How Minneapolis, St. Paul and Duluth Passed Nation-Leading Menthol Tobacco Sales Restrictions

Case Studies from Minnesota

These case studies were produced for ClearWay Minnesota[SM] and the Center for Prevention at Blue Cross and Blue Shield of Minnesota by Linda M. Bosma, Ph.D., Bosma Consulting, LLC.

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Most of all, a huge thank-you to all the advocates in Minneapolis, St. Paul and Duluth, who committed countless hours and energy to mobilizing support, meeting with City Councils, writing letters to the editor, planning social media campaigns, sending emails, attending Council meetings and events, staffing tables to educate community members, making phone calls and doing the hands-on work to successfully pass ordinances in your communities. Your efforts will help keep our young people healthy and improve the health and lives of our communities. You are the heroes of these stories.

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Executive Summary

The cities of Minneapolis, St. Paul and Duluth passed ordinances in 2017 and 2018 to restrict the sale of menthol tobacco* products to adult-only stores. The goal of these policies is to reduce the number of outlets where these products are available and prevent young people from being exposed to seductive tobacco industry marketing. It is important to address menthol because the tobacco industry has historically targeted African American, American Indian, Asian American, Latino and LGBTQ communities, as well as women and youth. The cool, minty flavor of menthol masks the harshness of tobacco, making it easier to start smoking while at the same time making it harder for people to quit.

Overview

Advocates in Minneapolis, St. Paul and Duluth were successful at establishing broad-based, diverse, knowledgeable coalitions to successfully pass ordinances that restrict locations where menthol tobacco products can be sold. While each campaign had unique characteristics adapted to their local situation, all three navigated policy environments that were placing other conditions on the same businesses impacted by the menthol ordinance, such as minimum wages and mandatory sick time. The tobacco industry also attempted to misdirect the focus in all three cities with charges of criminalization and racism. All three efforts were successful due to careful preparation, well-planned campaigns, extensive outreach and mobilization, strong media campaigns and diverse coalitions representative of the people in their communities most impacted by menthol tobacco products.

Lessons Learned

Menthol campaigns in Minneapolis, St. Paul and Duluth provide lessons that may be useful for advocates and decision-makers in other communities considering policy campaigns to reduce the availability of menthol tobacco products.

1. Develop a deep knowledge of the impact of menthol products in attracting and addicting youth and members of the African American, American Indian and other racial/ethnic communities and LGBTQ communities.

2. Conduct strong local education campaigns to increase knowledge among advocates and the broader community, emphasizing how menthol products have targeted and impacted specific communities in their own city.

3. Members of the communities most impacted by menthol should be visible leaders in the campaign, with “no decision about us without us” (not have the initiative done to/for them by “professionals”).

4. Include broad representation in outreach and testimony to Councils. Include members of the most impacted communities, youth, public health, medical community and important organizations that serve those sectors.

* Tobacco *in this document refers specifically to the use of manufactured, commercial tobacco products, and not to the sacred, medicinal and traditional use of tobacco by American Indian people.*

5. Acknowledge that it will be less convenient for addicted adults to purchase menthol tobacco products, and be prepared to counter those arguments by providing information on cessation services and how the ordinance will make it more difficult for youth to access menthol cigarettes and may help adult menthol users quit.

6. Develop knowledge of tobacco industry targeting and anticipate and recognize industry tactics in communities.

7. Emphasize "people over profits" when retailers bring up potential loss of income related to restrictions on sales of menthol tobacco products.

8. Be prepared to speak to the issue, anticipating questions Council Members might have as well as counter-arguments that might be presented by those who profit from the sale of menthol tobacco products.

In addition to lessons specific to menthol work, general community organizing and advocacy skills were also found to be important, including having a lead agency with paid staff to focus on the policy work, developing leadership, having lead organizations that are knowledgeable about their City Councils, developing respectful relationships with elected officials, and clearly communicating the issue and goals. It is also essential to develop cultural competency and be sensitive of privilege.

Introduction

The cities of Minneapolis, St. Paul and Duluth passed ordinances in 2017 and 2018 to restrict the sale of menthol tobacco* products to adult-only stores. The goal of these policies is to reduce the number of outlets where these products are available and prevent young people from being exposed to seductive tobacco industry marketing. It is important to address menthol because the tobacco industry has historically targeted African American, American Indian, Asian American, Latino and LGBTQ communities, as well as women and youth. The cool, minty flavor of menthol masks the harshness of tobacco, making it easier to start smoking while at the same time making it harder for people to quit. Young people use menthol products at higher rates than adults—34 percent of Minnesota high-school students who smoke are menthol smokers[1] compared to 28 percent of adults.[2] Among Minnesota adults, 79 percent of African American smokers smoke menthol cigarettes, compared to just 19 percent of adult white smokers.[3] For additional information on menthol, please see resources (p. 35).

Background and Context

ClearWay Minnesota and the Center for Prevention at Blue Cross and Blue Shield of Minnesota provided support for the menthol ordinance campaigns. In early 2015, they began discussions with partner advocacy organizations in Minneapolis, St. Paul and Duluth to seek agreement on strategies to reduce menthol tobacco use. Later that year, to elevate menthol as an issue in Minneapolis and St. Paul, ClearWay Minnesota sponsored a series of meetings with national leaders from the African American Tobacco Control Leadership Council (AATCLC) and local community leaders and stakeholders to discuss the role of menthol in health disparities and the tobacco industry's aggressive marketing of menthol to African American communities. The Center for Prevention began supporting the community education efforts of Duluth's American Lung Association in Minnesota (ALA) and partners in 2016.

ClearWay Minnesota also collaborated with state legislators, most notably Senator Jeff Hayden, to secure funding to conduct research to assess awareness and concern about menthol products among African American community members. The Menthol Cigarette Intervention Grant, funded by the Minnesota Department of Health (MDH), provided support to Hennepin County Public Health[4] and the African American Leadership Forum (AALF) to assess community members' knowledge and understanding of menthol, its harms, the predatory practices of the tobacco industry and how they as community members engage key informants as change agents. These change agents helped educate and mobilize the community on menthol products through education presentations, and many engaged in the menthol ordinance work in Minneapolis, St. Paul and Duluth.

**Tobacco in this document refers specifically to the use of manufactured, commercial tobacco products, and not to the sacred, medicinal and traditional use of tobacco by American Indian people.*

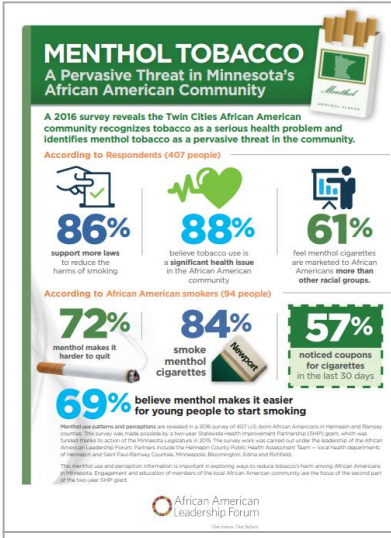
[1] Minnesota Department of Health. *Teens and Tobacco in Minnesota: Highlights from the 2017 Minnesota Youth Tobacco Survey*. St. Paul: Minnesota Center for Health Statistics, Minnesota Department of Health; 2018.

[2] ClearWay Minnesota and Minnesota Department of Health. *Minnesota Adult Tobacco Survey: Tobacco Use in Minnesota: 2018 Update.* Minneapolis: ClearWay Minnesota and Minnesota Department of Health; 2019.

[3] D'Silva J, Amato MS, Boyle RG. Quitting and switching: menthol smokers' responses to a menthol ban. *Tobacco Regulatory Science*. 2015;1(1):54-60.

[4] Hennepin County Public Health served as the lead agent on this grant and Minneapolis, St. Paul-Ramsey and Bloomington-Edina-Richfield public health departments played a supportive role.

This support, community education and research helped build readiness among advocates, community members and decision-makers to undertake the work. The purpose of this case study is to identify lessons learned that contributed to successful passage of ordinances to restrict commercial availability of menthol tobacco products in the Minnesota cities of St. Paul, Minneapolis and Duluth. It is hoped that the experiences from these campaigns can provide useful lessons learned for advocates in other communities who seek to reduce availability of menthol tobacco products.



AALF infographic on menthol tobacco

Data Collection

Information was gathered through key informant interviews with advocates, organizers, public health, stakeholders and elected officials in the three cities. Interview respondents were identified by staff at funding organizations and agencies that led the efforts, to obtain a sample representative of each city's campaign. The sample included 35 individuals: eight from Minneapolis, eight from St. Paul, four who were active in both Minneapolis and St. Paul and 15 from Duluth. Leadership at ClearWay Minnesota, the Center for Prevention and MDH participated in development of interview questions and content. Most interviews were conducted in-person, with a few exceptions to accommodate schedules and availability. Interviews were recorded and transcribed. Qualitative analysis was used to identify common and emerging themes as well as unique or divergent perspectives. Interview data was supplemented by review of campaign materials, news stories and City Council proceedings. Preliminary lessons learned and findings were presented to advocacy organization staff before final drafting of the report.

The MDH Institutional Review Board reviewed the study protocols and determined the evaluation was exempt. Prior to beginning each interview, the evaluation was explained, including purpose, audience, confidentiality, benefits and risks. Respondents signed a consent form verifying they understood the protocols. Permission was obtained from each respondent to record the interviews. Respondents were offered a $25 gift card to a major department store upon completion of the interview.

The Menthol Story in Minneapolis, St. Paul and Duluth

The first part of this report describes the story of each of the three cities. Following the individual city stories, lessons learned are presented. This is followed by a list of resources and agencies to obtain additional information, and an appendix with ordinance language from the three communities.

Minneapolis—*Beautiful Lie, Ugly Truth*

Getting Started

By 2015, NorthPoint Health & Wellness Center and the Association for Nonsmokers-Minnesota (ANSR-MN) were jointly leading a coalition of Minneapolis tobacco control advocates that included community groups, African American leadership, the health care community, youth advocates and the faith community. This group was already pursuing an ordinance in Minneapolis to restrict the availability of flavored tobacco products that target youth (e.g., fruit- and candy-flavored little cigars and e-cigarettes) to adult-only tobacco shops, so one of the early decisions Minneapolis advocates had to make was if they should address menthol in the same ordinance, or complete passage of the flavored tobacco products restriction and then go back to the City Council to propose a separate ordinance for menthol. Organizers knew that similar ordinances focused on flavored products had already passed in several cities outside of Minnesota and survived court challenges, which was important to champions on the City Council. In addition, Minneapolis youth from NorthPoint had already conducted substantial research focused on non-menthol flavored products. They also felt community members needed more education and broader support before they would be ready to take on menthol. Thus, the coalition made a strategic decision to continue pursuing the flavored product sales restriction first (which passed in 2015), and to begin community education and outreach on menthol so they could return to the Council and add menthol to the existing flavor sales restriction. As one community leader said:

> To me, that's not the only way. That was the Minneapolis way. . . . If I was to start all over again, I would launch a campaign with everything all at once, but because . . . the young people in [the] youth coalition collected over 600 surveys from other young people but it was all focused on those other flavors. If I could go five years back, I would start over—I would start with them collecting data on all flavors.

Education and Outreach

Organizers began two-years of education and outreach around menthol while pursuing the flavored ordinance. They specifically engaged African American community groups, youth, physicians and health care providers, the American Indian community, and the LGBTQ community in the coalition. Coalition members were active participants. As one organizer said, "We really tried to be very conscious of developing materials, really including people . . . bringing

MINNEAPOLIS TIMELINE HIGHLIGHTS

2015 – Broad coalition formed including tobacco control advocates, community groups and African American leadership

2015-17 – Education and outreach conducted by coalition

Beautiful Lie, Ugly Truth brand created

January 2017 – Reynolds (RAI) sponsors community forum with Rev. Al Sharpton and other African-American leaders in local church

Early 2017 – Advocates and City Council champions decide to proceed with introducing the policy

June 24, 2017 – City Council public hearing

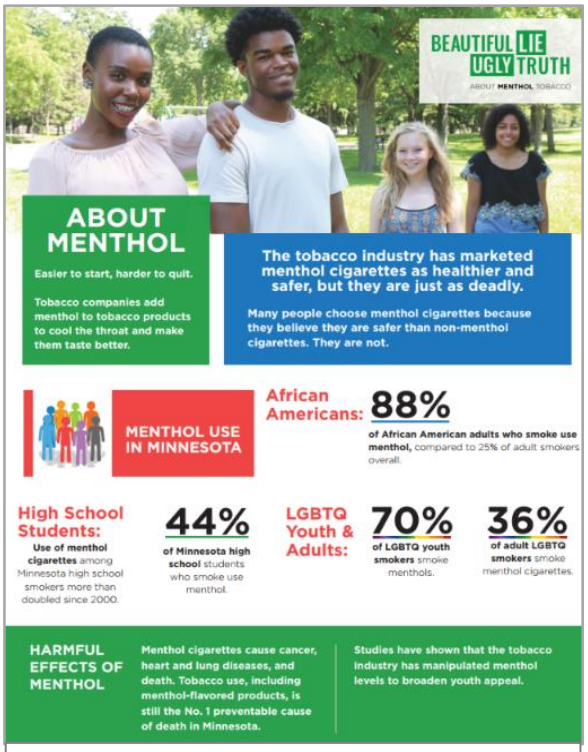
July 20, 2017 – Advocates hold a large press event urging swift passage

August 4, 2017 – City Council passes menthol restriction ordinance

August 1, 2018 – Implementation date – policy goes into effect

everybody into the decision-making body. So, we spent quite a lot of time developing the campaign, developing the coalition. We kept adding people . . . like 50 organizations." During this time, advocates and organizations from St. Paul and Duluth joined the coalition strategy meetings to share information from their respective campaigns. In particular, this communication strengthened the advocacy efforts in Minneapolis and St. Paul as some organizations represented constituents in both cities.

