid

The Death rates have gone down in the State of Maine. People are better at taking care of this Bad Cold.

According to the CDC Statistics for Maine for Deaths in these areas:

2017 - Death from Flu 301

2016 - Death from Flu 231

2015 - Death from Flu 333

2014 - Death from Flu 258

I wonder how many of the deaths from the Statistics for Covid should have been classified as the Flu there is no data as

2018, 2019 , 2020 data is missing.

According to the CDC Statistics for Maine for Deaths in these areas:

2017 - Death from Cancer 3391

2016 - Death from Cancer 3375

2015 - Death from Cancer 3398

2014 - Death from Cancer 3209

According to the CDC Statistics for Maine for Deaths in these areas:

2017 - Death from Heart Disease 2844

2016 - Death from Heart Disease 2907

2015 - Death from Heart Disease 3009

2014 - Death from Heart Disease 2776

We should be pushing health over fear!

You willing to distroy childrens and peoples health as a pose to treating the symtpons.

COVID PREVENTION AND/OR TREATMENT

Take Daily

VITAMIN D 2000-5000mg

VITAMIN C 1000mg

ZINC 150mg

VITAMIN A 10,000 IU

QUECETIN

IVERMECTIN - 18mg If Sick or Prevent

|

Science Says Healthy People Should Not Wear Masks

Masks **reduce intake of oxygen**, leading to carbon dioxide toxicity

Germs are trapped near your mouth and nose, **increasing risk of infection**

Wearing a mask causes you to **touch your face more frequently**

There is **no scientific evidence** that supports healthy people wearing masks

Masks **obscure your facial features** and impede normal social interaction

Masks make it **hard for hearing-impaired people** to understand you

Masks **symbolize suppression of speech**

MASKS DO NOT PREVENT SPREAD OF VIRUS

Links to other websites with mask info and data:

20 Reasons Masks are unsafe [click here](#)

Much ado about Corona: [click here](#)

Face Masks do no prevent viruses [click here](#)

Face mask evidence [click here](#)

<https://www.aier.org/article/masking-a-careful-review-of-the-evidence/>

[MASKS DON'T WORK — THE HEALTHY AMERICAN™](#)

**MASKS DON'T WORK — THE HEALTHY
AMERICAN™**

Science says healthy people should not wear masks. CDC has zero evidence supporting healthy people wearing masks.

Stacie Boilard

Date	Patient_Coun ty	Case_Statu s	Total_C ases	Completed_ Isolations	Deaths	Hospitalizations	Population_ 2018	Percent of Population Total Cases	Percent of Population that was hospitalized Since Covid Start	Percent of Population of Death Since Covid Start
2/3/2022	Cumberland	Confirmed	300	0	0	1	293557	0.102195%		
2/2/2022	Cumberland	Confirmed	375	0	0	0	293557	0.127744%		
2/1/2022	Cumberland	Confirmed	444	0	0	2	293557	0.151248%		
1/31/2022	Cumberland	Confirmed	475	0	1	0	293557	0.161808%		
1/30/2022	Cumberland	Confirmed	0	0	0	1	293557	0.000000%		
1/29/2022	Cumberland	Confirmed	0	0	0	1	293557	0.000000%		
1/28/2022	Cumberland	Confirmed	321	0	1	2	293557	0.109348%		
1/27/2022	Cumberland	Confirmed	337	0	0	2	293557	0.114799%		
1/26/2022	Cumberland	Confirmed	294	0	0	2	293557	0.100151%		
1/25/2022	Cumberland	Confirmed	331	0	3	0	293557	0.112755%		
1/24/2022	Cumberland	Confirmed	302	0	1	1	293557	0.102876%		
1/23/2022	Cumberland	Confirmed	0	0	2	1	293557	0.000000%		
1/22/2022	Cumberland	Confirmed	0	0	0	5	293557	0.000000%		
1/21/2022	Cumberland	Confirmed	344	0	0	1	293557	0.117183%		
1/20/2022	Cumberland	Confirmed	274	0	1	3	293557	0.093338%		
1/19/2022	Cumberland	Confirmed	344	0	1	4	293557	0.117183%		
1/18/2022	Cumberland	Confirmed	320	0	0	0	293557	0.109008%		
1/17/2022	Cumberland	Confirmed	121	0	0	3	293557	0.041219%		
1/16/2022	Cumberland	Confirmed	0	0	2	2	293557	0.000000%		
1/15/2022	Cumberland	Confirmed	0	0	0	1	293557	0.000000%		
1/14/2022	Cumberland	Confirmed	331	0	2	5	293557	0.112755%		
1/13/2022	Cumberland	Confirmed	333	0	0	3	293557	0.113436%		
1/12/2022	Cumberland	Confirmed	326	0	1	1	293557	0.111052%		
1/11/2022	Cumberland	Confirmed	344	0	1	1	293557	0.117183%		
1/10/2022	Cumberland	Confirmed	336	0	0	2	293557	0.114458%		
1/9/2022	Cumberland	Confirmed	0	0	1	2	293557	0.000000%		
1/8/2022	Cumberland	Confirmed	0	0	1	2	293557	0.000000%		
1/7/2022	Cumberland	Confirmed	305	0	1	0	293557	0.103898%		

1/6/2022	Cumberland	Confirmed	304	0	0	5	293557	0.103557%
1/5/2022	Cumberland	Confirmed	374	0	0	0	293557	0.127403%
1/4/2022	Cumberland	Confirmed	301	0	0	5	293557	0.102535%
1/3/2022	Cumberland	Confirmed	171	0	0	2	293557	0.058251%
1/2/2022	Cumberland	Confirmed	0	0	1	5	293557	0.000000%
1/1/2022	Cumberland	Confirmed	0	0	0	3	293557	0.000000%
12/31/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
12/30/2021	Cumberland	Confirmed	138	0	0	2	293557	0.047010%
12/29/2021	Cumberland	Confirmed	131	0	1	3	293557	0.044625%
12/28/2021	Cumberland	Confirmed	163	0	0	0	293557	0.055526%
12/27/2021	Cumberland	Confirmed	227	0	1	1	293557	0.077327%
12/26/2021	Cumberland	Confirmed	0	0	3	0	293557	0.000000%
12/25/2021	Cumberland	Confirmed	0	0	1	0	293557	0.000000%
12/24/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
12/23/2021	Cumberland	Confirmed	129	0	1	1	293557	0.043944%
12/22/2021	Cumberland	Confirmed	166	0	0	1	293557	0.056548%
12/21/2021	Cumberland	Confirmed	189	0	0	4	293557	0.064383%
12/20/2021	Cumberland	Confirmed	132	0	0	0	293557	0.044966%
12/19/2021	Cumberland	Confirmed	0	0	1	0	293557	0.000000%
12/18/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
12/17/2021	Cumberland	Confirmed	104	0	1	0	293557	0.035428%
12/16/2021	Cumberland	Confirmed	138	0	3	4	293557	0.047010%
12/15/2021	Cumberland	Confirmed	231	0	0	0	293557	0.078690%
12/14/2021	Cumberland	Confirmed	237	0	0	0	293557	0.080734%
12/13/2021	Cumberland	Confirmed	118	0	0	2	293557	0.040197%
12/12/2021	Cumberland	Confirmed	0	0	1	0	293557	0.000000%
12/11/2021	Cumberland	Confirmed	0	0	2	2	293557	0.000000%
12/10/2021	Cumberland	Confirmed	88	0	1	1	293557	0.029977%
12/9/2021	Cumberland	Confirmed	169	0	0	2	293557	0.057570%
12/8/2021	Cumberland	Confirmed	168	0	1	1	293557	0.057229%
12/7/2021	Cumberland	Confirmed	140	0	0	1	293557	0.047691%
12/6/2021	Cumberland	Confirmed	98	0	0	0	293557	0.033384%
12/5/2021	Cumberland	Confirmed	1	0	0	3	293557	0.000341%
12/4/2021	Cumberland	Confirmed	0	0	0	1	293557	0.000000%

12/3/2021	Cumberland	Confirmed	78	0	0	1	293557	0.026571%
12/2/2021	Cumberland	Confirmed	74	0	0	3	293557	0.025208%
12/1/2021	Cumberland	Confirmed	88	0	0	0	293557	0.029977%
11/30/2021	Cumberland	Confirmed	90	0	0	0	293557	0.030658%
11/29/2021	Cumberland	Confirmed	131	0	0	0	293557	0.044625%
11/28/2021	Cumberland	Confirmed	0	0	0	2	293557	0.000000%
11/27/2021	Cumberland	Confirmed	0	0	0	1	293557	0.000000%
11/26/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
11/25/2021	Cumberland	Confirmed	0	0	2	0	293557	0.000000%
11/24/2021	Cumberland	Confirmed	48	0	0	1	293557	0.016351%
11/23/2021	Cumberland	Confirmed	95	0	0	2	293557	0.032362%
11/22/2021	Cumberland	Confirmed	142	0	1	0	293557	0.048372%
11/21/2021	Cumberland	Confirmed	0	0	1	2	293557	0.000000%
11/20/2021	Cumberland	Confirmed	0	0	0	4	293557	0.000000%
11/19/2021	Cumberland	Confirmed	69	0	2	3	293557	0.023505%
11/18/2021	Cumberland	Confirmed	138	0	1	1	293557	0.047010%
11/17/2021	Cumberland	Confirmed	101	0	0	5	293557	0.034406%
11/16/2021	Cumberland	Confirmed	145	0	0	3	293557	0.049394%
11/15/2021	Cumberland	Confirmed	118	0	0	0	293557	0.040197%
11/14/2021	Cumberland	Confirmed	0	0	1	2	293557	0.000000%
11/13/2021	Cumberland	Confirmed	0	0	1	0	293557	0.000000%
11/12/2021	Cumberland	Confirmed	73	0	0	1	293557	0.024867%
11/11/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
11/10/2021	Cumberland	Confirmed	91	0	1	2	293557	0.030999%
11/9/2021	Cumberland	Confirmed	109	0	0	2	293557	0.037131%
11/8/2021	Cumberland	Confirmed	80	0	2	1	293557	0.027252%
11/7/2021	Cumberland	Confirmed	0	0	1	2	293557	0.000000%
11/6/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
11/5/2021	Cumberland	Confirmed	58	0	1	1	293557	0.019758%
11/4/2021	Cumberland	Confirmed	66	0	0	0	293557	0.022483%
11/3/2021	Cumberland	Confirmed	72	0	0	0	293557	0.024527%
11/2/2021	Cumberland	Confirmed	67	0	1	0	293557	0.022824%
11/1/2021	Cumberland	Confirmed	87	0	2	0	293557	0.029636%
10/31/2021	Cumberland	Confirmed	0	0	0	1	293557	0.000000%

10/30/2021	Cumberland	Confirmed	0	0	0	2	293557	0.000000%
10/29/2021	Cumberland	Confirmed	47	0	4	0	293557	0.016011%
10/28/2021	Cumberland	Confirmed	44	0	0	1	293557	0.014989%
10/27/2021	Cumberland	Confirmed	102	0	2	1	293557	0.034746%
10/26/2021	Cumberland	Confirmed	75	0	0	1	293557	0.025549%
10/25/2021	Cumberland	Confirmed	77	0	1	0	293557	0.026230%
10/24/2021	Cumberland	Confirmed	0	0	0	1	293557	0.000000%
10/23/2021	Cumberland	Confirmed	0	0	1	0	293557	0.000000%
10/22/2021	Cumberland	Confirmed	73	0	1	2	293557	0.024867%
10/21/2021	Cumberland	Confirmed	56	0	0	2	293557	0.019076%
10/20/2021	Cumberland	Confirmed	70	0	0	2	293557	0.023845%
10/19/2021	Cumberland	Confirmed	61	0	1	1	293557	0.020780%
10/18/2021	Cumberland	Confirmed	99	0	1	3	293557	0.033724%
10/17/2021	Cumberland	Confirmed	0	0	2	2	293557	0.000000%
10/16/2021	Cumberland	Confirmed	0	0	0	1	293557	0.000000%
10/15/2021	Cumberland	Confirmed	35	0	0	0	293557	0.011923%
10/14/2021	Cumberland	Confirmed	76	0	1	0	293557	0.025889%
10/13/2021	Cumberland	Confirmed	93	0	1	2	293557	0.031680%
10/12/2021	Cumberland	Confirmed	78	0	0	1	293557	0.026571%
10/11/2021	Cumberland	Confirmed	0	0	1	3	293557	0.000000%
10/10/2021	Cumberland	Confirmed	0	0	0	1	293557	0.000000%
10/9/2021	Cumberland	Confirmed	0	0	0	1	293557	0.000000%
10/8/2021	Cumberland	Confirmed	82	0	0	2	293557	0.027933%
10/7/2021	Cumberland	Confirmed	59	0	0	2	293557	0.020098%
10/6/2021	Cumberland	Confirmed	82	0	1	0	293557	0.027933%
10/5/2021	Cumberland	Confirmed	111	0	0	5	293557	0.037812%
10/4/2021	Cumberland	Confirmed	90	0	0	1	293557	0.030658%
10/3/2021	Cumberland	Confirmed	0	0	0	2	293557	0.000000%
10/2/2021	Cumberland	Confirmed	0	0	0	2	293557	0.000000%
10/1/2021	Cumberland	Confirmed	83	0	0	1	293557	0.028274%
9/30/2021	Cumberland	Confirmed	129	0	1	0	293557	0.043944%
9/29/2021	Cumberland	Confirmed	39	0	0	0	293557	0.013285%
9/28/2021	Cumberland	Confirmed	79	0	0	0	293557	0.026911%
9/27/2021	Cumberland	Confirmed	56	0	0	0	293557	0.019076%