To brand the campaign, coalition members from Minneapolis and St. Paul developed the *Beautiful Lie, Ugly Truth* campaign with help from a local designer and incorporated photos of community members. Strategically, it made sense to use the campaign in both Minneapolis and St. Paul. "We spent quite a lot of time getting materials right. We felt that was really important. We talked to a lot of people. We showed people the concept. . . . We had a good group of people who could give us honest feedback."



Beautiful Lie Ugly Truth
"About menthol" factsheet

Early on, meetings with researchers and advocates from California helped to frame the issue and connect with stakeholders. Staff from the Minneapolis Public Health Department felt the information was valuable and resonated with the city's commitment to health equity. Public Health staff played an important role of providing information to the Council, and saw menthol as an appropriate issue for the city to address. The Public Health Department staff saw the benefits of the ordinance and worked closely with the community, but remained conscious of their role as one of providing information to the City Council, not advocating. One organizer said Public Health showed "courageous leadership." Public Health played a valuable role in educating the City Council and advised advocates that engagement by impacted community members would be essential to success on the menthol issue.

Education and the City Council

In early 2017, coalition members, organizers and City Council sponsors felt ready to proceed. Several factors influenced the decision. Council sponsors wanted advocates to navigate around city elections taking place later that year as well as other ordinances that impacted some of the same businesses in Minneapolis: a plastic bag ban, a $15.00 minimum wage ordinance and paid sick leave. Advocates also felt the need to move forward because, as one organizer noted, "The tobacco industry was really being activated."

Advocacy efforts were on all fronts: community outreach, community meetings, letters to the editor, Council Member visits, media interviews with print, radio and television media, social media, providing

testimony, and packing the hearings with advocates in their signature tie-dye t-shirts. When hearings began on June 24, 2017, ordinance supporters matched or exceeded the numbers of retailers who turned out, filling not just the hearing chamber but an overflow room and the outer hallway with over 100 people. On July 20, advocates held a large press event to focus attention on the impact of menthol tobacco on the community, featuring numerous community leaders and advocates.

On July 20, 2017 community leaders and supporters gathered at NorthPoint Health and Wellness for a press conference to discuss the impact of menthol tobacco on the community.

Even though the ultimate decision would rely on securing enough City Council votes, advocates met with the Mayor to secure her support, since she could veto legislation.

Leadership from the African American community was critical to gaining support from some City Council Members who feared such an ordinance might seem paternalistic. “Some of the Council Members were really nervous, like, ‘Isn’t this racist against black people to do this?’ So, it was really great that so much of the leadership was on board saying, ‘No, the people who are racist are the tobacco industry.’” As one organizer said, race needed to be addressed directly:

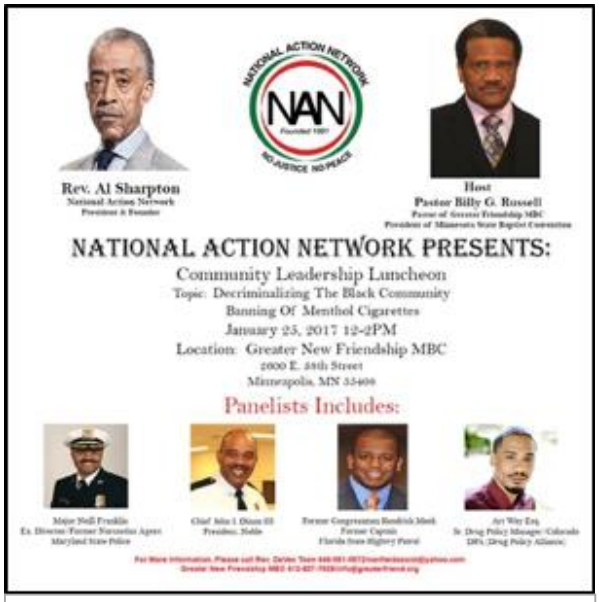
> Race was a big issue with menthol because everybody knows that African Americans choose menthol over other flavors. So, it was a conversation you had to have. I would say to people, make sure that the [Council] room is not filled with white advocates because elected officials are aware of what communities are going to be most impacted by reduction of sales [of menthol] and they don’t want the backlash. I walked in the room talking about it. That was the conversation I wanted to have with people. I’m black. It’s firsthand information coming from me.

A State Senator from Minneapolis who is a long-time champion of tobacco control efforts was an important supporter of the menthol ordinance. He worked with coalition members and made important behind the scenes contacts with Council Members as a fellow elected official to allay their fears that such an ordinance might appear paternalistic to the black community. “Being an African American person,” he said, “I think I was helpful to get them to see that I don’t think that’s how the community would perceive it,” and to remind them that this concern was coming from youth and African Americans

in the community. "I wanted to make sure they knew how important this was to the community." He challenged Council Members: "If you believe in equity, if you believe in health equity, if you believe in racial justice, if you believe that black kids' lungs are important, then this is [important]."

Tobacco Industry Opposition

The tobacco industry fueled the arguments suggesting the policy was inherently racist and promoted the idea that the ordinance would criminalize black men and create an illegal underground market leading to more interactions between police and the African American community. In January 2017, Reynolds American, Inc. (RAI), maker of the popular menthol brand Newport, sponsored a community forum at a church in the heart of the African American community featuring the Reverend Al Sharpton, a national African American leader; Kendrick Meek, an African American former Florida Congressman; and former Petersburg, Va., Police Chief John Dixon, a past president of the National Organization of Black Law Enforcement Executives (NOBLE). The forum's backers contacted a local pastor to host the meeting without being forthcoming about the underlying intent. Speakers claimed that efforts to restrict availability of menthol products would lead to more interaction between black men and police and criminalize behavior.



This flyer advertised the Rev. Al Sharpton event in Minneapolis in January 2017.

According to the State Senator from Minneapolis, the criminalization charge is false and misleading. He said meetings like the Minneapolis one are a common industry tactic: "They have an all-out national strategy at doing whatever they can and paying prominent people, well-known people in the black community, to try to dissuade communities from enacting these ordinances."

Advocates learned about the meeting and one of the organizers reached out to the pastor at the sponsoring church, to educate him on the industry agenda. Feeling misled by the forum's organizers, the pastor agreed to allow advocates to attend and speak at the forum. Organizers were able to counter the misinformation about the ordinance, calling the criminalization issue a "red herring" and pointing out that the ordinance would restrict availability of menthol products (not ban them as the industry claimed), and that enforcement would be on sellers, not on individuals who use menthol products. Media coverage captured the advocates' point that the forum backers were trying to manipulate and scare the community by using the black church. Advocates were successful at getting Rev. Sharpton to back down in Minneapolis, and he professed to be neutral about the issue as the meeting progressed, a significant victory for advocates. The tobacco industry continued its efforts. One advocate said the tobacco industry paid a local black media company to run ads. The local black newspaper came out against the ordinance, but advocates had successfully countered industry messages.

Minneapolis Retailers' Response

Minneapolis retailers opposed the ordinance and garnered some sympathetic media coverage. They argued that city policies such as the minimum wage, plastic bag ban and paid sick-and-safe time ordinances, as well as the 2015 flavored tobacco products sales restriction, were harming their businesses. Retailers argued that not being able to sell menthol products would result in lost sales and lost business from customers who came in for tobacco products but purchased other items.

While advocates felt certain the tobacco industry was working with retailers behind the scenes, opponents of the proposal presented themselves as a group of local businesspeople who were very angry. Sometimes that anger appeared not to serve them well, as they alienated some potential City Council support. Their primary argument was that not being able to sell menthol products would put them out of business.

Retailers argued that menthol products were a substantial part of their sales—but advocates countered that their actual profits from tobacco products were much less, using statistics from convenience store industry publications and that sales figures were misleading. But more importantly, advocates pointed out the high cost to the community of these products, how these products had been historically marketed to African American, American Indian and LGBTQ communities as well as to youth. While some argued that the ordinance "regulated legal adult behavior," advocates stressed that the products were still available, just not where young people could be exposed to them and easily obtain them. Retailers made the same arguments they had made during the flavored tobacco products debate, but advocates said they knew of no evidence that the flavor ordinance caused the problems predicted by its opponents.

City Council Process

The ordinance was introduced in June 2017 and referred to the Health, Environment and Community Engagement Committee, which set a public hearing on July 24, 2017. The hearing room was packed as advocates and opponents lined up to speak. Forty supporters testified, sharing moving stories of family members lost to tobacco who had become addicted by menthol. Youth spoke to the availability and prominence of menthol tobacco products in their neighborhood stores and ease of access. African American community members spoke of the predatory targeting of menthol products to their communities by the tobacco industry. An American Indian community member described how tobacco, originally a sacred medicine in many Indigenous communities, had been co-opted by the tobacco industry along with sacred symbols like pipes and regalia. Physicians and health care workers detailed the addictive nature of menthol and its cost in reduced quality of life and deaths.

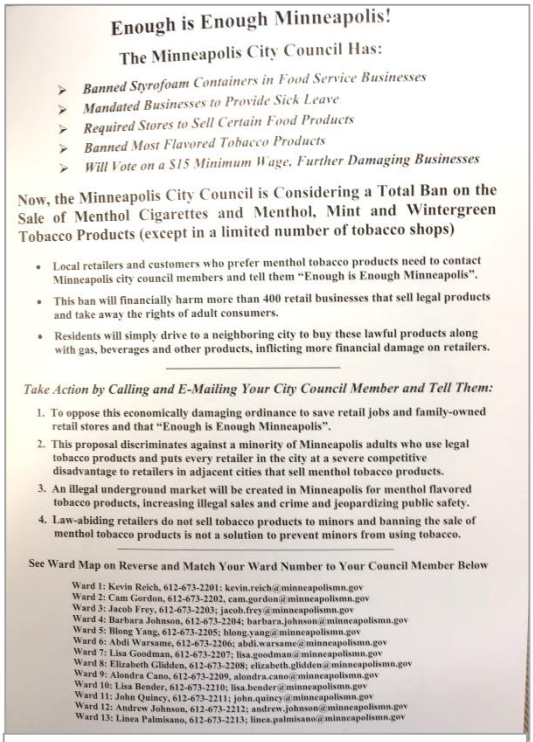
Youth testify in support of Minneapolis' proposed menthol restriction ordinance

The nineteen opponents who testified were mainly retailers who claimed not being able to sell menthol tobacco products would result in serious loss of business and income. While the business impact was a concern for the Council, supporters made a stronger case by pointing out the lives that could be saved by restricting availability of menthol products.

Person after person stepped up to testify, and the hearing ran so long that the Committee lost a quorum before they could vote. Rather than wait for the next regularly scheduled committee meeting, which would have been several weeks out, advocates convinced the Committee to hold a special meeting to vote, which was held on August 2, 2017. Despite assurances that attendance was not needed at the second committee meeting, organizers recruited enough people to attend to fill the room and watched the committee pass the ordinance to move it on to the full City Council.

Challenges and Compromise

Two Council Members who represented North Minneapolis—where many of the ordinance's supporters lived or worked—were concerned the ordinance would pose an inconvenience to their constituents who smoke, because their wards did not have any adult-only tobacco shops. These two Council Members said the ordinance would de facto mean menthol products were not available for sale anywhere in their wards, and would encourage black market sales while penalizing their constituents who were addicted to menthol products. These two Council Members were also worried about the impact the ordinance would have on businesses in their wards.



Enough is Enough Minneapolis!

The Minneapolis City Council Has:

- *Banned Styrofoam Containers in Food Service Businesses*
- *Mandated Businesses to Provide Sick Leave*
- *Required Stores to Sell Certain Food Products*
- *Banned Most Flavored Tobacco Products*
- *Will Vote on a $15 Minimum Wage, Further Damaging Businesses*

Now, the Minneapolis City Council is Considering a Total Ban on the Sale of Menthol Cigarettes and Menthol, Mint and Wintergreen Tobacco Products (except in a limited number of tobacco shops)

- Local retailers and customers who prefer menthol tobacco products need to contact Minneapolis city council members and tell them "Enough is Enough Minneapolis".
- This ban will financially harm more than 400 retail businesses that sell legal products and take away the rights of adult consumers.
- Residents will simply drive to a neighboring city to buy these lawful products along with gas, beverages and other products, inflicting more financial damage on retailers.

Take Action by Calling and E-Mailing Your City Council Member and Tell Them:

1. To oppose this economically damaging ordinance to save retail jobs and family-owned retail stores and that "Enough is Enough Minneapolis".
2. This proposal discriminates against a minority of Minneapolis adults who use legal tobacco products and puts every retailer in the city at a severe competitive disadvantage to retailers in adjacent cities that sell menthol tobacco products.
3. An illegal underground market will be created in Minneapolis for menthol flavored tobacco products, increasing illegal sales and crime and jeopardizing public safety.
4. Law-abiding retailers do not sell tobacco products to minors and banning the sale of menthol tobacco products is not a solution to prevent minors from using tobacco.

See Ward Map on Reverse and Match Your Ward Number to Your Council Member Below

Ward 1: Kevin Reich, 612-673-2201; kevin.reich@minneapolismn.gov
Ward 2: Cam Gordon, 612-673-2202, cam.gordon@minneapolismn.gov
Ward 3: Jacob Frey, 612-673-2203; jacob.frey@minneapolismn.gov
Ward 4: Barbara Johnson, 612-673-2204; barbara.johnson@minneapolismn.gov
Ward 5: Blong Yang, 612-673-2205; blong.yang@minneapolismn.gov
Ward 6: Abdi Warsame, 612-673-2206; abdi.warsame@minneapolismn.gov
Ward 7: Lisa Goodman, 612-673-2207; lisa.goodman@minneapolismn.gov
Ward 8: Elizabeth Glidden, 612-673-2208; elizabeth.glidden@minneapolismn.gov
Ward 9: Alondra Cano, 612-673-2209, alondra.cano@minneapolismn.gov
Ward 10: Lisa Bender, 612-673-2210; lisa.bender@minneapolismn.gov
Ward 11: John Quincy, 612-673-2211; john.quincy@minneapolismn.gov
Ward 12: Andrew Johnson, 612-673-2212; andrew.johnson@minneapolismn.gov
Ward 13: Linea Palmisano, 612-673-2213; linea.palmisano@minneapolismn.gov

Opposition call to action

Advocates had not confirmed firm yes votes from several other Council Members. As the campaign got closer to a final vote, Tobacco 21 (T21) emerged as a possible alternative. T21 would have raised the legal tobacco sale age to 21 from age 18 but would not have restricted locations where menthol was sold, keeping it visible and accessible to youth at convenience stores across the city. Organizers kept hearing rumors and there was concern that a substitute motion would be made to replace the entire menthol proposal with T21.

Instead, a compromise was proposed that would allow the sale of menthol products in liquor stores as well as tobacco shops. While some advocates expressed concern, the liquor store amendment appeared to many to be necessary to secure votes from some Council Members who were still undecided. Advocates had to choose; as one organizer put it, "Do you want to kill the whole thing or do you want to work at actually making a huge impact on the [tobacco use] numbers?" There was genuine concern that some Council Members would not vote for the ordinance without the liquor store amendment, and that they might lose everything. Advocates suspected that they were influenced by retailer concerns about other recent Council actions that impacted small businesses. Advocates agreed to accept the compromise amendment. Advocates also agreed to delay implementation for a full year. During this period, the Council asked city staff to provide some guidance to retailers to help them adjust to the new ordinance. Ironically, the two Northside Council Members who had expressed initial concern about

availability for their constituents were not swayed by the liquor store amendment. Both still voted against the ordinance in the end.

Final Passage

Council Members were swayed by the racial justice issue because health disparities in Minneapolis are pronounced. One advocate suggested they focused on adults too much—allowing the opposition to argue the coalition was regulating adults behavior, when the focus was to prevent young people from starting to use and being exposed to menthol products. Youth were important to Council Members. Young people had impressed one of the ordinance co-sponsors during the flavored products ordinance debate. In the end, it was making the harms of tobacco real for Council Members: "We came at them with credible data and information, and that, coupled with the stories that were told, the personal stories, [proved] to move the City Council Members very well."

Council champion Cam Gordon celebrates the vote.

The Minneapolis City Council adopted the ordinance (Appendix A) on August 4, 2017 by a vote of 10 to 2, with one member absent, with an implementation date of August 1, 2018. The Mayor signed the bill. The ordinance reduced the number of outlets where menthol tobacco products can be sold from 295 outlets to 29 tobacco products shops and 32 liquor stores.

Advocates celebrate Minneapolis' passage of menthol tobacco restrictions on August 4, 2017.

St. Paul—*Beautiful Lie, Ugly Truth*

Getting Started

In early 2015, St. Paul tobacco control advocates were pursuing an ordinance to restrict sales of flavored products when the menthol community conversations with national African American tobacco control leaders took place. St. Paul organizers agreed that menthol needed to be addressed, but they also didn't think the community was ready, and they needed more time to lay the sufficient groundwork to take on menthol. Some community advocates were concerned that if they pursued an ordinance in St. Paul only covering flavored products, the group might never return to extend restrictions to menthol tobacco sales. As one organizer said, preliminary meetings with California researchers "did inspire us. It did jump start us, but it also brought the burden with it of them and others thinking, 'And therefore we should get off of flavors and [do] menthol.' I think it was wise for us to not go that direction. I think we would have had an early loss." As the menthol issue entered the community consciousness and advocates worked on the flavored products ordinance, they informed Council Members they would be coming back to add menthol products.

Education and Outreach

While the Association for Nonsmokers-Minnesota (ANSR-MN) provided coordination and served as the lead organizing agency, decisions were made by the St. Paul coalition members, and community members were "the boots-on-the-ground strategizers, people who did the organizing within their own networks." Organizers recruited a broad coalition. It was critical to engage the African American, Latino and Southeast Asian communities in St. Paul, and to have youth well represented. In addition to in-person meetings, the coalition held weekly calls to keep everyone up-to-date on the current status of the campaign and to participate in decision-making. Organizers sent out weekly email updates to keep everyone informed of what happened between calls, as well as to call people to action if certain Council Members needed information or turnout was needed at


BEAUTIFUL LIE UGLY TRUTH
ABOUT MENTHOL TOBACCO

Thanks for joining the fight against menthol tobacco!

For decades the tobacco industry has used menthol flavored cigarettes to attract young people and target communities of color, American Indians, and LGBTQ communities. We are working together to expose the tobacco companies' beautiful lies and reveal the ugly truth about how menthol tobacco harms our communities. We are glad you're with us.

Example of coalition newsletter (Aug. 2016).

ST. PAUL TIMELINE HIGHLIGHTS

2015-17 – Education and engagement with African American, Latino and Southeast Asian communities and youth

Letters of support provided by 70+ organizations and 100+ individuals

June-July, 2017 – Organizers met with every St. Paul City Council member

July-September, 2017 – Tobacco Industry lobbyists meet privately with members of the St. Paul City Council to try to dissuade them from supporting the ordinance

September 6, 2017 – Ordinance is introduced

September 20, September 27, October 25, 2017 – Public hearings were held on the proposal

November 1, 2017 – City Council passes menthol restriction ordinance

November 1, 2018 – Implementation date – policy goes into effect

hearings. During peak periods, the lead organizer talked with some members daily. By keeping people informed, it allowed the coalition to be nimble and make decisions quickly.

It was important to show the City Council that the amendment had broad support, especially from the African American community and youth. Coalition members solicited letters of support from over 70 organizations and 100 individuals, with those in turn encouraging others to write letters of support. Support from the African American community was critical in obtaining the Mayor's support.

Youth fill out postcards encouraging St. Paul city leaders to pass the menthol tobacco policy.

Youth were an influential voice in the campaign. Youth from the Southeast Asian, Latino and African American communities participated in Council meetings, testified, attended hearings, wrote letters of support, and participated in media events. As one St. Paul advocate said, "We know tobacco impacts young people, [so] we have to have young people at the table." Council Members also were moved by youth voices. As one Council Member noted, "It's hard to say no to kids."

The City Council Process

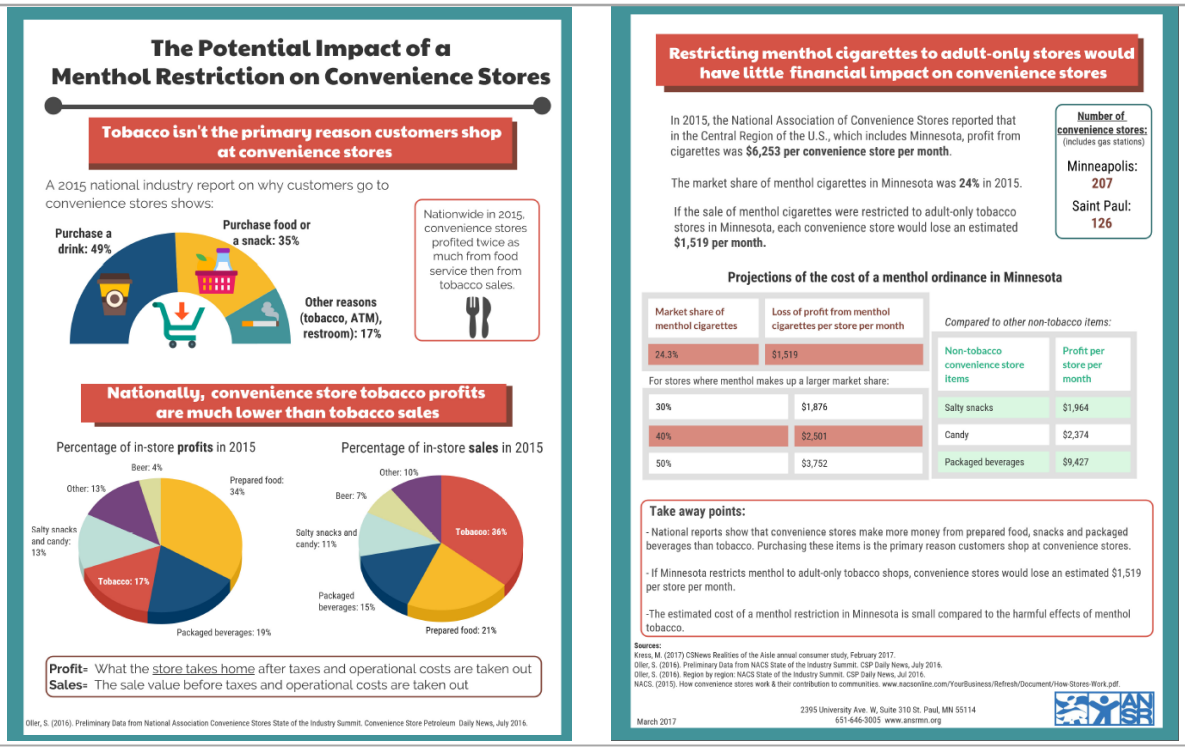
Once the decision to pursue a menthol ordinance was made, ANSR turned to the Public Health Law Center to draft language. Organizers were conscious of the need to create an ordinance that would be strong enough to withstand legal challenges and were cognizant that the tobacco industry might file a lawsuit.

In June and July, organizers and community advocates met with all of the St. Paul City Council Members, with between five and 10 community members taking part in each meeting. Initial meetings were encouraging, with all Council Members expressing support for the menthol ordinance. The ordinance was introduced on September 6, 2017. But in the two months between those meetings and the introduction of the ordinance, opponents were also meeting with Council Members. When advocates revisited Council Members after the ordinance was introduced, some were less solid in their support, even though advocates thought they had prepared them for industry arguments.

Countering Opposition From the Tobacco Industry and St. Paul Retailers

Retailers argued that the ordinance would seriously harm their businesses and cause them to lose money. They lobbied City Council Members directly but also through the National Association of Tobacco Outlets (NATO). According to its website, NATO is "a national trade association organized to enhance the common business interests of all tobacco retailers and to monitor and assist members in responding to tobacco-related legislation on the local, state and federal levels." In addition to lobbying the Council, retailers recruited their customers in stores by providing postcards for customers to send to their Council Member opposing the ordinance. A public relations firm based in Iowa, claiming to be a "grassroots effort," was also active in St. Paul opposing the ordinance.