9/26/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
9/25/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
9/24/2021	Cumberland	Confirmed	41	0	0	1	293557	0.013967%
9/23/2021	Cumberland	Confirmed	53	0	0	1	293557	0.018054%
9/22/2021	Cumberland	Confirmed	76	0	1	0	293557	0.025889%
9/21/2021	Cumberland	Confirmed	66	0	2	2	293557	0.022483%
9/20/2021	Cumberland	Confirmed	65	0	1	1	293557	0.022142%
9/19/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
9/18/2021	Cumberland	Confirmed	0	0	0	1	293557	0.000000%
9/17/2021	Cumberland	Confirmed	59	0	0	0	293557	0.020098%
9/16/2021	Cumberland	Confirmed	38	0	0	0	293557	0.012945%
9/15/2021	Cumberland	Confirmed	79	0	0	2	293557	0.026911%
9/14/2021	Cumberland	Confirmed	54	0	0	0	293557	0.018395%
9/13/2021	Cumberland	Confirmed	54	0	0	1	293557	0.018395%
9/12/2021	Cumberland	Confirmed	0	0	0	1	293557	0.000000%
9/11/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
9/10/2021	Cumberland	Confirmed	76	0	1	0	293557	0.025889%
9/9/2021	Cumberland	Confirmed	23	0	1	1	293557	0.007835%
9/8/2021	Cumberland	Confirmed	65	0	1	1	293557	0.022142%
9/7/2021	Cumberland	Confirmed	106	0	0	2	293557	0.036109%
9/6/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
9/5/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
9/4/2021	Cumberland	Confirmed	0	0	1	2	293557	0.000000%
9/3/2021	Cumberland	Confirmed	44	0	0	1	293557	0.014989%
9/2/2021	Cumberland	Confirmed	48	0	0	1	293557	0.016351%
9/1/2021	Cumberland	Confirmed	59	0	0	1	293557	0.020098%
8/31/2021	Cumberland	Confirmed	40	0	0	2	293557	0.013626%
8/30/2021	Cumberland	Confirmed	41	0	0	2	293557	0.013967%
8/29/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
8/28/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
8/27/2021	Cumberland	Confirmed	65	0	0	0	293557	0.022142%
8/26/2021	Cumberland	Confirmed	32	0	1	1	293557	0.010901%
8/25/2021	Cumberland	Confirmed	2	0	0	1	293557	0.000681%
8/24/2021	Cumberland	Confirmed	29	0	0	0	293557	0.009879%

8/23/2021	Cumberland	Confirmed	32	0	0	0	293557	0.010901%
8/22/2021	Cumberland	Confirmed	0	0	2	0	293557	0.000000%
8/21/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
8/20/2021	Cumberland	Confirmed	15	0	0	0	293557	0.005110%
8/19/2021	Cumberland	Confirmed	21	0	0	0	293557	0.007154%
8/18/2021	Cumberland	Confirmed	17	0	0	0	293557	0.005791%
8/17/2021	Cumberland	Confirmed	18	0	0	1	293557	0.006132%
8/16/2021	Cumberland	Confirmed	29	0	0	0	293557	0.009879%
8/15/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
8/14/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
8/13/2021	Cumberland	Confirmed	15	0	0	0	293557	0.005110%
8/12/2021	Cumberland	Confirmed	10	0	0	0	293557	0.003406%
8/11/2021	Cumberland	Confirmed	17	0	0	1	293557	0.005791%
8/10/2021	Cumberland	Confirmed	17	0	0	0	293557	0.005791%
8/9/2021	Cumberland	Confirmed	38	0	0	1	293557	0.012945%
8/8/2021	Cumberland	Confirmed	0	0	0	1	293557	0.000000%
8/7/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
8/6/2021	Cumberland	Confirmed	34	0	1	0	293557	0.011582%
8/5/2021	Cumberland	Confirmed	16	0	0	0	293557	0.005450%
8/4/2021	Cumberland	Confirmed	26	0	0	1	293557	0.008857%
8/3/2021	Cumberland	Confirmed	15	0	0	1	293557	0.005110%
8/2/2021	Cumberland	Confirmed	40	0	0	0	293557	0.013626%
8/1/2021	Cumberland	Confirmed	0	0	0	1	293557	0.000000%
7/31/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
7/30/2021	Cumberland	Confirmed	12	0	0	0	293557	0.004088%
7/29/2021	Cumberland	Confirmed	10	0	0	0	293557	0.003406%
7/28/2021	Cumberland	Confirmed	13	0	0	1	293557	0.004428%
7/27/2021	Cumberland	Confirmed	5	0	0	0	293557	0.001703%
7/26/2021	Cumberland	Confirmed	29	0	0	0	293557	0.009879%
7/25/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
7/24/2021	Cumberland	Confirmed	0	0	1	1	293557	0.000000%
7/23/2021	Cumberland	Confirmed	11	0	0	2	293557	0.003747%
7/22/2021	Cumberland	Confirmed	7	0	0	0	293557	0.002385%
7/21/2021	Cumberland	Confirmed	7	0	0	0	293557	0.002385%

7/20/2021	Cumberland	Confirmed	11	0	0	0	293557	0.003747%
7/19/2021	Cumberland	Confirmed	13	0	0	0	293557	0.004428%
7/18/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
7/17/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
7/16/2021	Cumberland	Confirmed	9	0	0	0	293557	0.003066%
7/15/2021	Cumberland	Confirmed	8	0	0	0	293557	0.002725%
7/14/2021	Cumberland	Confirmed	9	0	0	0	293557	0.003066%
7/13/2021	Cumberland	Confirmed	6	0	0	0	293557	0.002044%
7/12/2021	Cumberland	Confirmed	7	0	0	1	293557	0.002385%
7/11/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
7/10/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
7/9/2021	Cumberland	Confirmed	2	0	0	0	293557	0.000681%
7/8/2021	Cumberland	Confirmed	4	0	0	2	293557	0.001363%
7/7/2021	Cumberland	Confirmed	6	0	0	0	293557	0.002044%
7/6/2021	Cumberland	Confirmed	5	0	0	0	293557	0.001703%
7/5/2021	Cumberland	Confirmed	0	0	0	1	293557	0.000000%
7/4/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
7/3/2021	Cumberland	Confirmed	1	0	0	0	293557	0.000341%
7/2/2021	Cumberland	Confirmed	8	0	1	0	293557	0.002725%
7/1/2021	Cumberland	Confirmed	5	0	0	0	293557	0.001703%
6/30/2021	Cumberland	Confirmed	1	0	0	0	293557	0.000341%
6/29/2021	Cumberland	Confirmed	2	0	0	0	293557	0.000681%
6/28/2021	Cumberland	Confirmed	3	0	0	0	293557	0.001022%
6/27/2021	Cumberland	Confirmed	0	0	0	0	293557	0.000000%
6/26/2021	Cumberland	Confirmed	1	0	0	0	293557	0.000341%
6/25/2021	Cumberland	Confirmed	4	0	0	0	293557	0.001363%
6/24/2021	Cumberland	Confirmed	4	0	0	0	293557	0.001363%
6/23/2021	Cumberland	Confirmed	3	0	0	1	293557	0.001022%
6/22/2021	Cumberland	Confirmed	4	0	0	0	293557	0.001363%
6/21/2021	Cumberland	Confirmed	2	0	0	0	293557	0.000681%
6/20/2021	Cumberland	Confirmed	2	0	0	1	293557	0.000681%
6/19/2021	Cumberland	Confirmed	3	0	0	0	293557	0.001022%
6/18/2021	Cumberland	Confirmed	5	0	0	1	293557	0.001703%
6/17/2021	Cumberland	Confirmed	7	0	0	0	293557	0.002385%

6/16/2021	Cumberland	Confirmed	1	0	0	0	293557	0.000341%
6/15/2021	Cumberland	Confirmed	4	0	0	0	293557	0.001363%
6/14/2021	Cumberland	Confirmed	2	0	0	1	293557	0.000681%
6/13/2021	Cumberland	Confirmed	1	0	0	0	293557	0.000341%
6/12/2021	Cumberland	Confirmed	2	0	0	0	293557	0.000681%
6/11/2021	Cumberland	Confirmed	8	0	0	0	293557	0.002725%
6/10/2021	Cumberland	Confirmed	6	0	1	0	293557	0.002044%
6/9/2021	Cumberland	Confirmed	3	0	0	0	293557	0.001022%
6/8/2021	Cumberland	Confirmed	4	0	0	0	293557	0.001363%
6/7/2021	Cumberland	Confirmed	6	0	0	0	293557	0.002044%
6/6/2021	Cumberland	Confirmed	7	0	0	0	293557	0.002385%
6/5/2021	Cumberland	Confirmed	4	0	0	2	293557	0.001363%
6/4/2021	Cumberland	Confirmed	3	0	0	0	293557	0.001022%
6/3/2021	Cumberland	Confirmed	7	0	1	0	293557	0.002385%
6/2/2021	Cumberland	Confirmed	4	0	0	1	293557	0.001363%
6/1/2021	Cumberland	Confirmed	7	0	0	1	293557	0.002385%
5/31/2021	Cumberland	Confirmed	4	0	1	0	293557	0.001363%
5/30/2021	Cumberland	Confirmed	3	0	0	0	293557	0.001022%
5/29/2021	Cumberland	Confirmed	4	0	0	0	293557	0.001363%
5/28/2021	Cumberland	Confirmed	18	0	0	0	293557	0.006132%
5/27/2021	Cumberland	Confirmed	11	0	0	0	293557	0.003747%
5/26/2021	Cumberland	Confirmed	16	0	0	1	293557	0.005450%
5/25/2021	Cumberland	Confirmed	15	0	0	1	293557	0.005110%
5/24/2021	Cumberland	Confirmed	6	0	0	1	293557	0.002044%
5/23/2021	Cumberland	Confirmed	11	0	0	0	293557	0.003747%
5/22/2021	Cumberland	Confirmed	7	0	0	1	293557	0.002385%
5/21/2021	Cumberland	Confirmed	13	0	1	0	293557	0.004428%
5/20/2021	Cumberland	Confirmed	14	0	0	2	293557	0.004769%
5/19/2021	Cumberland	Confirmed	21	0	1	0	293557	0.007154%
5/18/2021	Cumberland	Confirmed	21	0	0	0	293557	0.007154%
5/17/2021	Cumberland	Confirmed	6	0	0	1	293557	0.002044%
5/16/2021	Cumberland	Confirmed	15	0	1	2	293557	0.005110%
5/15/2021	Cumberland	Confirmed	21	0	0	0	293557	0.007154%
5/14/2021	Cumberland	Confirmed	17	0	0	1	293557	0.005791%

5/13/2021	Cumberland	Confirmed	30	0	1	1	293557	0.010219%
5/12/2021	Cumberland	Confirmed	21	0	0	1	293557	0.007154%
5/11/2021	Cumberland	Confirmed	24	0	1	1	293557	0.008176%
5/10/2021	Cumberland	Confirmed	17	0	0	0	293557	0.005791%
5/9/2021	Cumberland	Confirmed	16	0	0	0	293557	0.005450%
5/8/2021	Cumberland	Confirmed	14	0	0	1	293557	0.004769%
5/7/2021	Cumberland	Confirmed	38	0	0	0	293557	0.012945%
5/6/2021	Cumberland	Confirmed	20	0	1	1	293557	0.006813%
5/5/2021	Cumberland	Confirmed	36	0	1	1	293557	0.012263%
5/4/2021	Cumberland	Confirmed	56	0	0	0	293557	0.019076%
5/3/2021	Cumberland	Confirmed	29	0	0	1	293557	0.009879%
5/2/2021	Cumberland	Confirmed	31	0	0	0	293557	0.010560%
5/1/2021	Cumberland	Confirmed	35	0	0	0	293557	0.011923%
4/30/2021	Cumberland	Confirmed	22	0	0	2	293557	0.007494%
4/29/2021	Cumberland	Confirmed	39	0	0	1	293557	0.013285%
4/28/2021	Cumberland	Confirmed	26	0	0	0	293557	0.008857%
4/27/2021	Cumberland	Confirmed	46	0	0	0	293557	0.015670%
4/26/2021	Cumberland	Confirmed	46	0	0	0	293557	0.015670%
4/25/2021	Cumberland	Confirmed	32	0	0	0	293557	0.010901%
4/24/2021	Cumberland	Confirmed	24	0	1	0	293557	0.008176%
4/23/2021	Cumberland	Confirmed	54	0	1	0	293557	0.018395%
4/22/2021	Cumberland	Confirmed	64	0	0	2	293557	0.021802%
4/21/2021	Cumberland	Confirmed	73	0	0	0	293557	0.024867%
4/20/2021	Cumberland	Confirmed	77	0	0	0	293557	0.026230%
4/19/2021	Cumberland	Confirmed	13	0	0	0	293557	0.004428%
4/18/2021	Cumberland	Confirmed	65	0	0	1	293557	0.022142%
4/17/2021	Cumberland	Confirmed	33	0	0	0	293557	0.011241%
4/16/2021	Cumberland	Confirmed	37	0	0	0	293557	0.012604%
4/15/2021	Cumberland	Confirmed	77	0	0	0	293557	0.026230%
4/14/2021	Cumberland	Confirmed	101	0	0	2	293557	0.034406%
4/13/2021	Cumberland	Confirmed	87	0	0	1	293557	0.029636%
4/12/2021	Cumberland	Confirmed	71	0	1	0	293557	0.024186%
4/11/2021	Cumberland	Confirmed	42	0	0	1	293557	0.014307%
4/10/2021	Cumberland	Confirmed	30	0	0	0	293557	0.010219%