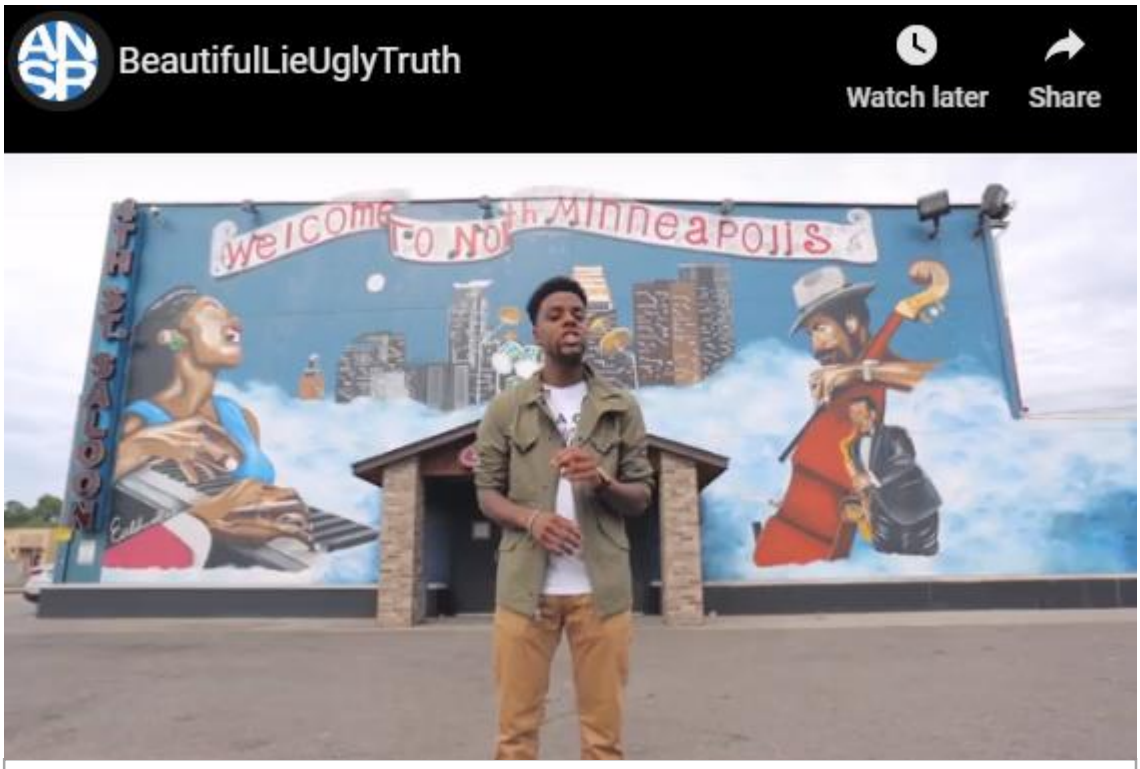
Advocates countered the economic argument, noting, "[Stores] make more money on a bag of chips and a can of soda than they did on a pack of cigarettes. When confronted with that, we had to make sure that the City Council people heard the argument. . . . That was a teaching moment for many people."



The Association for Nonsmokers – Minnesota created and shared this infographic explaining the potential impact of the menthol tobacco ordinance on retailers' profits.

The tobacco industry argued that restricting availability of menthol products would increase police interaction with young black men and create an illicit market for cigarettes. While in Minneapolis, RAI had come in and held a public community meeting at a black church featuring the Reverend Al Sharpton, industry outreach in St. Paul was done in private one-on-one meetings. Advocates knew the industry was at work, but its efforts were more under the radar.

Prepared for these scare tactics, organizers educated Council Members so they were armed with information, stressing that the ordinance only targeted sales and availability not people who use menthol products. As one advocate noted, "I think the year or so of the *Beautiful Lie, Ugly Truth* campaign and building our coalition base really, really made a difference in stopping that message from really getting anywhere."



Screenshot from the Beautiful Lie Ugly Truth *campaign video*

Authentic leadership from the African American community was critical to the credibility of the campaign with several Council Members and the Mayor. Knowing that industry-supported organizations would likely attempt to influence law enforcement, St. Paul advocates met early on with current and past leaders of the St. Paul Police Department. Unique for most northern cities, St. Paul's past three police chiefs are African American men, so meeting with them to enlist their support and educate them was critical. By the time the industry groups reached out to them, they were already informed and on board with the menthol ordinance.

Prominent African American leadership in the campaign was also essential to credibly countering the criminalization argument that the industry promoted. As one organizer said, "It was African American men going to African American police and saying, 'We are not worried about these concerns because they're not real. What's real is the death that these products are causing in our community.' If [a white organizer] had gone to them with that message, it would not have seemed real, but with that message being carried by African American men who had a history of working on police-community relations, it was a completely credible voice." Advocacy combined with public support from the NAACP and the African American Leadership Forum reassured decision-makers that the African American community supported the ordinance.

Challenges and Compromise

The menthol ordinance was initially planned to restrict sales of tobacco products containing menthol to adult-only tobacco shops. One Council Member had an intense dislike of tobacco shops, which initially did not seem like a problem. However, eventually this Council Member's desire not to drive all the menthol business to tobacco shops led to an introduction of an amendment to also allow liquor stores to sell menthol products. Minneapolis had added liquor stores to the type of licenses that would be allowed to sell products containing menthol. While some advocates felt that St. Paul adopted the same amendment mostly because Minneapolis did, it was also clearly influenced by the Council Member who disliked the tobacco shops. Advocates walked a fine line, opposing the amendment to include sales at liquor stores while still ensuring that the full ordinance would move forward. In the end, advocates lost the vote when two Council Members they thought were supportive voted for the amendment.

The liquor store amendment was difficult for some advocates. "I wasn't too happy about that. . . . To me it was like saying, 'No, you can sin twice,' you know? Now people will be buying their cigarettes *and* buying alcohol. So, it's like two addictions at once, I mean, things of that nature. . . . It didn't make sense to me. I wasn't a fan of it. . . . But I guess you have to compromise somewhere." Another advocate agreed that it was a "double-edged sword" and was concerned about the density of liquor stores in the community. But while many were not happy with it, advocates moved past their disappointment to pass the ordinance with the amendment. As one said, "Let's take what we can get and live to fight another day."

The City Council Hearings

In St. Paul, the Council limits testimony to 15 minutes per side, so advocates had to carefully plan how to use their time to get their message across effectively. Hearings were held on September 20, September 27 and October 25. The first one didn't go well for supporters of the ordinance. Retailers argued the ordinance would hurt them financially and one store owner dramatically threw a set of keys—supposedly the keys to his business—on the speaking podium. The retailer told the Council that they might as well take his business, and that store owners would pay the whole cost of the ordinance, not the "people in the green shirts"—meaning the roomful of advocates who wore green t-shirts to show their support for the ordinance. Meanwhile, advocates had planned their time and testimony so carefully that they came across as over-scripted. An organizer related, "The retailers actually won the first hearing. . . . They had all the drama and we were over-disciplined. We were controlled and we definitely came across as overly scripted, even though we had a room full of people, we did not have the emotional fervor the opposition did."

Youth advocates provide powerful testimony at the St. Paul City Council hearings

While the emotion didn't come through at that first hearing, the retailers' assertion that "the people in the green shirts" did not bear the cost of menthol infuriated advocates. Most supporters of the ordinance had lost loved ones to tobacco-related diseases—family members who had become addicted to tobacco through menthol. Saying it "didn't cost them anything" lit a fire under advocates, who regrouped and refocused. As one said, "We had to get their focus back on 'we're talking lives vs. economics.'" An organizer said, "Oh, those were fighting words, let me tell you. When we came back for the second hearing, the emotion tilt went completely our way." At the second hearing, advocates told their personal stories about the mothers, fathers, siblings and loved ones they had lost to tobacco, and carried photos of them, pointing out that they had paid the real cost of tobacco. One Council Member said, "It was very meaningful."

One advocate described her testimony:

> I started off by saying that 'These folks said that the folks in the green shirts lost nothing. Let me share with you what this black woman lost. And I told them to look at [my] poster. It was my mother, three aunts and others. . . . I said, for me, black lives matter, but apparently to you, black lives don't matter. And I know you're tired of hearing black lives matter, but you're going to continue to hear about black lives matter until black lives matter!"

Advocates share personal stories with the St. Paul City Council

Supporters pack the St. Paul City Council hearing room

Educating Retailers

Retailers made a case that their voice wasn't being heard, so the Council directed the Department of Safety and Inspections (DSI) to convene a meeting with retailers and supporters of the ordinance to provide more information. As one Council Member said about engaging retailers in the process, "I think that step was missed a bit." DSI staff said not having the retailers' perspective was a bit of a "stumbling block" that delayed the ordinance. The City Council needed to show it was also listening to retailers, especially since they were impacted by other issues that the Council was discussing such as sick-and-safe time, to-go food packaging, and the discussion of raising the minimum wage. Some retailers saw this as "another straw on the camel's back."

ANSR staff took part in the retailer meetings to help educate them on the purpose of the ordinance to prevent youth from gaining access to tobacco products. As DSI staff noted, "Education is not something that government has a lot of money for. . . . It's like anything that government does, the more we educate, the less enforcement we need to use. Having a group like ANSR or the coalition just really helps us to do our job better as well as being more effective."

To address concerns about the economic impact on businesses, the Council and ANSR committed to a plan to help businesses adjust to a retail environment that is not as dependent on tobacco sales. As the ordinance's sponsor on the City Council said, "You can't have a successful business model based on tobacco sales, because tobacco's not going anywhere good. You know, it's a terrible health problem and it's just probably going to get more and more regulated. So, if your business model focuses on bringing people in to buy tobacco, you're not going anywhere good."

DSI and ANSR committed to work together to create a support mechanism to assist small businesses to reposition themselves. The retailer education piece was necessary to get sufficient support for the ordinance. St. Paul likes to say it is "open for business," so it was important to show the city supports neighborhood retailers and is committed to helping businesses figure out different ways to be successful when they can no longer sell menthol products. To give businesses time to adjust to the new restrictions, implementation was delayed one year.

Final Passage

Advocates needed to be flexible and creative. While the Council initially expressed support, they eventually added liquor stores to the allowable types of vendors that could sell menthol products. To address retailer concerns about lost business, it was necessary to include a business support plan to help them adjust to lost tobacco sales, and to delay implementation for a full year, from an initial plan of 90 days.

The St. Paul City Council passed the ordinance (Appendix B) by a vote of 6 to 1 on November 1, 2017 and it went into effect on November 1, 2018. The ordinance will decrease the number of vendors who currently sell menthol products from 260 to approximately 60 (20 tobacco shops and 40 liquor stores).

Coalition members and supporters celebrate the passage of St. Paul's menthol restriction policy

BEAUTIFUL LIE UGLY TRUTH

ABOUT **MENTHOL** TOBACCO

Minnesota communities have the authority to regulate the sale of menthol tobacco products.

Minneapolis and Saint Paul prohibit the sale of fruit and candy flavored tobacco products in any store that allows kids to enter. The same needs to be done for menthol. While such a policy will inconvenience adult smokers, it will also help protect youth from a lifetime addiction.

Menthol Coalition Members:

- African American Leadership Forum
- Anglos Latinos Motivated to Succeed (ALMAS)
- Association for Nonsmokers-Minnesota (ANSR)
- Aurora/St. Anthony Neighborhood Development Corporation
- Blue Cross and Blue Shield of Minnesota
- Breathe Free North
- ClearWay Minnesota℠
- Family Tree Clinic
- Frogtown Connection
- God Squad
- Greater Friendship Missionary Baptist Church
- Greater Mount Nebo Missionary Baptist Church
- Greater Mount Vernon Missionary Baptist Church
- HealthPartners
- Hmong Health Care Professionals Coalition (HHCPC)
- Indigenous Peoples Task Force
- L.I.F.T. to End Poverty
- Lincoln Park Children and Families Collaborative
- Lyndale Neighborhood Association
- MAD DADS of Minneapolis
- Minneapolis Urban League
- Minnesota Association of Community Health Centers (MNACHC)
- Minnesota Cancer Alliance
- Minnesota Public Health Association
- Mother St. James A.M.E. Church-Minneapolis
- New Hope Baptist Church
- New Mt. Calvary Missionary Baptist Church
- New Resurrection Missionary Baptist Church
- NorthPoint Health & Wellness
- Open Cities Health Center
- Payne-Phalen Community Council
- Pilgrim Rest Baptist
- Pillsbury United Communities
- Progressive Baptist Church
- Rainbow Health Initiative
- Sabathani Community Center
- Shiloh Temple International Ministry
- Southside Urban Coalition
- St. Mark's A.M.E. Church
- St. Paul National Association for the Advancement of Colored People (NAACP)
- St. Peter's A.M.E. Church
- Stairstep Foundation/HWU
- Sub-Saharan African Youth and Family Services Minnesota (SAYFSM)
- Summit Hill Association/District 16
- TakeAction Minnesota
- Tobacco-Free Alliance (TFA)
- True Love Church-Ministries of Arts
- Twin Cities Medical Society
- Vision in Living Life- Change is Possible
- Visions Merging
- WellShare International
- We Win Institute

Duluth—*Lethal Lure*

Getting Started

Advocates in Duluth began working on menthol and flavored tobacco products three years prior to passing an ordinance restricting availability of products. Local focus group and polling data showed that there was broad community support to address availability of flavored products including menthol across the community regardless of income levels or smoking status. Organizers at the American Lung Association in Minnesota (ALA) began having conversations with stakeholders who had supported past tobacco control efforts and with additional leaders and community members, to introduce the issue and begin assessing interest. A core group of advocates was brought together to strategize how to bring an ordinance forward.

Duluth advocates never seriously considered working on flavored products and menthol separately. According to a Duluth organizer, "I was not willing to separate out menthol. I feel really strongly that that was a tobacco industry strategy to separate. Menthol *is* a flavoring. . . . I just know how hard it is once you've done something controversial in tobacco to come back to a Council and to add it in. . . . It was a deal-breaker for us to separate them."

Outreach & Education

Organizers invested a significant amount of time building their support and educating the community. "I think the fact that we spent three years educating the community and engaging the community, especially those impacted, led to a very diverse coalition," according to one advocate. "Right from the get-go, and I don't think leaving menthol out was ever an option, because that's a big reason why so many of our coalition members were at the table."

ALA organizers reached out to a core group of five to 10 people who had been engaged in previous tobacco policy efforts in Duluth to get their opinion and feedback on how to proceed. This core group began identifying key constituencies and stakeholders that would be essential to include in menthol efforts, including the NAACP, groups that serve the African American community, American Indian organizations, the LGBTQ community, community organizations that engage or serve lower income residents and youth. The health care community was an important component, with the major health care institutions well-represented in the campaign's leadership.

DULUTH TIMELINE HIGHLIGHTS

2015 – Advocates begin meeting to strategize how to bring forward the ordinance

2015-18 – Coalition identifies and engages with key constituencies and stakeholders including the NAACP, groups that serve the African American community, American Indian organizations, the LGBTQ community, community organizations that engage or serve lower income residents, youth, and the health care community

Lethal Lure brand updated with a minty green look

Spring-Fall 2017 – Organizers bring in African American leaders to discuss the policy with advocates and the mayor

January 22, 2018 – City Council introduces proposal

February 12, 2018 – City Council passes menthol restriction ordinance

June 12, 2018 – Implementation date – policy goes into effect

Duluth advocates had used the name *Lethal Lure* to identify tobacco control campaigns and toolkits they had developed for their previous work on a point-of-sale campaign. Initially they planned to brand their menthol campaign with a new name, but after reviewing several alternatives, advocates decided to continue to use *Lethal Lure,* since it already had name recognition and credibility with the brand in Duluth. To emphasize the focus on menthol, they changed some of the colors to green and added a green mint button for the menthol campaign on the *Lethal Lure* website.

Examples of Lethal Lure campaign materials

While ALA was the lead organizing agency, other coalition members were engaged to table at events and do outreach. Lincoln Park Children and Families Collaborative had support from the Center for Prevention to work with African American, American Indian and LGBTQ communities. Lincoln Park worked to organize and educate communities on the unique harms of menthol and the predatory tobacco industry targeting of menthol products to marginalized communities. Their involvement was a natural fit. As their director said, "I thought here in Lincoln Park, we are the most diverse neighborhood in Duluth, and also the most impoverished. . . . People who live in poverty are targeted the most, especially with menthol."

Visible leadership from the communities most impacted by menthol was essential. Information about tobacco industry targeting of marginalized communities resonated with advocates. As one individual said, "I feel it's my responsibility to protect that marginalized population that looks like me, and we've been targeted as a population for many, many, many years. I can think back when I used to sit and watch *Soul Train,* or get the *Ebony* magazines and see that [we were] a target. So, growing up in an underserved neighborhood myself . . . it just felt to be the right thing to do."

To deepen the knowledge around the issue and enhance credibility, the campaign brought in expertise from elsewhere. In spring of 2017, Eugene Nichols of the African American Leadership Forum presented data from the study conducted in the Twin Cities around menthol use and knowledge among African Americans in Minnesota. As discussion evolved from policy ideas to an actual ordinance in the summer and fall, they brought in Dr. Phillip Gardiner of the African American Tobacco Control Leadership Council. ALA coordinated meetings between him and numerous community members. The information he shared on the tobacco industry's predatory targeting resonated with African American leaders. His

visit was widely covered in the local media, generating television, radio, print and online coverage. Dr. Gardiner also met individually with the mayor to influence her support.

Advocates did tabling and education at numerous events and did outreach to engage support of additional community members. They solicited earned media around quitting events such as Kick Butts Day and the Great American Smokeout and used those opportunities to educate about the addictive and harmful properties of menthol. Some groups created videos and used digital storytelling to reach broader audiences. As supporters were recruited, they were asked to add their names and logos to the *Lethal Lure* campaign, so support was visible and public—and showed the increasing momentum in the community.

Community members engage in the Lethal Lure *campaign outreach*

Working with the City Council

Organizers began seeking a sponsor for the ordinance and to draft language, when they were strongly encouraged by the City Attorney to get buy-in from the Duluth Human Rights Commission. The Human Rights Commission and the Indigenous Commission both passed resolutions supporting the ordinance. Some organizers suspected this might be a delaying tactic, but followed the advice so that they were engaging everyone city officials told them should be on board before moving forward.

Lethal Lure advocates were prepared to introduce the ordinance in fall 2017, but Council sponsors convinced them to wait until after the fall election. One sponsor of the ordinance was up for re-election and there was an advisory referendum on the ballot that would raise taxes for streets repairs, plus the city had been working on a sick-time requirement, so Councilors did not want an additional issue in the mix that might divert attention from the election. Advocates had hoped to get the ordinance introduced before the end of the year, but it ended up being the first ordinance of the following year, and was introduced on January 22, 2018.

Advocates testify in support of the menthol tobacco ordinance at the Jan. 22, 2018 City Council meeting

Advocates thought it was important to make a case that included public health research, evidence on the harms of menthol, examples from other cities who had already passed similar ordinances, personal stories from community members of the impact of menthol products on their lives, and young people's

stories of the easy access to these products. Many advocates spoke of loved ones they had lost due to tobacco use.

Support from the health care community was essential because they are a major employer in Duluth. Health care also served as credible messengers about the role of tobacco in health disparities and health care costs. St. Luke's Community Health Needs Assessment showed one of the four priority areas for the community was reducing the harmful effects of tobacco. "I know at least one City Council Member particularly made reference to an email he received from one of our physicians that was very influential," said one advocate.

Lethal Lure *supporters attend a Duluth City Council meeting*

Councilors, even those who were supportive, were still concerned that the ordinance would hurt local businesses. Even some advocates would have liked to have seen more common ground with retailers: "Well, at the end of the day, you know, as a community we all have to live together. . . . The challenge is, we know we have natural food deserts and other things in those communities. I think the corner store is important for a number of reasons. The idea was not to drive the corner store out of business."

One of the sponsors of the ordinance said discussions with retailers were among the hardest he has had as an elected official. Another Councilor, while supportive, weighed whether the ordinance would make a difference while potentially costing stores business. "The thing that persuaded me was advocacy for people within the most affected communities. That's what really convinced me, because I tend to be somewhat skeptical of people who advocate on other people's behalf. I'm much more persuaded by people who advocate on their own behalf. So, when it was people from within our local African American community, our local Indigenous community, our LGBT community, which are the targeted communities coming forth on their own, basically saying, 'We are asking you to protect our kids from the use of this product.' That's what persuaded me. It wasn't just public health professionals."

Countering Opposition

Just as important as recruiting active supporters was neutralizing organizations who might ordinarily oppose a restriction on businesses. The major health care providers in the community actively supported the ordinance, even though they often took more traditionally pro-business positions. They supported the ordinance because "it was such a compelling health case that we need to minimize smoking. If we can get rid of the menthol and flavored tobacco from being so available . . . fewer

children will start smoking, [and] that's gonna bring incredible benefit to our community for generations to come."

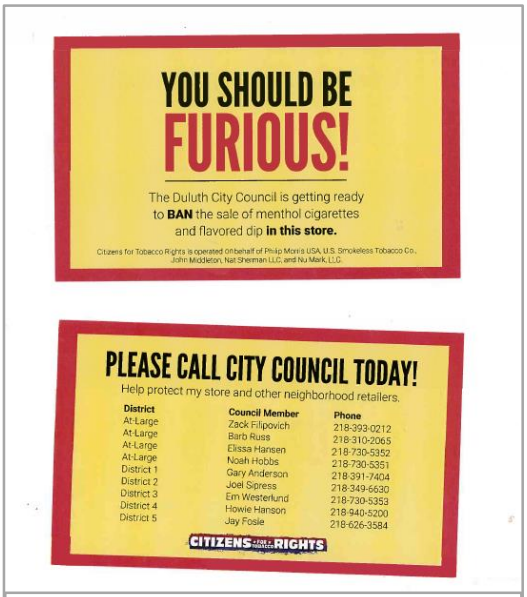
Support from the city's major health care organizations convinced the Chamber of Commerce to remain neutral. Advocates knew that most of the Councilors supported the ordinance and that it was almost certain to pass, which gave the Chamber little incentive to take on a losing issue. When the retailers approached the Chamber, it could say it was sitting it out rather than taking a position and devoting limited resources to an issue they would not win.

Some of the larger convenience store chains stayed behind the scenes, meeting quietly with Councilors during the campaign, rather than actively oppose the ordinance. While generally the Mayor stayed in the background and saw it as the Council's role to lead such efforts, she was influential with larger stores. Kwik Trip stores had recently received City Council support for a major expansion proposal, emphasizing their evolving business model that would focus on bringing healthier food to neighborhood food deserts. The Mayor met with their representatives and pointed out that they should be leading the effort to advance health, not opposing it.

The tobacco industry raised the specter of criminalization of African American men and creation of an illicit market for cigarettes if the ordinance were to pass. But the president of the NAACP countered those arguments: The industry was "trying to put in people's ear that the African American community would be, in a way, criminalized over this… they said there would be a black market of menthol tobacco and all that stuff. And so, we just reiterated…'We're not going to come down on the people who were smoking the tobacco, but the places who were selling it'…Being an African American man in the community, my whole point is what do you want to invest in? Do you want to invest in people, or do you want to invest in profit?"

Duluth Retailer and Tobacco Industry Response

Retailers actively opposed the ordinance and met with Councilors and testified at hearings. They often called it a "ban" rather than a restriction on sales. Their main argument was the loss of business they claimed would result from the ordinance and that it would "create an unfair playing field" by taking business from convenience stores and moving it to the tobacco shops, or that customers would go to nearby cities. Retailers even suggested they would support T21 legislation if the menthol proposal were dropped; this was an option never seriously considered by advocates, since it would still mean menthol products could be sold and advertised in commercial locations frequented by youth.

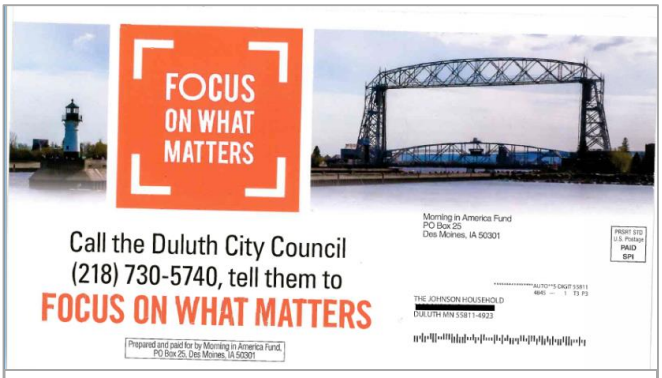


A tobacco industry group "Citizens for Tobacco Rights" distributed these postcards in Duluth.

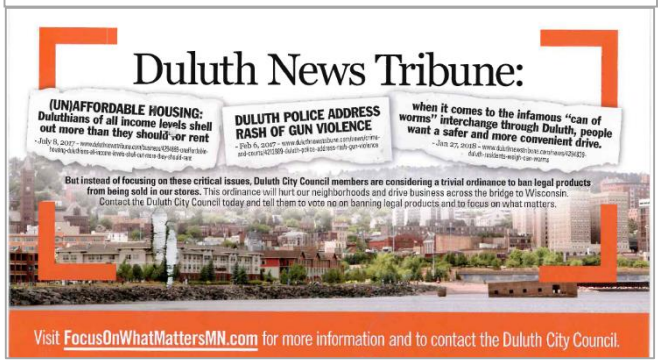
The tobacco industry was active in Duluth and provided a postcard that retailers passed out in their stores encouraging customers to call their City Councilors to oppose the ordinance. The postcards warned customers "You should be FURIOUS! The Duluth City Council is getting ready to **BAN** the sale of menthol cigarettes and flavored dip **in this store.**" The postcards were sponsored by Citizens for

Tobacco Rights, a group operated on behalf of Philip Morris and U.S. Smokeless Tobacco Co and other tobacco groups.