4/9/2021	Cumberland	Confirmed	50	0	0	1	293557	0.017032%
4/8/2021	Cumberland	Confirmed	67	0	1	0	293557	0.022824%
4/7/2021	Cumberland	Confirmed	36	0	0	1	293557	0.012263%
4/6/2021	Cumberland	Confirmed	85	0	0	0	293557	0.028955%
4/5/2021	Cumberland	Confirmed	22	0	0	1	293557	0.007494%
4/4/2021	Cumberland	Confirmed	21	0	0	0	293557	0.007154%
4/3/2021	Cumberland	Confirmed	30	0	0	1	293557	0.010219%
4/2/2021	Cumberland	Confirmed	30	0	0	0	293557	0.010219%
4/1/2021	Cumberland	Confirmed	40	0	0	0	293557	0.013626%
3/31/2021	Cumberland	Confirmed	41	0	0	2	293557	0.013967%
3/30/2021	Cumberland	Confirmed	36	0	0	1	293557	0.012263%
3/29/2021	Cumberland	Confirmed	31	0	0	1	293557	0.010560%
3/28/2021	Cumberland	Confirmed	31	0	1	0	293557	0.010560%
3/27/2021	Cumberland	Confirmed	25	0	0	1	293557	0.008516%
3/26/2021	Cumberland	Confirmed	32	0	0	1	293557	0.010901%
3/25/2021	Cumberland	Confirmed	7	1	0	0	293557	0.002385%
3/24/2021	Cumberland	Confirmed	35	2	0	0	293557	0.011923%
3/23/2021	Cumberland	Confirmed	41	1	0	0	293557	0.013967%
3/22/2021	Cumberland	Confirmed	20	2	0	1	293557	0.006813%
3/21/2021	Cumberland	Confirmed	33	1	1	1	293557	0.011241%
3/20/2021	Cumberland	Confirmed	15	1	0	0	293557	0.005110%
3/19/2021	Cumberland	Confirmed	37	0	0	1	293557	0.012604%
3/18/2021	Cumberland	Confirmed	41	1	0	1	293557	0.013967%
3/17/2021	Cumberland	Confirmed	28	0	1	2	293557	0.009538%
3/16/2021	Cumberland	Confirmed	24	0	0	1	293557	0.008176%
3/15/2021	Cumberland	Confirmed	38	0	0	1	293557	0.012945%
3/14/2021	Cumberland	Confirmed	15	0	0	1	293557	0.005110%
3/13/2021	Cumberland	Confirmed	25	0	0	0	293557	0.008516%
3/12/2021	Cumberland	Confirmed	31	0	0	4	293557	0.010560%
3/11/2021	Cumberland	Confirmed	33	0	0	3	293557	0.011241%
3/10/2021	Cumberland	Confirmed	29	0	0	0	293557	0.009879%
3/9/2021	Cumberland	Confirmed	31	0	0	1	293557	0.010560%
3/8/2021	Cumberland	Confirmed	34	3	0	2	293557	0.011582%
3/7/2021	Cumberland	Confirmed	23	0	0	0	293557	0.007835%

3/6/2021	Cumberland	Confirmed	29	1	0	0	293557	0.009879%
3/5/2021	Cumberland	Confirmed	40	1	0	0	293557	0.013626%
3/4/2021	Cumberland	Confirmed	27	1	1	2	293557	0.009198%
3/3/2021	Cumberland	Confirmed	32	2	0	1	293557	0.010901%
3/2/2021	Cumberland	Confirmed	18	0	0	2	293557	0.006132%
3/1/2021	Cumberland	Confirmed	28	1	1	0	293557	0.009538%
2/28/2021	Cumberland	Confirmed	26	2	0	0	293557	0.008857%
2/27/2021	Cumberland	Confirmed	24	0	0	2	293557	0.008176%
2/26/2021	Cumberland	Confirmed	37	2	1	0	293557	0.012604%
2/25/2021	Cumberland	Confirmed	36	0	1	1	293557	0.012263%
2/24/2021	Cumberland	Confirmed	29	1	0	1	293557	0.009879%
2/23/2021	Cumberland	Confirmed	21	0	0	2	293557	0.007154%
2/22/2021	Cumberland	Confirmed	23	1	0	0	293557	0.007835%
2/21/2021	Cumberland	Confirmed	15	1	0	0	293557	0.005110%
2/20/2021	Cumberland	Confirmed	19	0	0	0	293557	0.006472%
2/19/2021	Cumberland	Confirmed	29	0	0	1	293557	0.009879%
2/18/2021	Cumberland	Confirmed	16	0	0	0	293557	0.005450%
2/17/2021	Cumberland	Confirmed	44	1	1	2	293557	0.014989%
2/16/2021	Cumberland	Confirmed	11	0	0	0	293557	0.003747%
2/15/2021	Cumberland	Confirmed	14	1	0	3	293557	0.004769%
2/14/2021	Cumberland	Confirmed	20	0	0	0	293557	0.006813%
2/13/2021	Cumberland	Confirmed	16	1	0	0	293557	0.005450%
2/12/2021	Cumberland	Confirmed	28	1	1	1	293557	0.009538%
2/11/2021	Cumberland	Confirmed	33	0	0	2	293557	0.011241%
2/10/2021	Cumberland	Confirmed	22	1	0	0	293557	0.007494%
2/9/2021	Cumberland	Confirmed	39	0	0	0	293557	0.013285%
2/8/2021	Cumberland	Confirmed	36	0	1	2	293557	0.012263%
2/7/2021	Cumberland	Confirmed	39	1	1	0	293557	0.013285%
2/6/2021	Cumberland	Confirmed	30	0	0	0	293557	0.010219%
2/5/2021	Cumberland	Confirmed	35	2	1	0	293557	0.011923%
2/4/2021	Cumberland	Confirmed	37	1	1	0	293557	0.012604%
2/3/2021	Cumberland	Confirmed	42	1	0	1	293557	0.014307%
2/2/2021	Cumberland	Confirmed	65	4	0	1	293557	0.022142%
2/1/2021	Cumberland	Confirmed	37	1	0	1	293557	0.012604%

1/31/2021	Cumberland	Confirmed	59	1	1	1	293557	0.020098%
1/30/2021	Cumberland	Confirmed	32	2	3	1	293557	0.010901%
1/29/2021	Cumberland	Confirmed	70	2	0	2	293557	0.023845%
1/28/2021	Cumberland	Confirmed	55	3	2	1	293557	0.018736%
1/27/2021	Cumberland	Confirmed	63	7	2	1	293557	0.021461%
1/26/2021	Cumberland	Confirmed	96	6	2	1	293557	0.032702%
1/25/2021	Cumberland	Confirmed	81	6	3	2	293557	0.027593%
1/24/2021	Cumberland	Confirmed	52	7	4	1	293557	0.017714%
1/23/2021	Cumberland	Confirmed	20	2	3	3	293557	0.006813%
1/22/2021	Cumberland	Confirmed	73	6	3	4	293557	0.024867%
1/21/2021	Cumberland	Confirmed	144	8	7	0	293557	0.049054%
1/20/2021	Cumberland	Confirmed	107	2	1	2	293557	0.036449%
1/19/2021	Cumberland	Confirmed	133	7	1	2	293557	0.045306%
1/18/2021	Cumberland	Confirmed	51	11	1	2	293557	0.017373%
1/17/2021	Cumberland	Confirmed	76	0	1	2	293557	0.025889%
1/16/2021	Cumberland	Confirmed	45	4	4	2	293557	0.015329%
1/15/2021	Cumberland	Confirmed	65	36	4	2	293557	0.022142%
1/14/2021	Cumberland	Confirmed	158	10	3	1	293557	0.053823%
1/13/2021	Cumberland	Confirmed	334	7	0	4	293557	0.113777%
1/12/2021	Cumberland	Confirmed	129	8	4	1	293557	0.043944%
1/11/2021	Cumberland	Confirmed	81	10	4	3	293557	0.027593%
1/10/2021	Cumberland	Confirmed	69	14	0	2	293557	0.023505%
1/9/2021	Cumberland	Confirmed	39	2	1	3	293557	0.013285%
1/8/2021	Cumberland	Confirmed	111	9	2	1	293557	0.037812%
1/7/2021	Cumberland	Confirmed	212	16	0	1	293557	0.072218%
1/6/2021	Cumberland	Confirmed	120	6	0	2	293557	0.040878%
1/5/2021	Cumberland	Confirmed	135	8	2	3	293557	0.045988%
1/4/2021	Cumberland	Confirmed	62	11	0	5	293557	0.021120%
1/3/2021	Cumberland	Confirmed	68	5	1	1	293557	0.023164%
1/2/2021	Cumberland	Confirmed	43	10	0	2	293557	0.014648%
1/1/2021	Cumberland	Confirmed	83	15	3	2	293557	0.028274%
12/31/2020	Cumberland	Confirmed	171	12	2	2	293557	0.058251%
12/30/2020	Cumberland	Confirmed	137	11	2	4	293557	0.046669%
12/29/2020	Cumberland	Confirmed	132	9	5	2	293557	0.044966%

12/28/2020	Cumberland	Confirmed	105	17	0	4	293557	0.035768%
12/27/2020	Cumberland	Confirmed	105	30	3	1	293557	0.035768%
12/26/2020	Cumberland	Confirmed	102	20	2	3	293557	0.034746%
12/25/2020	Cumberland	Confirmed	0	18	0	1	293557	0.000000%
12/24/2020	Cumberland	Confirmed	125	10	1	0	293557	0.042581%
12/23/2020	Cumberland	Confirmed	166	8	3	2	293557	0.056548%
12/22/2020	Cumberland	Confirmed	155	12	1	0	293557	0.052801%
12/21/2020	Cumberland	Confirmed	64	17	1	7	293557	0.021802%
12/20/2020	Cumberland	Confirmed	80	15	4	0	293557	0.027252%
12/19/2020	Cumberland	Confirmed	47	12	0	6	293557	0.016011%
12/18/2020	Cumberland	Confirmed	114	10	1	0	293557	0.038834%
12/17/2020	Cumberland	Confirmed	86	9	1	2	293557	0.029296%
12/16/2020	Cumberland	Confirmed	126	13	0	2	293557	0.042922%
12/15/2020	Cumberland	Confirmed	115	20	0	1	293557	0.039175%
12/14/2020	Cumberland	Confirmed	128	17	0	7	293557	0.043603%
12/13/2020	Cumberland	Confirmed	54	12	0	1	293557	0.018395%
12/12/2020	Cumberland	Confirmed	94	27	1	1	293557	0.032021%
12/11/2020	Cumberland	Confirmed	122	20	1	2	293557	0.041559%
12/10/2020	Cumberland	Confirmed	71	20	3	6	293557	0.024186%
12/9/2020	Cumberland	Confirmed	92	14	0	3	293557	0.031340%
12/8/2020	Cumberland	Confirmed	85	16	1	6	293557	0.028955%
12/7/2020	Cumberland	Confirmed	69	15	1	1	293557	0.023505%
12/6/2020	Cumberland	Confirmed	78	4	2	3	293557	0.026571%
12/5/2020	Cumberland	Confirmed	60	19	1	4	293557	0.020439%
12/4/2020	Cumberland	Confirmed	78	31	0	4	293557	0.026571%
12/3/2020	Cumberland	Confirmed	36	14	0	3	293557	0.012263%
12/2/2020	Cumberland	Confirmed	40	29	1	2	293557	0.013626%
12/1/2020	Cumberland	Confirmed	28	16	0	2	293557	0.009538%
11/30/2020	Cumberland	Confirmed	40	41	0	2	293557	0.013626%
11/29/2020	Cumberland	Confirmed	46	30	0	1	293557	0.015670%
11/28/2020	Cumberland	Confirmed	30	36	0	0	293557	0.010219%
11/27/2020	Cumberland	Confirmed	0	22	0	7	293557	0.000000%
11/26/2020	Cumberland	Confirmed	0	11	0	0	293557	0.000000%
11/25/2020	Cumberland	Confirmed	28	31	0	1	293557	0.009538%

11/24/2020	Cumberland	Confirmed	39	46	0	1	293557	0.013285%
11/23/2020	Cumberland	Confirmed	39	54	0	2	293557	0.013285%
11/22/2020	Cumberland	Confirmed	37	44	0	1	293557	0.012604%
11/21/2020	Cumberland	Confirmed	64	21	0	1	293557	0.021802%
11/20/2020	Cumberland	Confirmed	29	24	1	0	293557	0.009879%
11/19/2020	Cumberland	Confirmed	34	48	0	3	293557	0.011582%
11/18/2020	Cumberland	Confirmed	32	32	0	1	293557	0.010901%
11/17/2020	Cumberland	Confirmed	33	40	0	0	293557	0.011241%
11/16/2020	Cumberland	Confirmed	57	68	0	0	293557	0.019417%
11/15/2020	Cumberland	Confirmed	48	42	0	2	293557	0.016351%
11/14/2020	Cumberland	Confirmed	27	34	0	3	293557	0.009198%
11/13/2020	Cumberland	Confirmed	24	40	0	0	293557	0.008176%
11/12/2020	Cumberland	Confirmed	34	77	0	0	293557	0.011582%
11/11/2020	Cumberland	Confirmed	33	21	0	0	293557	0.011241%
11/10/2020	Cumberland	Confirmed	26	24	0	1	293557	0.008857%
11/9/2020	Cumberland	Confirmed	30	28	0	2	293557	0.010219%
11/8/2020	Cumberland	Confirmed	60	33	0	3	293557	0.020439%
11/7/2020	Cumberland	Confirmed	19	20	0	1	293557	0.006472%
11/6/2020	Cumberland	Confirmed	36	18	0	2	293557	0.012263%
11/5/2020	Cumberland	Confirmed	56	23	0	1	293557	0.019076%
11/4/2020	Cumberland	Confirmed	39	22	0	1	293557	0.013285%
11/3/2020	Cumberland	Confirmed	63	19	0	0	293557	0.021461%
11/2/2020	Cumberland	Confirmed	43	5	0	1	293557	0.014648%
11/1/2020	Cumberland	Confirmed	19	6	0	0	293557	0.006472%
10/31/2020	Cumberland	Confirmed	14	7	0	0	293557	0.004769%
10/30/2020	Cumberland	Confirmed	23	9	0	1	293557	0.007835%
10/29/2020	Cumberland	Confirmed	40	3	0	0	293557	0.013626%
10/28/2020	Cumberland	Confirmed	22	5	0	1	293557	0.007494%
10/27/2020	Cumberland	Confirmed	13	4	0	0	293557	0.004428%
10/26/2020	Cumberland	Confirmed	10	8	0	0	293557	0.003406%
10/25/2020	Cumberland	Confirmed	2	5	0	0	293557	0.000681%
10/24/2020	Cumberland	Confirmed	14	3	0	0	293557	0.004769%
10/23/2020	Cumberland	Confirmed	14	2	0	0	293557	0.004769%
10/22/2020	Cumberland	Confirmed	6	7	0	0	293557	0.002044%

10/21/2020	Cumberland	Confirmed	3	5	0	0	293557	0.001022%
10/20/2020	Cumberland	Confirmed	5	6	0	0	293557	0.001703%
10/19/2020	Cumberland	Confirmed	1	3	0	0	293557	0.000341%
10/18/2020	Cumberland	Confirmed	2	3	0	0	293557	0.000681%
10/17/2020	Cumberland	Confirmed	4	2	0	0	293557	0.001363%
10/16/2020	Cumberland	Confirmed	10	7	0	0	293557	0.003406%
10/15/2020	Cumberland	Confirmed	6	4	0	0	293557	0.002044%
10/14/2020	Cumberland	Confirmed	2	2	0	0	293557	0.000681%
10/13/2020	Cumberland	Confirmed	4	3	0	0	293557	0.001363%
10/12/2020	Cumberland	Confirmed	5	1	0	0	293557	0.001703%
10/11/2020	Cumberland	Confirmed	1	6	0	0	293557	0.000341%
10/10/2020	Cumberland	Confirmed	2	4	0	0	293557	0.000681%
10/9/2020	Cumberland	Confirmed	8	3	0	0	293557	0.002725%
10/8/2020	Cumberland	Confirmed	1	6	0	0	293557	0.000341%
10/7/2020	Cumberland	Confirmed	12	5	0	0	293557	0.004088%
10/6/2020	Cumberland	Confirmed	1	6	0	0	293557	0.000341%
10/5/2020	Cumberland	Confirmed	3	1	0	0	293557	0.001022%
10/4/2020	Cumberland	Confirmed	5	6	0	0	293557	0.001703%
10/3/2020	Cumberland	Confirmed	6	4	0	0	293557	0.002044%
10/2/2020	Cumberland	Confirmed	5	3	0	0	293557	0.001703%
10/1/2020	Cumberland	Confirmed	7	5	0	0	293557	0.002385%
9/30/2020	Cumberland	Confirmed	4	3	0	0	293557	0.001363%
9/29/2020	Cumberland	Confirmed	10	9	0	1	293557	0.003406%
9/28/2020	Cumberland	Confirmed	3	7	0	0	293557	0.001022%
9/27/2020	Cumberland	Confirmed	1	3	0	0	293557	0.000341%
9/26/2020	Cumberland	Confirmed	3	2	0	0	293557	0.001022%
9/25/2020	Cumberland	Confirmed	4	2	0	0	293557	0.001363%
9/24/2020	Cumberland	Confirmed	1	8	0	0	293557	0.000341%
9/23/2020	Cumberland	Confirmed	9	5	0	0	293557	0.003066%
9/22/2020	Cumberland	Confirmed	1	3	0	0	293557	0.000341%
9/21/2020	Cumberland	Confirmed	4	6	0	0	293557	0.001363%
9/20/2020	Cumberland	Confirmed	2	9	0	0	293557	0.000681%
9/19/2020	Cumberland	Confirmed	10	1	0	0	293557	0.003406%
9/18/2020	Cumberland	Confirmed	3	1	0	0	293557	0.001022%

9/17/2020	Cumberland	Confirmed	3	3	0	1	293557	0.001022%
9/16/2020	Cumberland	Confirmed	3	0	0	0	293557	0.001022%
9/15/2020	Cumberland	Confirmed	4	1	0	1	293557	0.001363%
9/14/2020	Cumberland	Confirmed	0	1	0	0	293557	0.000000%
9/13/2020	Cumberland	Confirmed	1	6	0	0	293557	0.000341%
9/12/2020	Cumberland	Confirmed	8	1	0	0	293557	0.002725%
9/11/2020	Cumberland	Confirmed	10	2	0	0	293557	0.003406%
9/10/2020	Cumberland	Confirmed	5	10	0	1	293557	0.001703%
9/9/2020	Cumberland	Confirmed	4	0	0	0	293557	0.001363%
9/8/2020	Cumberland	Confirmed	2	4	0	0	293557	0.000681%
9/7/2020	Cumberland	Confirmed	3	2	0	0	293557	0.001022%
9/6/2020	Cumberland	Confirmed	3	7	0	1	293557	0.001022%
9/5/2020	Cumberland	Confirmed	1	4	0	0	293557	0.000341%
9/4/2020	Cumberland	Confirmed	3	2	0	0	293557	0.001022%
9/3/2020	Cumberland	Confirmed	6	0	0	1	293557	0.002044%
9/2/2020	Cumberland	Confirmed	7	3	0	0	293557	0.002385%
9/1/2020	Cumberland	Confirmed	1	1	0	0	293557	0.000341%
8/31/2020	Cumberland	Confirmed	4	6	0	0	293557	0.001363%
8/30/2020	Cumberland	Confirmed	4	5	0	0	293557	0.001363%
8/29/2020	Cumberland	Confirmed	2	2	0	0	293557	0.000681%
8/28/2020	Cumberland	Confirmed	5	5	0	0	293557	0.001703%
8/27/2020	Cumberland	Confirmed	5	5	0	1	293557	0.001703%
8/26/2020	Cumberland	Confirmed	3	4	0	1	293557	0.001022%
8/25/2020	Cumberland	Confirmed	2	6	0	0	293557	0.000681%
8/24/2020	Cumberland	Confirmed	2	2	0	0	293557	0.000681%
8/23/2020	Cumberland	Confirmed	1	8	0	0	293557	0.000341%
8/22/2020	Cumberland	Confirmed	2	3	0	0	293557	0.000681%
8/21/2020	Cumberland	Confirmed	2	6	0	0	293557	0.000681%
8/20/2020	Cumberland	Confirmed	4	6	0	1	293557	0.001363%
8/19/2020	Cumberland	Confirmed	4	4	0	0	293557	0.001363%
8/18/2020	Cumberland	Confirmed	5	4	0	1	293557	0.001703%
8/17/2020	Cumberland	Confirmed	8	2	0	0	293557	0.002725%
8/16/2020	Cumberland	Confirmed	4	7	0	0	293557	0.001363%
8/15/2020	Cumberland	Confirmed	3	4	1	0	293557	0.001022%

8/14/2020	Cumberland	Confirmed	9	7	0	0	293557	0.003066%
8/13/2020	Cumberland	Confirmed	6	2	0	0	293557	0.002044%
8/12/2020	Cumberland	Confirmed	4	4	0	1	293557	0.001363%
8/11/2020	Cumberland	Confirmed	7	4	0	0	293557	0.002385%
8/10/2020	Cumberland	Confirmed	1	8	0	1	293557	0.000341%
8/9/2020	Cumberland	Confirmed	4	0	0	0	293557	0.001363%
8/8/2020	Cumberland	Confirmed	5	3	0	0	293557	0.001703%
8/7/2020	Cumberland	Confirmed	5	5	0	1	293557	0.001703%
8/6/2020	Cumberland	Confirmed	3	3	0	0	293557	0.001022%
8/5/2020	Cumberland	Confirmed	8	6	0	1	293557	0.002725%
8/4/2020	Cumberland	Confirmed	7	8	0	1	293557	0.002385%
8/3/2020	Cumberland	Confirmed	3	8	1	1	293557	0.001022%
8/2/2020	Cumberland	Confirmed	1	2	0	0	293557	0.000341%
8/1/2020	Cumberland	Confirmed	4	6	0	0	293557	0.001363%
7/31/2020	Cumberland	Confirmed	2	10	0	0	293557	0.000681%
7/30/2020	Cumberland	Confirmed	8	4	0	0	293557	0.002725%
7/29/2020	Cumberland	Confirmed	5	4	0	0	293557	0.001703%
7/28/2020	Cumberland	Confirmed	11	6	0	1	293557	0.003747%
7/27/2020	Cumberland	Confirmed	4	12	0	1	293557	0.001363%
7/26/2020	Cumberland	Confirmed	3	2	0	0	293557	0.001022%
7/25/2020	Cumberland	Confirmed	4	1	0	0	293557	0.001363%
7/24/2020	Cumberland	Confirmed	12	12	0	1	293557	0.004088%
7/23/2020	Cumberland	Confirmed	4	11	0	0	293557	0.001363%
7/22/2020	Cumberland	Confirmed	11	15	0	0	293557	0.003747%
7/21/2020	Cumberland	Confirmed	10	16	0	1	293557	0.003406%
7/20/2020	Cumberland	Confirmed	5	14	0	0	293557	0.001703%
7/19/2020	Cumberland	Confirmed	8	6	1	0	293557	0.002725%
7/18/2020	Cumberland	Confirmed	11	11	0	1	293557	0.003747%
7/17/2020	Cumberland	Confirmed	7	8	0	0	293557	0.002385%
7/16/2020	Cumberland	Confirmed	18	8	0	0	293557	0.006132%
7/15/2020	Cumberland	Confirmed	10	10	0	0	293557	0.003406%
7/14/2020	Cumberland	Confirmed	9	9	0	0	293557	0.003066%
7/13/2020	Cumberland	Confirmed	8	27	0	0	293557	0.002725%
7/12/2020	Cumberland	Confirmed	14	9	0	0	293557	0.004769%

7/11/2020	Cumberland	Confirmed	10	21	1	1	293557	0.003406%
7/10/2020	Cumberland	Confirmed	8	27	0	0	293557	0.002725%
7/9/2020	Cumberland	Confirmed	9	17	0	1	293557	0.003066%
7/8/2020	Cumberland	Confirmed	18	14	0	0	293557	0.006132%
7/7/2020	Cumberland	Confirmed	10	11	0	0	293557	0.003406%
7/6/2020	Cumberland	Confirmed	6	17	0	2	293557	0.002044%
7/5/2020	Cumberland	Confirmed	4	10	1	0	293557	0.001363%
7/4/2020	Cumberland	Confirmed	9	14	2	0	293557	0.003066%
7/3/2020	Cumberland	Confirmed	9	10	2	0	293557	0.003066%
7/2/2020	Cumberland	Confirmed	21	19	0	2	293557	0.007154%
7/1/2020	Cumberland	Confirmed	18	14	1	1	293557	0.006132%
6/30/2020	Cumberland	Confirmed	15	8	0	2	293557	0.005110%
6/29/2020	Cumberland	Confirmed	17	26	0	0	293557	0.005791%
6/28/2020	Cumberland	Confirmed	10	13	0	1	293557	0.003406%
6/27/2020	Cumberland	Confirmed	21	8	0	0	293557	0.007154%
6/26/2020	Cumberland	Confirmed	25	14	1	2	293557	0.008516%
6/25/2020	Cumberland	Confirmed	20	13	0	1	293557	0.006813%
6/24/2020	Cumberland	Confirmed	41	6	0	1	293557	0.013967%
6/23/2020	Cumberland	Confirmed	13	15	0	3	293557	0.004428%
6/22/2020	Cumberland	Confirmed	10	16	1	0	293557	0.003406%
6/21/2020	Cumberland	Confirmed	3	9	0	0	293557	0.001022%
6/20/2020	Cumberland	Confirmed	7	7	0	0	293557	0.002385%
6/19/2020	Cumberland	Confirmed	17	22	0	3	293557	0.005791%
6/18/2020	Cumberland	Confirmed	17	15	0	0	293557	0.005791%
6/17/2020	Cumberland	Confirmed	33	15	0	1	293557	0.011241%
6/16/2020	Cumberland	Confirmed	9	23	1	0	293557	0.003066%
6/15/2020	Cumberland	Confirmed	5	24	0	0	293557	0.001703%
6/14/2020	Cumberland	Confirmed	6	8	0	1	293557	0.002044%
6/13/2020	Cumberland	Confirmed	20	10	0	2	293557	0.006813%
6/12/2020	Cumberland	Confirmed	24	29	0	1	293557	0.008176%
6/11/2020	Cumberland	Confirmed	20	17	0	1	293557	0.006813%
6/10/2020	Cumberland	Confirmed	22	11	0	2	293557	0.007494%
6/9/2020	Cumberland	Confirmed	15	20	0	0	293557	0.005110%
6/8/2020	Cumberland	Confirmed	12	42	0	1	293557	0.004088%