A mailer from the "Morning in America Fund" was sent out to every Duluth household shortly before the final Council vote. Many attributed the mailer to the Koch Brothers or the tobacco industry, although its exact source was never certain. The mailer called on the Council to "focus on what matters" rather than "a trivial ordinance to ban legal products." The mailer backfired. Rather than generate support, it enraged many, and actually convinced one Councilor who was still undecided to vote for the ordinance when she received the mailer at her home. Councilors and community members said Duluth doesn't like outsiders coming in and telling them what to do; others were irate that the mailer appeared to be funded by a group financed by the partisan Koch Brothers.



The Morning in America fund sent these postcards to Duluth residents and Councilors.



Heavy-handed industry opposition convinced one Councilor the ordinance would be effective:

> "One of the lines we were getting in opposition was, this won't really have an impact. It won't reduce teen smoking. All it will do is hurt the convenience stores. If I thought that was true, I would've voted against this. Because I'm not gonna do something that hurts convenience stores that doesn't have a real impact. I'm not gonna vote for a symbolic measure. If I wasn't persuaded this would really have a public health impact, I wouldn't have voted for it. . . . So, when I saw how much money and how much effort the tobacco companies were putting into killing this, I'm like, this matters. This will reduce nicotine addiction. This will reduce teen smoking. Or else they wouldn't be fighting it so hard. The convenience stores are my constituents. I care what they say. I don't care one bit what the tobacco industry or the Koch brothers think about my votes on the Duluth City Council."

Final Passage

Duluth advocates were able to head off challenges and efforts to weaken the ordinance. After watching Minneapolis and St. Paul adopt amendments that allow sales at liquor stores, Duluth advocates were able to proactively educate Councilors about the issue so it was never proposed in Duluth. Likewise, when some retailers talked about T21, advocates provided research to Councilors so they understood that T21 would not address menthol. Advocates kept Councilors informed, provided quality research and information, presented personal stories, and engaged a broad-based, diverse constituency. As one Councilor said, "This is one of the best-organized and most effective advocacy campaigns I've ever seen. . . . The involvement of just regular community members . . . that was extremely effective."

Lethal Lure *advocates demonstrated their strong support at the Duluth City Council vote.*

On February 12, 2018, the Duluth City Council adopted the ordinance (Appendix C) on a 7 to 2 vote. It went into effect on June 12, 2018 and restricts sales of tobacco products that contain flavors and/or menthol to adult-only tobacco shops. It will reduce the number of vendors selling menthol products from approximately 80 stores to six.

The Lethal Lure *campaign succeeded with broad coalition support.*

Lessons Learned

Lessons Specific to Menthol Policy Campaigns

Menthol campaigns in Minneapolis, St. Paul and Duluth provide lessons that may be useful for advocates and decision-makers in other communities who are considering policy campaigns to reduce the availability of menthol tobacco products.

1. Develop a deep **knowledge of the impact of menthol products** in attracting and addicting youth and members of the African American, American Indian and other racial/ethnic communities as well as LGBTQ communities:

   Organizers educated advocates, decision-makers, and the community about the impact of menthol, the tobacco industry's targeting of specific communities, menthol's addictive properties, and the prevalence of menthol smoking. Advocates in all three cities were knowledgeable about statistics, historical targeting, and menthol's role in addicting young smokers. National African American researchers and advocates educated key stakeholders, which motivated advocates and deepened their knowledge. As one leader noted, "We had a dynamic speaker . . . who came and spoke at great length about how our communities, communities of color, were targeted with these ads. It was amazing that I actually, growing up with *Jet* and *Ebony* magazine in our household, could immediately remember those ads." These meetings helped bring in additional partners to support and lead the work.

2. Conduct **strong local education campaigns** to increase knowledge among advocates and the broader community, emphasizing how menthol products have targeted and impacted specific communities in their own city:

   Lead advocates in all three cities spent two to three years educating community members, increasing awareness and building support to work on menthol, even though all had previous tobacco control policy experience through one-on-one outreach, tabling, presentations and media campaigns. Menthol required additional education. It was also important to develop campaigns that were local to each city, using their own branding and community members, rather than an off-the-shelf campaign. Organizers knew it was important for their communities to be ready: "I think the fact that we spent three years educating the community and engaging the community, especially those impacted, led to a very diverse coalition. Right from the get-go, and I don't think leaving menthol out was ever an option. Because that's a big reason why so many of our coalition members were at the table."

3. **Members of the communities most impacted by menthol should be visible leaders** in the campaign, with "no decision about us without us" (not have the initiative done to/for them by "professionals"):

   Campaigns engaged leaders and supporters from the communities most impacted by menthol. It made campaigns more credible in the community. As one community member said, "The campaign was really being led by people of color that actually are most directly impacted by tobacco company targeting. And so, it was very easy for us to sign on and say, yeah, 100 percent, we support this."

This also increased credibility with decision-makers. As one Councilor said, "The thing that persuaded me was advocacy for people within the most affected communities. . . . So, when it was people from within our local African American community, our local Indigenous community, our LGBT community, which are the targeted communities, coming forth on their own, basically saying, 'We are asking you to protect our kids from the use of this product. . . . ' That's what persuaded me. It wasn't just public health professionals."

4. **Include broad representation in outreach and testimony to Councils**. Include members of the most impacted communities, youth, public health, medical community, and important organizations that serve those sectors:

   Advocates who testified and met with Councils represented diverse perspectives and organizations. It was important for physicians and the health care community to provide expertise on the health care costs. The health care community testimony proved to be key in convincing some Council Members to vote in favor of the ordinance. Community members brought important credibility to the issue when they represented targeted groups as individuals, from community organizations and faith-based organizations: "They brought it forward as menthol, it was an issue for people of color. The African American churches, NAACP, the African American Leadership Council. You know, you just don't ignore that coalition when they come in and say, 'This is killing our kids.'"

5. Acknowledge that it will be less convenient for addicted adults to purchase menthol tobacco products and **be prepared to counter those arguments** by providing information on cessation services and how the ordinance will make it more difficult for youth to access menthol cigarettes and may help adult menthol users quit:

   Advocates anticipated that opponents would try to argue that the ordinance would criminalize African American men. Because of this, it became increasingly important to always be clear that the ordinance focused on retailers, not tobacco users, and that the ultimate goal of the ordinance was to help prevent young people from starting to use tobacco. One advocate said people would often ask, "Are you trying to regulate what adults do? This doesn't seem right. And so, then we said, 'Well, no. . . . We want adults who are addicted to have access to the products. We know they're addicted. And they need to figure out how to quit if they can. . . . This is really about the next generation of young people, particularly people of color. Let's not have another generation of people addicted to these products.'" Education prepared advocates to deliver that message: "I think the year or so of the *Beautiful Lie, Ugly Truth* campaign and building our coalition base really, really made a difference in stopping that message from really getting anywhere." In addition, community organizations are helping connect people to cessation services. Community agencies are promoting availability of cessation services and QUITPLAN Helpline information, several health care organizations that were active in passing the ordinances offer cessation services and in some cases, community organization staff have been trained as cessation counselors to provide cessation support to their constituencies.

6. Develop knowledge of **tobacco industry targeting** and **anticipate and recognize industry tactics** in communities:

   The tobacco industry fueled charges that restrictions on sales of menthol would increase interactions between law enforcement and African American men and criminalize behavior. They supported retailer efforts behind the scenes, lobbied city Councils, sent representatives to public hearings, and in Duluth funded a mailer that went to every household in the city. Advocates need to anticipate these diversions, be prepared to address them, and prepare advocates and Council Members for these tactics. The tobacco industry brought in well-known African American leaders to promote these arguments: "The tobacco industry really fueled those racism arguments." One advocate described an industry-sponsored meeting held in Minneapolis: "The trick they tried to pull on the African American community. . . . They brought in Reverend Al Sharpton and several other people. I found it interesting because in a way I was caught off guard and didn't know it. . . . I learned later, no, they're being paid by the tobacco company." It is powerful when industry efforts are exposed as disingenuous: "If I had any doubt that this policy would reduce nicotine addiction . . . it was completely resolved by the amount of money and effort the tobacco companies were spending to kill it."

7. **Emphasize "people over profits"** when retailers bring up potential loss of income related to restrictions on sales of menthol tobacco products:

   Advocates continually reminded decision-makers of the costs of tobacco to the community. Community members shared stories—and often photos—of mothers, fathers, siblings and other loved ones they had lost to tobacco-related diseases. Staying focused on the cost in human lives was important. As one community member said, "If you are also talking about [retailers'] talking points, that is the message that gets across, and not the message you want to get across. And so, what I thought advocates that I saw showing up time and time again for this particular issue do effectively was, not to actually talk about the money piece of it, and actually talk about how it was impacting people's lives."

8. **Be prepared** to speak to the issue, anticipating what questions Council Members might have, **anticipating counter-arguments** that might be presented by those who profit from the sale of menthol tobacco products:

   Organizers and advocates prepared Council Members for arguments that might come up, so they were not caught by surprise. Campaigns worked closely with Council aides in Minneapolis and St. Paul, giving them a heads up when calls were being generated and providing "Frequently Asked Questions" (FAQs) for them so it was easy to find the information they needed; in Duluth that work was done directly with Councilors. A Duluth Councilor said, "The advocates provided really helpful information and research . . . and figured out what mattered most to individual elected officials."

General Community Organizing & Advocacy Skills

In addition, strong community mobilization and policy approaches (that are applicable in policy work on any issue) were identified:

- A **lead agency with paid staff** to focus on the policy work

  Advocates and elected officials in all three cities identified the importance of having lead agencies that were skilled and credible, as well as a paid community organizer assigned to the campaign. As one person said, "It's essential. . . . You also have to have someone that has the ability to commit time to making sure people stay invested, and continue to show up. And that you're finding new folks, and new ways to engage people." Organizers who worked on engaging physicians in Minneapolis and St. Paul agreed, "At the peak of Minneapolis and St. Paul, we spent many hours a week working and getting people involved and coordinating messages and things like that and I don't see any way [our organization] could absorb that volume of work if not for having dedicated additional funding for our staff time." Engaging physicians was valuable and took dedicated effort. One organizer said, "I wouldn't want other people to walk away and [think] you can get all the physicians just by sending one email. It takes work and time and funding."

- **Develop leadership** from within the ranks of community members

  One advocate observed that the organizer on the campaign never took center stage. Rather, "It was her lifting others up. It's like one of those things that you always, especially as a grassroots organizer, that you strive for. And I just brilliantly saw it come out in her leadership." Another advocate noted that it was a shared effort by many community members, "I was heartened by the fact that it's not a few people doing heavy lifting here. It was a big crowd. Strong, methodical community organizing can overcome the few and the powerful." The words of the change agents carried a lot of weight, given that they were trusted and respected leaders of the African American community who were knowledgeable about the harms of menthol tobacco.

- **Lead organizations with knowledge of how to work with City Councils and identify sponsors for the ordinance**, including how each city's Council functions and makes decisions, as well as experience, relationships and credibility among city Council Members

  The lead agencies had extensive experience working with City Councils and credible reputations. They knew how their Councils operate, if they have weak- or strong-Mayor systems and how many votes they needed. They were experienced at working with busy elected officials and used their time wisely. In cities where Council Members had staff, organizers developed productive working relationships with them and kept them up to date on campaign developments. An experienced organizer advised, "Give them resources. If they ask you for anything, do it quickly and willingly and just have follow-through, keep them updated." As one Council Member told an organizer, she felt like the group "really had her back."

- **Develop respectful relationships** with elected officials and **clearly communicate your issue and goals**
  It was important to press elected officials for a commitment, but stay respectful. Menthol is an emotionally charged issue for advocates who have lost family members to tobacco. Stories were important to stressing the importance of the issue, but one organizer cautioned, "Bring that emotion but bring it in a respectful way. . . . Don't bring the anger. . . . Don't post it to Facebook." Another said it's important to remember that "if you ever want to work with the Council again, if they disagree with you and they don't go with you on this issue, it's okay. Don't shame them. They

may come around later on." One Council Member agreed: "They didn't get angry. They didn't twist my arm. They gave me the space to work through it."

- **Develop cultural competency and be sensitive of privilege**
  Public health organizations may be directed or staffed by predominantly white professionals. Funding sources may inadvertently create differences in status and privilege. As movements seek to diversify and lift up voices from African American, American Indian, Asian, Latino and LGBTQ communities, it is important to develop cultural competency and share leadership.

  Balance the needs of a cohesive campaign with the need to lift up advocates' voices. Tensions may occur when those directing campaigns see things differently from advocates in the community. Advocates in the community thought direction from lead organizations sometimes came across as controlling or driven by others. One advocate cautioned, "Even if it takes a little bit longer, it needs to be grassroots . . . and the community having the control of the message and being involved in who's going to speak and what the message is going to be."

  Most people thought campaigns were conscious of dynamics between well-meaning professionals and community advocates, especially racial dynamics. As one experienced African American leader said, "We have a problem in our communities sometimes where white people actually wanna lead an initiative for people of color. It doesn't work. . . . This movement felt like the allies were in complete support, and used their resources to help, but it was the community that was in charge." Another long-time community advocate agreed: "So I'm saying in short there were a bunch of quality people who behaved out of ethical principles, who kept the prize in sight. Who did not misuse people in their organizing."