6/7/2020	Cumberland	Confirmed	4	16	1	0	293557	0.001363%
6/6/2020	Cumberland	Confirmed	16	11	0	0	293557	0.005450%
6/5/2020	Cumberland	Confirmed	21	18	0	3	293557	0.007154%
6/4/2020	Cumberland	Confirmed	17	32	2	2	293557	0.005791%
6/3/2020	Cumberland	Confirmed	19	29	0	0	293557	0.006472%
6/2/2020	Cumberland	Confirmed	21	17	0	0	293557	0.007154%
6/1/2020	Cumberland	Confirmed	14	45	0	0	293557	0.004769%
5/31/2020	Cumberland	Confirmed	15	8	2	2	293557	0.005110%
5/30/2020	Cumberland	Confirmed	29	17	2	3	293557	0.009879%
5/29/2020	Cumberland	Confirmed	27	16	2	0	293557	0.009198%
5/28/2020	Cumberland	Confirmed	11	19	2	0	293557	0.003747%
5/27/2020	Cumberland	Confirmed	20	28	1	1	293557	0.006813%
5/26/2020	Cumberland	Confirmed	9	14	2	3	293557	0.003066%
5/25/2020	Cumberland	Confirmed	13	9	2	1	293557	0.004428%
5/24/2020	Cumberland	Confirmed	7	15	1	4	293557	0.002385%
5/23/2020	Cumberland	Confirmed	23	15	0	4	293557	0.007835%
5/22/2020	Cumberland	Confirmed	36	16	0	5	293557	0.012263%
5/21/2020	Cumberland	Confirmed	47	21	0	1	293557	0.016011%
5/20/2020	Cumberland	Confirmed	23	18	2	8	293557	0.007835%
5/19/2020	Cumberland	Confirmed	25	9	0	5	293557	0.008516%
5/18/2020	Cumberland	Confirmed	9	23	0	1	293557	0.003066%
5/17/2020	Cumberland	Confirmed	15	2	1	3	293557	0.005110%
5/16/2020	Cumberland	Confirmed	13	16	1	2	293557	0.004428%
5/15/2020	Cumberland	Confirmed	18	10	0	3	293557	0.006132%
5/14/2020	Cumberland	Confirmed	16	11	1	4	293557	0.005450%
5/13/2020	Cumberland	Confirmed	18	16	1	3	293557	0.006132%
5/12/2020	Cumberland	Confirmed	20	16	2	5	293557	0.006813%
5/11/2020	Cumberland	Confirmed	8	15	0	3	293557	0.002725%
5/10/2020	Cumberland	Confirmed	5	4	0	0	293557	0.001703%
5/9/2020	Cumberland	Confirmed	16	3	0	0	293557	0.005450%
5/8/2020	Cumberland	Confirmed	13	5	0	1	293557	0.004428%
5/7/2020	Cumberland	Confirmed	26	9	0	1	293557	0.008857%
5/6/2020	Cumberland	Confirmed	43	10	0	5	293557	0.014648%
5/5/2020	Cumberland	Confirmed	13	12	0	0	293557	0.004428%

5/4/2020	Cumberland	Confirmed	7	14	0	0	293557	0.002385%
5/3/2020	Cumberland	Confirmed	5	0	2	2	293557	0.001703%
5/2/2020	Cumberland	Confirmed	17	6	1	1	293557	0.005791%
5/1/2020	Cumberland	Confirmed	9	13	0	0	293557	0.003066%
4/30/2020	Cumberland	Confirmed	16	12	2	2	293557	0.005450%
4/29/2020	Cumberland	Confirmed	10	6	1	1	293557	0.003406%
4/28/2020	Cumberland	Confirmed	5	16	0	1	293557	0.001703%
4/27/2020	Cumberland	Confirmed	6	9	1	2	293557	0.002044%
4/26/2020	Cumberland	Confirmed	4	3	0	0	293557	0.001363%
4/25/2020	Cumberland	Confirmed	14	5	0	0	293557	0.004769%
4/24/2020	Cumberland	Confirmed	9	7	0	1	293557	0.003066%
4/23/2020	Cumberland	Confirmed	13	5	1	1	293557	0.004428%
4/22/2020	Cumberland	Confirmed	16	7	0	3	293557	0.005450%
4/21/2020	Cumberland	Confirmed	9	8	3	0	293557	0.003066%
4/20/2020	Cumberland	Confirmed	6	14	1	1	293557	0.002044%
4/19/2020	Cumberland	Confirmed	2	4	3	0	293557	0.000681%
4/18/2020	Cumberland	Confirmed	10	7	0	0	293557	0.003406%
4/17/2020	Cumberland	Confirmed	9	12	1	0	293557	0.003066%
4/16/2020	Cumberland	Confirmed	19	8	0	2	293557	0.006472%
4/15/2020	Cumberland	Confirmed	4	11	1	1	293557	0.001363%
4/14/2020	Cumberland	Confirmed	7	9	0	0	293557	0.002385%
4/13/2020	Cumberland	Confirmed	30	15	0	2	293557	0.010219%
4/12/2020	Cumberland	Confirmed	7	2	1	0	293557	0.002385%
4/11/2020	Cumberland	Confirmed	8	8	0	0	293557	0.002725%
4/10/2020	Cumberland	Confirmed	8	10	0	2	293557	0.002725%
4/9/2020	Cumberland	Confirmed	7	16	1	0	293557	0.002385%
4/8/2020	Cumberland	Confirmed	7	4	1	1	293557	0.002385%
4/7/2020	Cumberland	Confirmed	9	10	1	1	293557	0.003066%
4/6/2020	Cumberland	Confirmed	4	12	2	2	293557	0.001363%
4/5/2020	Cumberland	Confirmed	11	3	1	2	293557	0.003747%
4/4/2020	Cumberland	Confirmed	7	4	0	1	293557	0.002385%
4/3/2020	Cumberland	Confirmed	9	11	0	2	293557	0.003066%
4/2/2020	Cumberland	Confirmed	18	19	0	0	293557	0.006132%
4/1/2020	Cumberland	Confirmed	13	13	2	5	293557	0.004428%

3/31/2020	Cumberland	Confirmed	23	6	1	3	293557	0.007835%		
3/30/2020	Cumberland	Confirmed	15	6	1	1	293557	0.005110%		
3/29/2020	Cumberland	Confirmed	11	9	1	1	293557	0.003747%		
3/28/2020	Cumberland	Confirmed	22	6	1	1	293557	0.007494%		
3/27/2020	Cumberland	Confirmed	28	7	0	2	293557	0.009538%		
3/26/2020	Cumberland	Confirmed	7	4	1	5	293557	0.002385%		
3/25/2020	Cumberland	Confirmed	13	5	0	6	293557	0.004428%		
3/24/2020	Cumberland	Confirmed	7	1	0	6	293557	0.002385%		
3/23/2020	Cumberland	Confirmed	10	2	0	2	293557	0.003406%		
3/22/2020	Cumberland	Confirmed	15	1	0	1	293557	0.005110%		
3/21/2020	Cumberland	Confirmed	3	1	0	5	293557	0.001022%		
3/20/2020	Cumberland	Confirmed	5	2	0	3	293557	0.001703%		
3/19/2020	Cumberland	Confirmed	5	0	0	0	293557	0.001703%		
3/18/2020	Cumberland	Confirmed	5	0	0	2	293557	0.001703%		
3/17/2020	Cumberland	Confirmed	7	1	0	1	293557	0.002385%		
3/16/2020	Cumberland	Confirmed	2	0	0	0	293557	0.000681%		
3/15/2020	Cumberland	Confirmed	6	0	0	1	293557	0.002044%		
3/14/2020	Cumberland	Confirmed	6	0	0	0	293557	0.002044%		
3/13/2020	Cumberland	Confirmed	2	0	0	2	293557	0.000681%		
3/12/2020	Cumberland	Confirmed	0	0	0	0	293557	0		
282690									0.00235048	

----- Forwarded message -----

From: **Kate Snyder** <ksnyder@portlandmaine.gov>

Date: Mon, Jan 31, 2022 at 3:11 PM

Subject: Re: Portland's "Mask Mandate" Violates Numerous Federal/State Laws

To: Daren Hebold <dhebold@gmail.com>, Danielle West-Chuhta <dwchuhta@portlandmaine.gov>, Jen Thompson <jlt@portlandmaine.gov>, Dena Libner <dlibner@portlandmaine.gov>

Cc: Pious Ali <pali@portlandmaine.gov>, April Fournier - At Large <afournier@portlandmaine.gov>, Roberto Rodriguez <rrodriguez@portlandmaine.gov>, Anna Trevorow <atrevorow@portlandmaine.gov>, Victoria Pelletier <vpelletier@portlandmaine.gov>, Tae Chong - City number <tchong@portlandmaine.gov>, Andrew Zarro - D4 <azarro@portlandmaine.gov>, Mark Dion - D5 <mdion@portlandmaine.gov>

Dear Mr. Hebold,

Yes - we welcome public comment and engagement on all Council matters. Thank you for reaching out.

I have cc'd our City Manager and our Corporation Counsel here so that they're aware of your communication, as well.

Sincerely,
Kate Snyder

On Mon, Jan 31, 2022 at 2:54 PM Daren Hebold <dhebold@gmail.com> wrote:

Good afternoon Mayor Snyder,

You've requested feedback regarding the current "Mask Mandate" that was passed on January 3, 2022. I am a Portland businessman with three successful businesses here in Portland, and I have the following important feedback and legal notification for the City of Portland. I, my family, my employees, my customers and my clients are presently being harmed by the City of Portland's "Mask Mandate" in part due to what is outlined below. Would you or your staff please make this part of the official public record regarding Public Hearings for this topic.

Although I'm sure you and the City Council wholeheartedly believe your "mask mandate" is well intentioned, and also that its fashionable to issue illegitimate bureaucratic decrees & executive orders these days, know that I FULLY OBJECT TO THE ISSUANCE and reject the continuation of this harmful, impractical, unlawful and tyrannical ordinance. Such a matter is clearly and entirely up to each individual, not any governance body to decide. More specifically and quite egregiously, this ordinance VASTLY EXCEEDS your legal powers, authority and jurisdiction granted to you as a municipality and as public servants. You and the City of Portland are obviously in violation of numerous State and Federal laws.

You may wish to consult with your municipal attorney (and your own moral ethical conscience) regarding the following partial list of legal violations from which I, and many others, are suffering harm:

- How is the City of Portland entitled to pass ordinances, codes, mandates or decrees that are obviously in violation of state and federal statutory laws?
- How is the City of Portland entitled to deny me access to Places of Public Accommodation ("all publicly accessible buildings") based on arbitrary and harmful quid pro quo conditions, such as masks, vaccination status or similar?
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You are now put on notice of this legal liability as you continue to deprive me, my family, my employees, customers and clients of our rights here in the City of Portland. This liability extends to the City of Portland as well to each of you Personally. As my representative(s) I order that you discontinue and rescind this ordinance at once.

Sincerely, Daren Hebold

Daren Hebold
[207-329-5092](tel:207-329-5092)

Intensive Care Nurse MMC/Masking 0 views



Stacey Abbott <smabbott16@gmail.com>

9:47 AM (7 hours ago)

to publiccomment@portlandmaine.gov

Good Day,

My name is Stacey Abbott I am a nurse at Maine Medical Centers Neonatal Intensive Care Unit. I have worked at MMC for 21 years.

I am vaccinated, boosted and complied to the Influenza Vaccine Mandate (or lose my job.) MMC has not enforced this with the Influenza Vaccine. This was to happen in November.

I DO NOT agree with mandated masking in the community for many valid reasons.

Unfortunately Covid-19 has turned into a political war. Views, opinions, behaviors at play. I see first hand the projection of one's own beliefs making permanent rules, mandates, policy changes and procedures based on internal fears and their own conditioning.

We are born sovereign. We navigate life and along the way our conditioning, relationships, experiences and our environment sets the lens how we see the world.

Many people don't want to grow up. They love being told what to do, how to navigate their every day lives. They walk around in a constant state of fear, conscious or unconscious.

I am an adult. It is not my responsibility to change someone else and make them less angry, more happy, fearful or sad. Think about this. Ask yourself. Am I coming to the table, angry, sad, vindictive because of what society has done to me? Do those emotions and feelings play into your votes? That is victim mentality.

I commend the Town of Falmouth for respecting the independence of its community. Treating the towns people as adults.

In my judgment most people wear masks not because of a mandate. They read the news, follow social media and live in fear, or simple make a decision to wear a mask.

Let us continue or learn to be sovereign. Act like adults, respect the whole community.

*For the record the staffing issues at Maine Medical Center are for the reasons above. Please google The Nurses Union meeting outside the hospital and witness Janel Crowley's projection onto the hospital. I know her well..all of the above. *Staffing issues/disconnect at MMC are because nurses have a unique opportunity to make 6K a week at other local/state hospitals. Most floors at hospitals are saturated with travelers in ALL States. And all states have COVID..Hmmm..gets you thinking..

*Many people at MMC are there with other issues and test for Covid and become part of the data. Asymptomatic. Snowmobile accidents, suicide attempts, parents of babies, heart attacks, eating disorders.

I ask the council to vote with good intentions that come from a place of clarity.

Best,

Stacey Abbott
22 Montreal Street
Portland, Me 04101

Sent from my iPhone

End mask mandates

Public Comment inbox



matt parry <mdparry29@gmail.com>

to publiccomment

Thu, Feb 3, 5:35 PM (17 hours ago)

Hi there!

I am a former medical assistant and current medical student.

I believe there is no longer any need for mask mandates as well as vaccine passports. This is now an endemic disease and people need to psychologically move on. This obsession with covid is destroying the fabric of our society.

I have attached a list of sources which show how lockdown policies have been detrimental

All the Detrimental Effects of Lockdowns Divided by Causes:

Mental health:

1 in 5 adults developed mental disorders - <https://www.thehindubusinessline.com/news/science/1-in-5-adults-developed-pandemic-related-mental-disorders-analysis/article33417333.ece>

1 in 4 young adults suicidal - <https://thehill.com/changing-america/well-being/mental-health/527380-75-percent-of-young-adults-mentally-struggling-with>

Effects of isolation on elderly - (1) <https://pubmed.ncbi.nlm.nih.gov/25697700/>

(7) <https://www.glasgowtimes.co.uk/news/18590724.sedation-manage-lockdown-distress-may-led-dementia-deaths/>

Effects of isolation on the future health of children

<https://jamanetwork.com/journals/jamapediatrics/fullarticle/205331>

<https://www.unicef.org.uk/wp-content/uploads/2020/04/Unicef-UK-Children-In-Lockdown-Coronavirus-Impacts-Snapshot.pdf>

Mental illness in children rising due to lockdowns - <https://newschannel20.com/news/local/hospitals-see-high-rates-of-mental-illness-in-children-during-pandemic>

Half of young adults showing signs of depression - <https://fee.org/articles/harvard-researchers-nearly-half-of-young-adults-showing-signs-of-depression-amid-pandemic/>

The mental health of students - <https://www.bbc.co.uk/news/education-55105044>

Suicidal thoughts greater in those under restrictions and unchanged in those without any - <https://www.sciencedirect.com/science/article/pii/S0165178120323477>

Prevalence of depression before and after in the US - <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2770146>

Cases of depression in the US have tripled - <https://www.medicalnewstoday.com/articles/us-cases-of-depression-have-tripled-during-the-covid-19-pandemic>

US Census shows 48% of Wa adults have depression - <https://www.census.gov/data/tables/2020/demo/hhp/hhp15.html#tables>

Lockdowns pose great threat to mental health - <https://www.theguardian.com/society/2020/dec/27/covid-poses-greatest-threat-to-mental-health-since-second-world-war>

Suicides:

<https://abc7news.com/suicide-covid-19-coronavirus-rates-during-pandemic-death-by/6201962/> <https://www.ctvnews.ca/health/coronavirus/dealing-with-a-lot-suicide-crisis-calls-mount-during-covid-19-pandemic-1.5215056>

Suicides among black people spiked during lockdowns - <https://www.baltimoresun.com/health/bs-hs-black-suicides-pandemic-20201216-2g46em2d2nd5vjwu7q2uq5x6y-story.html>

Suicides up sharply in Toronto - <https://www.theglobeandmail.com/canada/toronto/article-suicides-on-the-ttc-have-risen-sharply-over-the-last-eight-months/>

Trends in suicide during the pandemic - <https://www.bmj.com/content/371/bmj.m4352> Canadians in quarantine twice as likely to have suicidal thoughts - <https://www.cbc.ca/news/canada/british-columbia/quarantine-mental-health-1.5809865>

Military suicides up 20% - <https://www.latimes.com/world-nation/story/2020-09-27/military-suicides-increase-covid-19-pandemic>

Suicides up among children - <https://dfw.cbslocal.com/2020/09/24/cook-childrens-alarming-rise-suicide-patients/>

Economy and Poverty:

8 million Americans pushed into poverty - <https://www.washingtonpost.com/business/2020/12/16/poverty-rising/> A year of lockdowns has destroyed a decade of progress - <https://www.cbc.ca/news/politics/covid-19-development-progress-reversed-1.5849383>

10k Canadian restaurants gone forever - <https://www.narcity.com/en-ca/eat-drink/canadian-restaurant-closures-reach-10000-in-2020-the-job-loss-numbers-are-shocking>

150 million people forced into extreme poverty - <https://www.worldbank.org/en/news/press-release/2020/10/07/covid-19-to-add-as-many-as-150-million-extreme-poor-by-2021>

10k US restaurants forced to close - <https://www.cnn.com/2020/12/08/business/restaurant-closures-coronavirus/index.html>

Economic toll on young Americans - <https://www.theguardian.com/world/2020/dec/09/coronavirus-young-economy-unemployment-mental-health>

2 million UK families pushed into poverty - <https://www.theguardian.com/society/2020/dec/09/covid-driven-recession-likely-to-push-2m-uk-families-into-poverty>

NYC bankruptcies surge 40% - <https://www.cnbc.com/2020/09/29/new-york-bankruptcies-reportedly-surge-40percent-during-pandemic.html>

National lockdowns pushing up to 100 million people into poverty - https://www.economist.com/international/2020/09/26/the-pandemic-is-plunging-millions-back-into-extreme-poverty?fsrc=scn/tw/te/bl/ed/fromplaguetopenurythepandemicisplungingmillionsbackintoextremepovertyinternational&__twitter_impression=true

European small businesses closing - <https://www.bloomberg.com/news/articles/2020-10-22/half-of-europe-s-smaller-businesses-risk-bankruptcy-within-year?sref=RJ2RIMrh>

New Zealand's success story pushed 70k children into poverty - <https://www.tvnz.co.nz/one-news/new-zealand/covid-19-deals-big-blow-reducing-child-poverty-in-nz>

Hunger and Starvation:

UNICEF for the first time having to feed UK children - <https://www.bbc.com/news/uk-england-devon-55348047> 168k child hunger deaths predicted in Africa - <https://apnews.com/article/africa-hunger-study-coronavirus-children-0e2a17d63163d8558d203b2824a844fe> <https://www.researchsquare.com/article/rs-123716/v1>

82% increase in food insecurity - <https://www.wfp.org/news/world-food-programme-assist-largest-number-hungry-people-ever-coronavirus-devastates-poor>

6k children a die die thanks to lockdown hunger - <https://pcpj.org/2020/10/11/6000-children-die-of-hunger-caused-by-corona-every-day/>

Almost 1.2 million babies could die because of lockdowns - <https://www.marketwatch.com/story/almost-12-million-babies-could-die-during-the-pandemic-but-not-from-the-coronavirus-2020-07-02>

Hunger crisis to affect up to 132 million people in sub-Saharan Africa because of lockdowns - <https://www.nature.com/articles/d41586-020-02281-w?sf236625656=1>

Other Effects on Children:

Poor students suffering in online classes - <https://www.bloomberg.com/news/articles/2020-12-21/affluent-families-ditch-public-schools-widening-u-s-inequality>

Lockdowns fuel child labor - <https://www.theeastafrican.co.ke/tea/rest-of-africa/lockdown-fuels-child-labour-in-zimbabwe-3230912>

Negatives of school closures more than benefits - <https://www.unicef.org/media/86881/file/Averting-a-lost-covid-generation-world-childrens-day-data-and-advocacy-brief-2020.pdf>

Negative impacts of lockdowns on children - <https://www.unicef.org.uk/wp-content/uploads/2020/04/Unicef-UK-Children-In-Lockdown-Coronavirus-Impacts-Snapshot.pdf>

Sharp rise of eating disorders in children - <https://www.bbc.co.uk/news/health-55468632>

Substance Abuse:

OD deaths at highest point in 12 month period - <https://www.cdc.gov/media/releases/2020/p1218-overdose-deaths-covid-19.html>

Canadian OD deaths - (1) <https://edmonton.ctvnews.ca/mobile/alberta-sets-record-904-opioid-deaths-to-date-in-2020-cites-covid-19-as-factor-1.5238113>

US ODs rising - <https://www.cnn.com/2020/12/18/us/cdc-pandemic-fatal-drug-overdoses-rise/index.html> Every week of lockdowns increases binge drinking -

<https://www.sciencedaily.com/releases/2020/12/201207091306.html>

Domestic/Sexual Abuse:

US lockdowns trigger surge in domestic abuse - <https://www.webmd.com/lung/news/20200410/us-lockdowns-trigger-surge-in-domestic-violence>

Child abuse up - <https://www.wcvb.com/article/health-experts-note-pandemics-possible-impacts-on-child-abuse/34932582>

School closures inhibit child abuse reports - <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7441889/>

Domestic violence up - <https://www.king5.com/article/news/community/incidents-of-domestic-violence-are-skyrocketing-during-covid/281-c8d650b6-b568-437b-948c-861768e92a57>

Abuse more severe during lockdowns - <https://www.stcatharinesstandard.ca/ts/news/canada/2020/11/25/canada-wide-survey-of-womens-shelters-shows-abuse-more-severe-during-pandemic.html>

Child sexual abuse underreported during lockdowns - <https://www.bbc.co.uk/news/uk-54169197>

Undiagnosed Diseases:

Cancer diagnoses down - (1) <https://www.cancernetwork.com/view/delay-in-cancer-screening-and-diagnosis-during-the-covid-19-pandemic-what-is-the-cost>

(6) 35k excess cancer deaths thanks to lockdowns - <https://archive.is/ZKmaj>

Portion of excess deaths due to lockdowns - (1) <https://www.nytimes.com/interactive/2020/12/13/us/deaths-covid-other-causes.html?action=click&module=Top%20Stories&pgtype=Homepage>

Excess cardiac deaths - <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7293523/>

33% drop in heart attack patients, 58% drop in stroke patients - <https://news.harvard.edu/gazette/story/2020/05/dramatic-drops-in-er-visits-likely-led-to-uncounted-deaths/>

Stress related heart problems up thanks to the stress of lockdowns - <https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2768093>

15k extra Alzheimer deaths not related to COVID - <https://www.wsj.com/articles/coronavirus-pandemic-led-to-surge-in-alzheimers-deaths-11593345601>

People dying because of lockdowns - <https://www.heart.org/en/news/2020/07/10/more-people-are-dying-during-the-pandemic-and-not-just-from-covid-19>

----- Forwarded message -----

From: **Kate Snyder** <ksnyder@portlandmaine.gov>

Date: Mon, Jan 31, 2022 at 3:11 PM

Subject: Re: Portland's "Mask Mandate" Violates Numerous Federal/State Laws

To: Daren Hebold <dhebold@gmail.com>, Danielle West-Chuhta <dwchuhta@portlandmaine.gov>, Jen Thompson <jlt@portlandmaine.gov>, Dena Libner <dlibner@portlandmaine.gov>

Cc: Pious Ali <pali@portlandmaine.gov>, April Fournier - At Large <afournier@portlandmaine.gov>, Roberto Rodriguez <rrodriguez@portlandmaine.gov>, Anna Trevorow <atrevorow@portlandmaine.gov>, Victoria Pelletier <vpelletier@portlandmaine.gov>, Tae Chong - City number <tchong@portlandmaine.gov>, Andrew Zarro - D4 <azarro@portlandmaine.gov>, Mark Dion - D5 <mdion@portlandmaine.gov>

Dear Mr. Hebold,

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Sincerely,
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Daren Hebold
[207-329-5092](tel:207-329-5092)

Intensive Care Nurse MMC/Masking 0 views



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9:47 AM (7 hours ago)

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I ask the council to vote with good intentions that come from a place of clarity.