Next Steps

As the ordinances take effect, advocates are monitoring implementation to assess compliance and assess how the ordinances are working. Monitoring efforts include youth conducting store surveys to ensure menthol products are not being sold, monitoring availability in liquor stores in Minneapolis and St. Paul, assessing retailers' adaptation to this new environment, and follow-up investigation with city staff and elected officials to assess the effectiveness of the ordinances.

Conclusion

Advocates in Minneapolis, St. Paul and Duluth were successful at establishing broad-based, diverse, knowledgeable coalitions to successfully pass ordinances that restrict locations where menthol tobacco products can be sold. While each campaign had unique characteristics adapted to its local situation, all three navigated policy environments that were placing other conditions on the same businesses impacted by the menthol ordinance, such as minimum wages and mandatory sick time. The tobacco industry attempted to misdirect the focus in all three cities and fueled charges of criminalization and racism. All three campaigns were successful due to careful preparation, well-planned campaigns, extensive outreach and mobilization, strong media campaigns, and diverse coalitions representative of the people in their communities most impacted by menthol products.

Resources

African American Tobacco Control Leadership Council: https://www.savingblacklives.org/

American Lung Association, Duluth: http://www.lung.org/local-content/_content-items/about-us/local-associations-office/Minnesota-Duluth.html

Association for Nonsmokers-Minnesota: http://www.ansrmn.org/

Beautiful Lie, Ugly Truth: http://beautifullieuglytruth.org/

The Center for Prevention at Blue Cross and Blue Shield of Minnesota: https://www.centerforpreventionmn.com/

ClearWay Minnesota: http://clearwaymn.org/

Lethal Lure: https://lethallure.org/duluth-campaign/

Lincoln Park Youth and Families Collaborative: http://www.lpcfc.org/

Menthol Cigarette Intervention Grant: http://www.health.state.mn.us/divs/oshii/ship/menthol.html

Minnesota Youth Tobacco Survey Highlights: http://www.health.state.mn.us/divs/hpcd/tpc/docs/2017_myts_highlights.pdf

National African American Tobacco Prevention Network: http://www.naatpn.org/

NorthPoint Health & Wellness Center: https://www.northpointhealth.org/

Protecting Young People in Minneapolis: A Case Study in Limiting Flavored Tobacco and Raising the Minimum Price of Cigars, May 2016, ClearWay Minnesota: http://clearwaymn.dreamhosters.com/wp-content/uploads/2016/06/MinneapolisFlavorPolicyCaseStudy.pdf

Public Health Law Center at Mitchell Hamline School of Law: http://www.publichealthlawcenter.org/

Truth Initiative: https://truthinitiative.org/

In Memoriam

This case study is dedicated to the memory of Ed Owens, advocate and friend.

Appendix

Appendix A: Minneapolis Ordinance

ORDINANCE 2017-038
By Gordon and Bender
Intro & 1st Reading: 6/16/2017
Ref to: HECE
2nd Reading: 8/4/2017

Amending Title 13, Chapter 281 of the Minneapolis Code of Ordinances relating to Licenses and Business Regulations: Tobacco Dealers.

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Section 281.10 of the above-entitled ordinance be amended to read as follows:

281.10. License required. No person shall, directly or indirectly or by means of any device, offer or expose for sale, sell, exchange, barter, dispose of or give away, or cause to be offered or exposed for sale, exchanged, bartered, disposed of or given away, any ~~tobacco,~~ tobacco products~~, or tobacco related devices~~ at any place in the city without being licensed under this chapter. The sale of tobacco products by vending machine shall require a license under this chapter. In the case of a vending machine, the license shall be held by the person or organization which has control and supervision of the premises.

Section 2. That Section 281.15 of the above-entitled ordinance be amended to read as follows:

281.15. Definitions. As used in this chapter, the following terms shall mean:
Cigar means any roll of tobacco that is wrapped in tobacco leaf or in any substance containing tobacco, with or without a tip or mouthpiece, which is not a cigarette as that term is defined in Minn. Statute Section 297F.01.

~~*Component part* means any element of a tobacco product, including, but not limited to, the tobacco, filter and paper, but not including any constituent.~~

~~*Constituent* means any ingredient, substance, chemical or compound, other than tobacco, water or reconstituted tobacco sheet, that is added by the manufacturer to a tobacco product during the processing, manufacture or packing of the tobacco product. Such term shall include a smoke constituent.~~

Electronic delivery device means any product containing or delivering nicotine, lobelia, or any other substance intended for human consumption through the inhalation of aerosol or vapor from the product. Electronic delivery device includes, but is not limited to, devices manufactured, marketed, or sold as e-cigarettes, e-cigars, e-pipes, vape pens, mods, tank systems, or under any other product name or descriptor. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately. Electronic delivery device does not include any product that has been approved or certified by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is marketed and sold for such an approved purpose.

Flavored tobacco product means any tobacco product ~~or component part thereof~~ that contains a ~~constituent that imparts a characterizing flavor, unless it imparts only the~~ taste or aroma ~~of menthol, mint or wintergreen. As used in this definition, the term "characterizing flavor" means a distinguishable taste or aroma~~, other than the taste or aroma of tobacco, ~~imparted~~ that is distinguishable by an ordinary consumer either prior to or during consumption of a tobacco product, including, but not limited to, tastes or aromas of menthol, mint, wintergreen, chocolate, vanilla, honey, cocoa, or any candy, ~~any~~

dessert, ~~any~~ alcoholic beverage, ~~any~~ fruit, ~~any~~ herb, or ~~and~~ any spice~~; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the use of additives or flavorings or the provision of ingredient information~~. A public statement or claim made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate such statements or claims, that a tobacco product has or produces a ~~characterizing flavor shall establish~~ taste or aroma other than tobacco may be one of the methods used to determine that the ~~tobacco~~ product is a flavored tobacco product, and shall, to the extent permitted by law, create a rebuttable presumption that the product is a flavored tobacco product. Any tobacco product that contains a taste or aroma of menthol, mint, or wintergreen shall not be considered a flavored tobacco product for purposes of this definition until August 1, 2018.

Self service merchandising means open displays of ~~tobacco,~~ tobacco products~~, or tobacco related devices~~ in any manner where any person shall have access to the tobacco~~, or tobacco related devices,~~ products without the assistance or intervention of the licensee or licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco products or ~~tobacco related device~~ between the customer and the licensee or employee.

Nicotine or lobelia delivery product means any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not tobacco or an electronic delivery device as defined in this section. Nicotine or lobelia delivery product does not include any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for tobacco use cessation or for other medical purposes, and is being marketed and sold solely for that approved purpose.

Self service method means a method of sales of tobacco ~~or tobacco related devices~~ products whereby the customer does not need to make a verbal or written request to an employee of the licensed premise in order to receive the tobacco~~, or tobacco related device,~~ product and no physical exchange of the tobacco ~~or tobacco related device~~ product occurs between the customer and the licensee, or an employee or agent of the licensee.

Tobacco means cigarettes and any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product; cigars; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco. Tobacco excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

Tobacco products means tobacco ~~as defined in this section and any~~, tobacco related devices, electronic delivery devices, or nicotine or lobelia delivery products as those terms are defined in ~~Minn. Statute Section 609.685~~ this section.

Tobacco products shop means a retail establishment with an entrance door opening directly to the outside that derives at least ninety (90) percent of its gross revenue from the sale of tobacco products, loose tobacco, plants, or herbs and cigars, cigarettes, pipes, and other smoking devices for burning tobacco and related smoking accessories and in which the sale of other products is merely incidental. "Tobacco products shop" does not include a tobacco department or section of any individual business establishment with any type of liquor, food, or restaurant license.

Tobacco related devices mean ~~any tobacco product as well as~~ a pipe, rolling papers or other devices

intentionally designed or intended to be used in a manner which enables the chewing, sniffing, ingesting, absorbing, or smoking of tobacco or tobacco products.

Vending machine means a mechanical, electric or electronic device, regardless of locking mechanism which is used for the purposes of dispensing tobacco ~~or tobacco related devices~~ products.

Section 3. That Section 281.20 of the above-entitled ordinance be amended to read as follows:

281.20. Application for license; referral and action. Any person desiring to obtain a tobacco dealers license shall file with the licensing official a written application to the city council stating the full name and address of the applicant for such license, and the fixed location of the building or buildings and the part or portions thereof intended to be used by the applicant under such license. No license shall be granted for the purpose of dispensing tobacco from a motor vehicle. ~~Upon the filing of any such application it shall be presented to the city council for consideration, and upon the granting of any such license by the council, the licensing official shall issue such license to the applicant after payment of the license fee herein required.~~

Section 4. That Section 281.45 of the above-entitled ordinance be amended to read as follows:

281.45. Restrictions on sales of tobacco products. (a) No person shall sell cigarettes in any manner other than by the package or multiples thereof to which a stamp has been affixed in accordance with Minnesota Statutes ~~[Section] 297.03, subd. 1~~ Section 297F.08, subd. 1.

(b) Self-service methods of sales and self service methods of merchandising tobacco, tobacco products or tobacco related products as defined in section 281.15 of this Code, shall be prohibited.

(c) Every person applying for a license to sell tobacco products at retail shall certify on the annual license application that the person has implemented a training program for employees regarding laws related to the sale of tobacco products and has trained all employees to comply with state and federal laws and/or regulations regarding the sale of tobacco products.

(d) Self service restrictions shall not apply to tobacco products shops.

(e) No operator or employee of a tobacco products shop shall allow, permit or suffer any person younger than eighteen (18) years of age to enter or be present upon the licensed premises. It shall be the duty of the operator and operator's employees to identify and ascertain the age of any such person and to refuse admittance to any person younger than eighteen (18) years of age.

(f) No person shall sell, offer for sale, give away, barter, exchange, or otherwise deal in flavored tobacco products or samples of such products. This subsection does not apply to tobacco products shops or to a licensed tobacco dealer that otherwise meets the definition of and requirements applicable to a tobacco products shop except for the lack of an entrance door opening directly to the outside but which has an entrance door opening directly to the public area of a skyway, mall or other space that is not part of the premises of another business establishment. This subsection does not apply to licensed off sale liquor stores with regard to menthol, mint or wintergreen flavored tobacco products provided that such an establishment does not permit any persons under the age of twenty-one (21) to be present within the establishment unaccompanied by a parent or guardian. The city may maintain a list of flavored tobacco products and tobacco products determined to not constitute flavored tobacco products and may require a license holder to provide documentation or evidence establishing that a particular tobacco product

offered for sale by that license holder is not a flavored tobacco product. Failure to provide sufficient information may be one of the methods used to determine that the product is a flavored tobacco product and shall, to the extent permitted by law, create a rebuttable presumption that the product is a flavored tobacco product. ~~This subsection shall become effective January 1, 2016.~~

(g) No person shall sell, offer for sale, or otherwise distribute cigars in original packages containing three (3) or fewer cigars for a sale price, after any coupons, multipack or buy-one-get-one promotions, or any other discounts are applied and prior to applicable sales taxes being imposed, of less than two dollars and sixty cents ($2.60) per cigar contained within. In addition, no person shall sell, offer for sale, or otherwise distribute cigars in original packages of four (4) or more cigars for a sale price, after any coupons, multipack or buy-one-get-one promotions, or any other discounts are applied and prior to applicable sales taxes being imposed, of less than ten dollars and forty cents ($10.40) per package. ~~This subsection shall become effective January 1, 2016.~~

Section 5. That Section 281.55 of the above-entitled ordinance be amended to read as follows:

281.55. Distribution of free tobacco products restricted. No person in the business of selling or promoting tobacco or agent or employee of any such person, shall distribute tobacco products free to any person as provided in Minnesota Statutes, Section 325F.77(4).

Section 6. That Section 281.56 of the above-entitled ordinance be amended to read as follows:

281.56. Sampling. Pursuant to the authority granted to the City of Minneapolis by Minnesota Statutes, Section 144.417, the operator of any tobacco products shop licensed under Section 281.10 of the Minneapolis Code of Ordinances is hereby prohibited from any of the following:

(a) Except for a bona fide sale of a smoking device, providing or otherwise making available for use by a customer, potential customer, or any other person a smoking device for the purpose of sampling any tobacco product, provided that this subsection shall not prevent providing or otherwise making available for sampling, testing, or instructional purposes, an electronic delivery device as defined in Minn. Statute Section 609.685;

(b) Providing in exchange for a fee or any other consideration seating within or access to the indoor area of a tobacco products shop; or

(c) Permitting within the indoor area of a tobacco products shop the sampling of any tobacco product which was not furnished by the tobacco products shop on the date and at the time the sampling occurs.

A tobacco products shop may distribute single service samples of smokeless tobacco products or cigarettes, cigars, pipe tobacco, or other tobacco products suitable for smoking subject to the limitations on indoor sampling or smoking provided in this section.

Section 7. That Section 281.60 of the above-entitled ordinance be amended to read as follows:

281.60. Revocation, suspension or non-renewal. Every license holder under this chapter will either be subject to a monetary penalty or in extenuating circumstances have their license revoked, suspended, or not renewed by the city council according to the penalty schedule as provided in section 281.65, for any of the following reasons:

(a) Violation of section 281.50 or any other provision of this chapter.

(b) Violation of Minnesota Statutes, Section 609.685 relating to sale of tobacco to persons under eighteen (18) years of age.

(c) Failure of the license holder to monitor, supervise, and control the purchase of tobacco products from a vending machine so as to prevent the purchase of tobacco products from a vending machine by persons under eighteen (18) years of age.

(d) Other good cause related to the business of selling or furnishing tobacco products.

Section 8. That Section 281.70 of the above-entitled ordinance be amended to read as follows:

281.70. Administrative penalty, individual. An individual who sells tobacco products to a person under the age of eighteen (18) years must be charged an administrative penalty of fifty dollars ($50.00). The licensee will be responsible for ensuring the employee pays the fine or takes necessary steps to appeal the penalty.

Section 9. That Section 281.80 of the above-entitled ordinance be amended to read as follows:

281.80. Enforcement. Sections 281.30 through 281.65 shall be administered and enforced by and through the licensing official of the City of Minneapolis. All compliance operations to ensure adherence to sections 281.60(b) and 281.60(c) shall be conducted by the licensing official or the Minneapolis Police Department.

The licensing official or the Minneapolis Police Department will conduct unannounced compliance checks at least once each calendar year at each location where tobacco ~~is~~ products are sold to test compliance with Minnesota Statutes, Sections 609.685 and 609.6855. In the event of a first violation, an unannounced compliance check shall be done within the following six (6) months and at least twice within the anniversary date of the first violation. In the event of a second violation, an unannounced compliance check shall be done within the following four (4) months and at least three (3) times within the anniversary date of the second violation. Compliance checks must involve minors over the age of fifteen (15), but younger than the age eighteen (18), who with the prior written consent of a parent or guardian, attempt to purchase tobacco products under the direct supervision of a law enforcement officer or employee of the licensing authority.

Section 10. That Section 281.90 of the above-entitled ordinance be amended to read as follows:

281.90. Criminal penalties. In addition to any civil penalties imposed under this chapter, nothing contained in this chapter shall prohibit the City ~~Of~~ of Minneapolis from seeking criminal prosecution for violations of Minnesota Statutes, Sections ~~609.665~~ 609.685 or 609.6855, as provided therein.

On roll call, the result was:
Ayes: Reich, Gordon, Frey, Goodman, Glidden, Cano, Bender, Quincy, A. Johnson, Palmisano (10)
Noes: Yang, President Johnson (2)
Absent: Warsame (1)
Adopted, as amended.

Appendix B: St. Paul Ordinance

City of Saint Paul

City Hall and Court House
15 West Kellogg Boulevard
Phone: 651-266-8560

Legislation Details (With Text)

File #:	Ord 17-28	**Version:**	3	**Name:**	Chapter 324 ordinance amendment regarding flavored tobacco
Type:	Ordinance			**Status:**	Passed
				In control:	City Council
				Final action:	11/1/2017

Title: Amending Chapter 324 of the Legislative Code by adding menthol, mint or wintergreen and fruit to the definition of flavored products.

Sponsors: Jane L. Prince, Amy Brendmoen, Dai Thao, Russ Stark, Rebecca Noecker, Dan Bostrom

Indexes:

Code sections:

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Date	Ver.	Action By	Action	Result
11/7/2017	3	Mayor's Office	Signed	
11/1/2017	3	City Council	Adopted	Pass
10/25/2017	2	City Council		
9/27/2017	2	City Council	Laid Over to Final Adoption	Pass
9/20/2017	1	City Council	Continue Public Hearing	Pass

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File #: Ord 17-28, **Version:** 3

9/13/2017	1	City Council	Laid Over to Third Reading/Public Hearing	
9/6/2017	1	City Council	Laid Over to Second Reading	Pass

Amending Chapter 324 of the Legislative Code by adding menthol, mint or wintergreen and fruit to the definition of flavored products.

THE COUNCIL OF THE Saint Paul Legislative Code is hereby amended to read as follows:

****

Sec. 324.03. - Definitions.

The following words and phrases, as used in this chapter, shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this section, except in those cases where the context clearly indicates a different meaning:

(1) *Cigar* means any roll of tobacco that is wrapped in tobacco leaf, or in any other substance containing tobacco, with or without a tip or mouthpiece, that is not a cigarette as defined in Minn. Stat. § 297F.01, subd. 3, as may be amended from time to time.

(2) *Electronic delivery device* means any product containing or delivering nicotine, lobelia, or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately. Electronic delivery device does not include any product that has been approved or certified by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is marketed and sold for such an approved purpose.

(3) *Flavored product* means any tobacco product, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product that contains a taste or smell, other than the taste or smell of tobacco, ~~menthol, mint or wintergreen,~~ that is distinguishable by an ordinary consumer either prior to or during the consumption of the tobacco product, electronic delivery device, or nicotine or lobelia delivery product, including, but not limited to, any taste or smell relating to menthol, mint, wintergreen, chocolate, cocoa, vanilla, honey, fruit, or any candy, dessert, alcoholic beverage, herb, or spice. A public statement or claim, whether express or implied, made or disseminated by the manufacturer of a tobacco product, tobacco-related device, electronic delivery device, or nicotine or lobelia delivery product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such product or device, that the product or device has or produces a taste or smell other than tobacco ~~menthol, mint or wintergreen,~~ shall constitute presumptive evidence that the product or device is a flavored product.

(4) *Nicotine or lobelia delivery product* means any product containing or delivering nicotine or lobelia intended for human consumption, or any part of such a product, that is not a tobacco product or an electronic delivery device, as defined in this section. Nicotine or lobelia delivery product does not include any product that has been approved or otherwise certified for legal sale by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is marketed and sold for such an approved purpose.

(5) *Sale* means and includes any transfer, conditional or otherwise, of title or possession.

(6) *Sale at retail* means and includes all sales except those where the merchandise is sold for the purpose of resale by a person principally engaged in selling merchandise for resale.

(7) *Tobacco* or *tobacco product* means any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product,

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including, but not limited to cigarettes, cigars, little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobacco; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco. Tobacco products excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco-cessation product, as a tobacco-dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

(8) *Tobacco-related devices* means cigarette papers, pipes for smoking, or other devices intentionally designed or intended to be used in a manner which enables the chewing, sniffing, smoking, or inhalation of vapors of tobacco or tobacco products. Tobacco-related devices include components of tobacco-related devices which may be marketed or sold separately.

(9) *Tobacco vending machine* means a machine for vending tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery devices by the insertion of money, tokens, or other form of payment.

****

SECTION 2

Section 324.07 of the Saint Paul Legislative Code is hereby amended to read as follows:

Sec. 324.07. - Sales prohibited.

(a) No person shall sell a cigarette outside its original packaging containing health warnings satisfying the requirements of federal law. No cigarettes shall be sold in packages of fewer than twenty (20) cigarettes.

(b) No person shall sell or dispense tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery devices from a motor vehicle or other movable place of business.

(c) No person shall sell tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products from vending machines unless the vending machines are in a facility that cannot be entered at any time by persons younger than eighteen (18) years of age.

(d) No person shall offer for sale tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products in any open displays which are accessible to the public without the intervention of a store employee. This restriction shall not apply to retail stores which derive at least ninety (90) percent of their revenue from tobacco and tobacco-related devices, and where the retailer ensures that no person younger than eighteen (18) years of age is present, or permitted to enter, at any time.

(e) No person shall sell, offer for sale, or otherwise distribute cigars in original packages containing three (3) or fewer cigars for a sale price, after any coupons, multipack or buy-one/get-one promotions, or any other discounts are applied and prior to applicable sales taxes being imposed, of less than two dollars and sixty cents ($2.60) per cigar contained within. In addition, no person shall sell, offer for sale, or otherwise distribute cigars in original packages of four (4) or more cigars for a sale price, after any coupons, multipack or buy-one/get-one promotions, or any other discounts are applied and prior to applicable sales taxes being imposed, of less than ten dollars and forty cents ($10.40) per package.

(f) No person shall sell, offer for sale, or otherwise distribute any flavored products. ~~This restriction shall not apply to retail stores that derive at least ninety (90) percent of their revenue from the sale of tobacco products, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products and where the~~

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~~retailer ensures that no person under eighteen (18) years of age is permitted to enter, at any time.~~

(g) Sale to minors prohibited.

(1) Whoever sells or furnishes tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products to a person under the age of eighteen (18) years is guilty of a misdemeanor for the first violation. Whoever violates this section a subsequent time within five (5) years of a previous conviction is guilty of a gross misdemeanor.

(2) It is an affirmative defense to a charge under this subdivision if the defendant proves by a preponderance of the evidence that the defendant reasonably and in good faith relied on proof of age as described in Minn. Stat. § 340A.503, subd. 6.

(h) Exceptions.

(1) Notwithstanding section (g), individuals exempted under Minn. Stat. § 609.685 are also exempt from this section.

(2) The penalties in this section do not apply to a person under the age of eighteen (18) years who purchases or attempts to purchase tobacco, tobacco-related devices, electronic delivery devices, or nicotine or lobelia products while under the direct supervision of a responsible adult for training, education, research, or enforcement purposes.

(3) Retail stores that derive at least ninety (90) percent of their revenue from the sale of tobacco products, tobacco-related devices, electronic delivery devices, or nicotine or lobelia delivery products and where the retailer ensures that no person under eighteen (18) years of age is permitted to enter, at any time are permitted to sell and offer for sale flavored tobacco products.

(4) Establishments holding an Off-sale intoxicating liquor license issued by the City of Saint Paul under chapter 409 of the Saint Paul Legislative Code who also hold a license for tobacco sales under this chapter shall be permitted to sell and offer for sale flavored tobacco products only in the following flavors: menthol, mint, and wintergreen.

(i) Any violation of this chapter shall subject the licensee to provisions of chapter 310 and section 324.11 of the Saint Paul Legislative Code.

SECTION 3

This Ordinance shall take effect and be in force beginning November 1, 2018. ~~thirty (30) ninety (90) days~~ following its passage, approval and publication~~.~~

Appendix C: Duluth Ordinance

City of Duluth

411 West First Street
Duluth, Minnesota 55802

Legislation Details (With Text)

File #:	18-001-O	**Name:**	
Type:	Ordinance	**Status:**	Passed
File created:	12/21/2017	**In control:**	Planning and Economic Development
On agenda:	1/22/2018	**Final action:**	2/12/2018
Title:	ORDINANCE AMENDING CHAPTER 11 OF THE DULUTH CITY CODE TO RESTRICT THE SALE OF FLAVORED TOBACCO PRODUCTS TO ADULT ONLY SMOKE SHOPS.		
Sponsors:	Barb Russ, Zack Filipovich		
Indexes:			
Code sections:			
Attachments:			

Date	Ver.	Action By	Action	Result
2/12/2018	1	City Council	adopted	Pass
1/22/2018	1	City Council	read for the first time	

ORDINANCE AMENDING CHAPTER 11 OF THE DULUTH CITY CODE TO RESTRICT THE SALE OF FLAVORED TOBACCO PRODUCTS TO ADULT ONLY SMOKE SHOPS.

BY COUNCILOR RUSS AND COUNCILOR FILIPOVICH:

The city of Duluth does ordain:

Section 1. That section 11-11 be added to Chapter 11 of the Duluth City Code and read as follows:

Sec. 11-11. Sales of Flavored Tobacco Products Restricted.

(a) No person shall sell, offer for sale or otherwise distribute any flavored tobacco products. This restriction does not apply to retail establishments that:

(1) Prohibit persons under the age of 18 from entering at all times; and

(2) Derive at least ninety percent of their revenues from the sale of tobacco, tobacco-related devices.

(b) Any retail establishment that sells flavored tobacco products must provide upon request financial records that document annual sales.

(c) Flavored tobacco product means any tobacco or tobacco related device that contains a taste or smell, other than the taste or smell of tobacco, that is distinguishable by an ordinary consumer either prior to or during consumption or use of the tobacco product or tobacco related devise, including, but not limited to, any taste or smell relating to menthol, mint, wintergreen, chocolate, cocoa, vanilla, honey, fruit, or any candy, dessert, alcoholic beverage, herb or spice. A public statement or claim, whether express or implied, made or disseminated by a manufacturer of tobacco or tobacco related devices, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such products, that a product has or produces a taste or smell other than tobacco will constitute presumptive evidence that the product is a flavored tobacco product.

Section 2. That this ordinance shall take effect 120 days after its passage and publication.

STATEMENT OF PURPOSE: This ordinance restricts the sale of flavored tobacco products to adult only tobacco shops.