Best,

Stacey Abbott
22 Montreal Street
Portland, Me 04101

Sent from my iPhone

MEMORANDUM
City Council Agenda Item

FROM:

DATE: January 20, 2022

SUBJECT: Order 142-21/22 Approving a Three-Year Agreement with Cumulous Global for Google Workspace - Sponsored by Danielle P. West, Interim City Manager

SPONSOR: Danielle P. West, Interim City Manager

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading 2/7/2022

Final Action 2/28/2022

Can action be taken at a later date: No The present agreement is expiring.

PRESENTATION: Please list the presenter(s), type, and length of presentation

I. SUMMARY

II. AGENDA DESCRIPTION

The City of Portland has been working with Cumulous Cloud (dba Google Workspace) for several years, and the latest contract expired in December 2021. The vendor has given the City until February 28, 2022 to approve a new contract. Services provided in this contract include Gmail, Google Drive, Google calendar, Google Meet, and more.

This is a three-year agreement (calendar years 2022, 2023, and 2024) with a total cost of \$421,000. Funding to satisfy this contract will be requested in budgets for fiscal years 2023, 2024, and 2025. This agreement does not contain a termination for convenience option as required by Chapter 2 of the City Code, and must therefore be approved by the City Council.

This item must be read on two separate days. Staff is requesting that the second reading be waived, which requires seven affirmative votes. If the second reading is waived, five affirmative votes are required for passage after public comment.

III. BACKGROUND

Background information that will not appear in the Agenda Description

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

This three-year contract would carry a total cost of \$421,000. Please see the enclosed fiscal note for additional details.

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Order Approving 3-Year Agreement with Cumolous Global for Google Workspace 2.7..2022
2. Cumulous Global dba Google Suite Proposed Agreement for City of Portland 2022-2025

3. Fiscal Impact Note - Cumulous Global DBA Google Workspace

Prepared by:

Date: 01/20/2022

KATE SNYDER (MAYOR)
ANNA TREVORROW (1)
VICTORIA L. PELLETIER (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
ROBERTO RODRÍGUEZ (A/L)

**ORDER APPROVING THE THREE-YEAR AGREEMENT
WITH CUMULOUS GLOBAL FOR GOOGLE WORKSPACE**

ORDERED, that the Three-Year Agreement between the Cumulous Global and the City of Portland for Google Workspace, is hereby approved in substantially the form attached hereto: and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the Interim City Manager or her designee to execute said documents and any other related documents necessary or convenient to carry out the intent of said documents and this Order.



Cloud Solutions Proposal

Google Workspace Upgrade

Quote # 005161
Version 9

Prepared for:

City of Portland, ME

Hanna Pickering
hpickering@portlandmaine.gov



Incentive / Promotion Information

Promotional Term: 36 Months

Promotion / Incentive Conditions

- Pricing:
 - The pricing for the Promotional Term, above, reflects an Initial Term and commitment as noted.
 - At the end of the Promotional/Initial Term, the per user price for Google subscriptions and licenses will revert to Google's standard pricing, absent any promotions, incentives, or discounts that may be available at that time.
- License Commitment
 - The license count(s) herein for Google services represent a minimum commitment for the duration of the Promotional/Initial Term.
 - Per Google, you cannot decrease the number of licenses during the Promotional/Initial Term.
 - Additional licenses become part of your minimum commitment and are pro-rated accordingly.
- Acceptance
 - All Google promotions, discounts, and incentives are subject to qualification and acceptance by Google.



Cloud Services: 2/1/22 - 1/31/23

Item	Description	Recurring Fees	Qty	Ext. Recurring Fees
	Enterprise Standard			
G-GW-ENT-STD-1YA	Google Workspace - Enterprise Standard * Email - custom and secure * Full productivity suite * Unlimited cloud storage * 250 participant video meetings * Record meetings and in-domain streaming * Noise cancellation in Meets * Chat history controls * Outlook and IMAP Support * Cloud Search for internal search and assist * Security and management controls * Advanced DLP and Drive audit/reports * Cloud Identity Premium	\$240.00	1125	\$270,000.00
CG-DISC-GW-1YA	Google Workspace Subscription Savings: 60% Subscription savings on Google Workspace	(\$144.00)	1125	(\$162,000.00)
	Frontline edition			
G-GW-FLINE-1YA	Google Workspace - Frontline Frontline Worker * 2GB storage * Access to Shared Drives	\$60.00	350	\$21,000.00
CG-DISC-GW-1YA	Google Workspace Subscription Savings: 10% Subscription savings on Google Workspace	(\$6.00)	350	(\$2,100.00)
	Support			
CG-SVC-BASIC-1XX	Basic Service Basic Service Includes: * Account license changes * Admin password reset * VENDOR Support Ticket Escalation (VEST) All other support services are billed at current T&M prices with a one (1) hour minimum and at 1/4 hour increments.	\$0.00	1	\$0.00

Recurring Subtotal: **\$126,900.00**



Cloud Services: 2/1/23 - 1/31/24

Item	Description	Recurring Fees	Qty	Ext. Recurring Fees
	Enterprise Standard			
G-GW-ENT-STD-1YA	Google Workspace - Enterprise Standard * Email - custom and secure * Full productivity suite * Unlimited cloud storage * 250 participant video meetings * Record meetings and in-domain streaming * Noise cancellation in Meets * Chat history controls * Outlook and IMAP Support * Cloud Search for internal search and assist * Security and management controls * Advanced DLP and Drive audit/reports * Cloud Identity Premium	\$240.00	1125	\$270,000.00
CG-DISC-GW-1YA	Google Workspace Subscription Savings: 55% Subscription savings on Google Workspace	(\$132.00)	1125	(\$148,500.00)
	Frontline edition			
G-GW-FLINE-1YA	Google Workspace - Frontline Frontline Worker * 2GB storage * Access to Shared Drives	\$60.00	350	\$21,000.00
CG-DISC-GW-1YA	Google Workspace Subscription Savings: 10% Subscription savings on Google Workspace	(\$6.00)	350	(\$2,100.00)
	Support			
CG-SVC-BASIC-1XX	Basic Service Basic Service Includes: * Account license changes * Admin password reset * VENDOR Support Ticket Escalation (VEST) All other support services are billed at current T&M prices with a one (1) hour minimum and at 1/4 hour increments.	\$0.00	1	\$0.00

Recurring Subtotal: **\$140,400.00**



Cloud Services: 2/1/24 - 1/31/25

Item	Description	Recurring Fees	Qty	Ext. Recurring Fees
	Enterprise Standard			
G-GW-ENT-STD-1YA	Google Workspace - Enterprise Standard * Email - custom and secure * Full productivity suite * Unlimited cloud storage * 250 participant video meetings * Record meetings and in-domain streaming * Noise cancellation in Meets * Chat history controls * Outlook and IMAP Support * Cloud Search for internal search and assist * Security and management controls * Advanced DLP and Drive audit/reports * Cloud Identity Premium	\$240.00	1125	\$270,000.00
CG-DISC-GW-1YA	Google Workspace Subscription Savings: 50% Subscription savings on Google Workspace	(\$120.00)	1125	(\$135,000.00)
	Frontline edition			
G-GW-FLINE-1YA	Google Workspace - Frontline Frontline Worker * 2GB storage * Access to Shared Drives	\$60.00	350	\$21,000.00
CG-DISC-GW-1YA	Google Workspace Subscription Savings: 10% Subscription savings on Google Workspace	(\$6.00)	350	(\$2,100.00)
	Support			
CG-SVC-BASIC-1XX	Basic Service Basic Service Includes: * Account license changes * Admin password reset * VENDOR Support Ticket Escalation (VEST) All other support services are billed at current T&M prices with a one (1) hour minimum and at 1/4 hour increments.	\$0.00	1	\$0.00

Recurring Subtotal: **\$153,900.00**



Google Workspace Upgrade



Prepared by:

Cumulus Global

Bill Seybolt
(404) 594-7889
Fax 866-329-7604
bill@cumulusglobal.com

Prepared for:

City of Portland, ME

389 Congress Street
Portland, ME 04101 United States
Hanna Pickering
hpickering@portlandmaine.gov
(207) 874-8736

Quote Information:

Quote #: 005161

Version: 9
Delivery Date: 01/20/2022
Expiration Date: 02/02/2022

Summary

Description	Recurring Fees	Non-Recurring Fees
Cloud Services: 2/1/22 - 1/31/23	\$126,900.00	\$0.00
Cloud Services: 2/1/23 - 1/31/24	\$140,400.00	\$0.00
Cloud Services: 2/1/24 - 1/31/25	\$153,900.00	\$0.00
Total:	\$421,200.00	\$0.00

Signature

Date



Terms and Conditions

Attachment 1

This proposal serves as "*Attachment 1; Proposal for Services*" **Services Contract**, as published on Cumulus Global's web site at <http://www.cumulusglobal.com/support/>, which Cumulus Global may update with proper notice at its sole discretion. By signing and returning this proposal, or providing Cumulus Global with a purchase order or alternate purchase document, City of Portland, ME agrees to the terms and conditions of the **Services Contract** and any modification to the Agreement's terms and conditions that may be included within this Attachment.

Effective Date

The Effective Date of this Attachment is: 02/03/2022, the scheduled project start date, or the scheduled service activation date, or the Agreement renewal date, as appropriate. This date be modified by mutual consent provided changing the Effective Date does not result in a lapse of services before or after a renewal.

Promotional Term: 36 Months

The Initial Term of this is 36 months. At the end of the Initial Term, the Agreement may be renewed for subsequent Renewal Terms at then current pricing, promotions, discounts, and terms.

For the purpose of this Agreement, the "Annual Period" -- as defined below -- for the Initial Term runs 36 months.

Annual Period(s)

Each Initial Term and Renewal Term is comprised of one (1) or more Annual Periods coinciding with the service date for the services covered. The Annual Period is used for service fees, billing, payment, and commitments as appropriate.

If the Annual Period for any service(s) extend past the current Initial or Renewal Term of the Agreement, the Term extends to the conclusion of the latest Annual Period.

Payment Terms

All invoices are due Net 20. Unless otherwise noted, payment may be made by check, ACH Transfer, or credit card (American Express, MasterCard, or VISA)

Non-Recurring Fees

Cumulus Global will invoice for non-recurring fees as follows:

- Upon service initiate or delivery for professional services not included as part of a project
- Upon shipment for hardware and physical software
- Upon availability for download for software available via electronic distribution



Recurring Fees

Cumulus Global will invoice for any service with recurring fees upon service activation during the Initial Term of this agreement. Recurring fees for subsequent Renewal Terms are due at least ten (10) days prior to the commencement of the Renewal Term. Cumulus Global will invoice on a pro-rated basis for increases in services (users, quantity, etc) during any Initial Term or Renewal Term.

Sales Tax

Sales tax, if included herein, is an estimate. If appropriate, sales tax will be calculated at the time of invoicing. Organizations exempt from paying state sales tax will be required to provide a valid certificate or other valid documentation of the exemption.



Support Services: Service Level Agreement

Version 1.5: September 15, 2021

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Overview

The intent of Cumulus Global's Support Services is to allow clients to manage and support their end user communities while leveraging Cumulus Global's experience and expertise.

Contact

Cumulus Global will provide technical and operational support via:

- Email service@cumulusglobal.com
- Phone 866-356-1202 / 508-948-4070; Choose Option 2
- 01Web www.cumulusglobal.com/support/

Operating Hours

Cumulus Global responds to service requests during the business day, as above. Cumulus Global's phone support operates during normal business hours, from 8:30 am to 5:30 pm EST/EDT.

Off-Hours and Emergencies

Clients may request and schedule off-hours at no additional cost. Cumulus Global staff monitors email and web support requests off hours for emergencies. Clients will also have access via text or pager should any emergency situations or service issues arise. Cumulus Global responds to off hours emergencies at no additional costs. Cumulus Global has a 50% surcharge for non-emergency, unscheduled, off-hours support.

Response Times

Cumulus Global intends to respond to all support requests within four (4) business hours, with 80% of all requests responded to within two (2) business hours. Cumulus Global responds to emergencies within one (1) business hour.

Support Service Options

Basic Service (No-Charge)

Cumulus Global will adjust license counts as requested by client, reset admin passwords, offer support ticket escalations as appropriate with vendors, and assist with warranty service for devices purchased through Cumulus Global..

Hourly

Cumulus Global will provide support on an hourly basis, with a minimum time per request of one (1) hour and increments of 0.25 hours.

Prepaid Service

Cumulus Global will provide services for prepaid hours on an as-used basis. The minimum time per request is 0.5 hours with increments of 0.25 hours thereafter. Prepaid hours are valid for two (2) years from the date of purchase. Refunds and credits are not available for unused hours.

Admin Service Plan

Unlimited services, including:

- Co-management of services
- Remote administration
- Support for system and application administrators
- Assist IT staff (internal or external) with end-user support issues (no direct end-user services)
- Some Cyber Attack Recovery Services excluded from unlimited services (see below)

Premium Service Plan

Unlimited services, including:

- Co-management of cloud services
- Remote administration
- Support for system and application administrators
- Assist IT staff (internal or external) with end-user support issues (no direct end-user services)
- Tier 2 end user support as a referred or scheduled service
- Some Cyber Attack Recovery Services excluded from unlimited services (see below)

Legacy Support Plans

Admin Support Plan

Cumulus Global will provide unlimited support to the client's information services team (internal or contracted) and identified application managers. In addition to problem resolution, Admin support includes administrative tasks, including but not limited to user account provisioning and deprovisioning and service configuration changes.

Premium Support Plan

Cumulus Global will provide Admin Support services, plus "Tier 2" end user support. Clients may request for Cumulus Global to assist with end user issues either as part of a multi-party call or as a referred or scheduled resource.

Cyber Attack Recovery Service Fee Matrix

Cyber Attack Recovery Services include recovery of files and data, within Cumulus Global's scope of service, that have been lost or damaged due to cryptoware, ransomware, virus, or other malware attack via email or email-related services.

The coverage and fee structure for Clients with and without a services plan, and with and without ATP Services, is provided in the following table.

Service Plan	ATP Service	No ATP Service
Premium Service	Covered	50% Discount off Current T&M Rates
Admin Service	Covered	50% Discount off Current T&M Rates
Prepaid Service Hours	50% Discount off Current T&M Rates	T&M Rates
No Service Plan or Prepaid Service Hours	50% Discount off Current T&M Rates	T&M Rates

Service Plan Exclusions

Cyber Attack Recovery Services

Cyber Attack Recovery Services for Clients with a Premium or Admin Services that do not have Advanced Threat Protection (ATP) Services are not covered under the unlimited services provision of the service plan and will be billed on a discount fee structure, as noted in the Cyber Attack Recovery Service Fee Matrix.

Request for Taxpayer Identification Number and Certification

Give Form to the
requester. Do not
send to the IRS.

► Go to www.irs.gov/FormW9 for instructions and the latest information.

Print or type. See Specific Instructions on page 3.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank. Horzon Info Services, LLC		4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <i>(Applies to accounts maintained outside the U.S.)</i>
	2 Business name/disregarded entity name, if different from above Cumulus Global		
	3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes. ☐ Individual/sole proprietor or single-member LLC ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate ☒ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► P Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner. ☐ Other (see instructions) ►		
	5 Address (number, street, and apt. or suite no.) See instructions. 4 Bellows Rd, 2nd Floor / PO Box 1129		
	6 City, state, and ZIP code Westborough, MA 01581-6129		
7 List account number(s) here (optional)		Requester's name and address (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number									
			-				-		
or									
Employer identification number									
2	0		-	5	3	9	7	4	4
								9	

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	Signature of U.S. person ► 	Allen Falcon, CEO	Date ► June 1, 2021
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.

Formula for New Program Costing on Tax Rate

1) FY22 Valuation:	14,629,000,000	\$14,629,000
2) FY22 Tax Rate (Total City & School): <u>Levy / (Valuation/1000)</u>		\$12.99
(a) FY21 Tax Rate (City):		\$6.22
(b) FY21 Tax Rate (School):		\$6.77
3) FY22 Value of \$0.01 of Tax Rate (Total City & School):		\$146,290

FISCAL IMPACT NOTE	Year 1		Year 2		Year 3	
New Program Cost Data:	City Rate	City / Sch Combined Rate	City Rate	City / Sch Combined Rate	City Rate	City / Sch Combined Rate
Example:						
ADD: NEW ITEM ANNUAL EXPENDITURES		\$140,400		\$140,400		\$140,400
LESS: TOTAL NEW ITEM ANNUAL REVENUES		\$0		\$0		\$0
=NEW ITEM NET TAX RATE IMPACT PROJECTION	\$140,400	\$140,400	\$140,400	\$140,400	\$140,400	\$140,400
New Program Impact to the Tax Rate	\$0.0096	\$0.0096	\$0.0096	\$0.0096	\$0.0096	\$0.0096
New Program % Impact on Tax Rate	0.1543%	0.0739%	0.1543%	0.0739%	0.1543%	0.0739%
Tax Rate Including New Program	\$6.23	\$13.00	\$6.23	\$13.00	\$6.23	\$13.00

This agreement obligates the City to pay \$140,400 annually for the next three years of Gmail and related services. The City is currently only spending \$132k annually so this is approximately an \$8k - \$9k increase in the price of this service. The annual financial appropriation will be requested in each applicable operating budget over the term of the contract.

KATE SNYDER (MAYOR)
ANNA TREVORROW (1)
VICTORIA L. PELLETIER (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
ROBERTO RODRÍGUEZ (A/L)

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 17**

**Re: FACE COVERING MANDATE REVIEW
AT FIRST MONTHLY COUNCIL MEETING**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

- 1. That Section 17-143 of the Portland City Code is hereby amended to read as follows:*

Sec. 17-143. Effective Period.

(a) Following its promulgation, the City Council shall review this ordinance ~~every 30 days~~ at the first City Council meeting of every month ~~to reconsider~~ and shall vote to either rescind this ordinance or further extend it ~~this ordinance for the ensuing 30 days~~.

(b) Enforcement of this ordinance may be suspended by an Executive Order promulgated by the City Manager prior to its expiration upon the determination by the City's Director of Health and Human Services that the seven day average of new cases for Cumberland County has dropped to the CDC's "moderate" transmission level for a period of ten consecutive days. Subsequently, prior to the expiration of the ordinance, enforcement may be reinstated by an Executive Order promulgated by the City Manager upon a determination by the City's Director of Health and Human Services that the seven-day average for Cumberland County has returned to "substantial" or "high" levels of transmission for ten consecutive days. Public notice of these Executive Orders shall be circulated publicly and on the City's website.

BE IT FURTHER ORDAINED, that this amendment is enacted as an Emergency, pursuant to Article II, Section 11 of the Portland City Charter, in order to make it effective immediately in order to best protect and the health

and welfare of the people in the City of Portland,
Maine.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: January 25, 2022

SUBJECT: Order 143-21/22 Approving the Collective Bargaining Agreement with the American Federation of State, County and Municipal Employees (AFSCME) Local 481-07 Supervisors - Sponsored by Danielle West, Interim City Manager

SPONSOR: The Mayor, City Manager, City Clerk, Corporation Counsel, the Planning Board, or up to three (3) members of the Council shall sponsor any orders or other items. If sponsored by a Council Committee, please include the date the committee met and the results of the vote.

(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: No If action cannot be taken at a later date, please explain why

PRESENTATION: Please list the presenter(s), type, and length of presentation

I. SUMMARY

II. AGENDA DESCRIPTION

City staff has reached a tentative three (3) year agreement with AFSCME Supervisors representing approximately 38 supervisors and foremen. The tentative agreement is within guidance received from Council on July 27, 2021.

The parties have tentatively agreed to a three (3) year contract with general wage increases as follows:

2% effective retroactive to July 4, 2021

2.5% effective July 3, 2022

3% effective July 2, 2023

In addition, the City has agreed to implement a longevity step at sixteen plus (16+) years upon Council vote of approval of the new contract and a twenty plus (20+) year step effective July 3, 2022. The City will also implement Earned Paid Leave in accordance with 26 M.R.S. Sec 637.

Other economic items include:

- Adding Juneteenth as a recognized holiday and changing Columbus Day to Indigenous People's Day
- Adding \$.10 per hour increase to shift differentials
- Increase to standby pay
- Adding Fleet Services supervisors & foreman to the uniform rental agreement

The contract term is July 2, 2021 through June 30, 2024. The total direct cost of the general wage increase and other economic impacts is approximately \$370,000.00.

Other language changes which do not have a financial impact have also been agreed to.

The Supervisors members have ratified the three (3) year agreement.

This item must be read on two separate days. This is its first reading.

III. BACKGROUND

Background information that will not appear in the Agenda Description

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

Please indicate whether or not there is a financial impact. Please note that per Council Rule 12, this form must have "a separate fiscal impact statement memo attached if the impact of the item is \$50,000 or more in a given fiscal year. This memo shall include details and information describing the fiscal impact including, but not limited to, projected costs, revenues or savings over a three (3) year period and/or any potential impacts on the City tax levy."

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. AFSCME Local 481-07 Supervisors Contract 2.7.2022

Prepared by:

Date: 01/25/2022

KATE SNYDER (MAYOR)
ANNA TREVORROW (1)
VICTORIA L. PELLETIER (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

MARK DION (5)
APRIL D. FOURNIER(A/L)
PIOUS ALI (A/L)
ROBERTO RODRÍGUEZ (A/L)

**ORDER APPROVING THE
COLLECTIVE BARGAINING AGREEMENT WITH
THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL
EMPLOYEES (AFSCME) LOCAL 481-07 SUPERVISORS**

ORDERED, that the attached Collective Bargaining Agreement with the American Federation of State, County and Municipal Employees (AFSCME) Local 481-07 Supervisors for July 2, 2021 through June 30, 2024, is hereby approved.

KATE SNYDER (MAYOR)
ANNA J. TREVORROW (1)
VICTORIA L. PELLETIER (2)
TAE Y. CHONG (3)
ANDREW ZARRO (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

MARK DION (5)
APRIL D. FOURNIER (A/L)
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ROBERTO RODRIGUEZ (A/L)

**AMENDMENT TO PORTLAND CITY CODE CHAPTER 33
Re: HAZARD PAY TIED TO MASK MANDATE**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

1. That Section 33-7 is hereby amended to read as follows:

Section 33.7. Minimum Wage.

- (a) *Minimum wage payment required:* Except as provided herein, Employers shall pay all Employees no less than the Minimum Wage established by this ordinance for each hour worked within the City Limits.
- (b) *Minimum Wage rate:*
 - (i) Beginning on January 1, 2022, the regular Minimum Wage for all Employees, including, but not limited to, Service Employees, shall be raised to \$13.00 per hour;
 - (ii) Beginning on January 1, 2023, the regular Minimum Wage for all Employees, including, but not limited to, Service Employees, shall be raised to \$14.00 per hour; and
 - (iii) Beginning on January 1, 2024, the regular Minimum Wage for all Employees, including, but not limited to, Service Employees, shall be raised to \$15.00 per hour; and
 - (iv) On January 1, 2025 and each January 1st thereafter, the minimum hourly wage then in effect must be increased by the increase, if any, in the cost of living. The increase in

the cost of living must be measured by the percentage increase, if any, as of August of the previous year over the level as of August of the year preceding that year in the Consumer Price Index for All Urban Consumers, CPI-U, for the Northeast Region, or its successor index, as published by the United States Department of Labor, Bureau of Labor Statistics or its successor agency, with the amount of the minimum wage increase rounded to the nearest multiple of 5¢. If the state minimum wage established by 26 M.R.S. § 664 is increased in excess of the minimum wage in effect under this ordinance, the minimum wage under this ordinance is increased to the same amount, effective on the same date as the increase in the state minimum wage, and must be increased in accordance with this ordinance thereafter.

...

(g) *Effect of Emergency Proclamation.* For work performed during a declared emergency, the effective Minimum Wage rate established by this ordinance shall be calculated as 1.5 times the regular minimum wage rate under subsection (b) above. A declared emergency under this ordinance shall include the period of time during which:

- (i) A proclamation issued pursuant to Chapter 2, Sec. 2-406, of this code declares an emergency to exist, if such emergency proclamation is geographically applicable to the Employee's workplace; or
- (ii) A proclamation issued pursuant to 37-B M.R.S. § 742 declares an emergency to exist, if such emergency proclamation is geographically applicable to the Employee's workplace.

A declared emergency under this ordinance shall not apply to work performed under a teleworking arrangement, as defined under 5. U.S.C. § 6501, allowing the Employee to work from home.

(h) Hazard Pay. For work performed when the City of Portland's Public Face Covering Mandate (Portland City Code Chapter 17, Article XII) is in effect, the effective Minimum Wage rate established by this ordinance shall be calculated as 1.5 times the regular minimum wage rate under subsection (b) above. Hazard Pay under this section shall not apply to work performed under a teleworking arrangement, as defined under 5. U.S.C. § 6501, allowing the Employee to work from home.

BE IT FURTHER ORDAINED that, notwithstanding the provisions of 1 M.R.S. § 302, this amendment shall apply retroactively to February 7, 2022.

For 2/7/22 packet – Question on proposed amendment to Order 131-21/22 Amendment to Portland City Code Chapter 17 Re: Face Covering Mandate

0 views



Jim Hall <mtjimhall@gmail.com>

8:47 AM (8 hours ago)

to publiccomment@portlandmaine.gov, Kate Snyder, Pious Ali, April Fournier, rrodriguez@portlandmaine.gov, atrevorrow@portlandmaine.gov, vpelletier@portlandmaine.gov, Tae Chong, Andrew Zarro, Mark Dion, Jen Thompson, Danielle West-Chuhta

Dear Councilors,
CC: Corp Counsel

I am writing to ask you to determine the legality of amending hazard pay rules that were enacted by citizens initiative in 2020. I believe the council may not adjust code passed in this way until 2025. This is not an argument for or against hazard pay as such, but a request to demonstrate that you are following predictable rules of order as set forth in current law.

I would also question whether your rules allow a minority dissenting vote to bring up an issue that has already been settled (... though this council has already proven willing to manipulate the so-called "reconsideration" rule). I'm guessing the fact that order 131 explicitly comes back for review every 30 days may open up the floor for anyone to amend etc — but I would like to hear Corp Counsel provide legal clarity about this as well before you vote on the amendment.

Thank you,
Jim Hall
District One

<https://www.pressherald.com/2022/02/01/portland-council-will-consider-whether-to-implement-hazard-pay-for-workers/>