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Moraga joins other local cities in banning the sale of flavored tobacco and electronic smoking devices

By Vera Kochan



Vape pens disguised as permanent markers
Photo courtesy Moraga Police Dept

Choosing to be proactive, Moraga's town council voted to ban the sale of flavored tobacco and electronic smoking devices (also known as vape pens) just ahead of Prop 31 on the Nov. 8 ballot. A "yes" vote on Prop 31 means in-person stores and vending machines could not sell most flavored tobacco products and flavor enhancers.

Moraga Police Chief Jon King, Officer Fabiola Hernandez and Assistant Town Attorney Denise Bazzano gathered information to compile a staff report that was presented during the Oct. 12 town council meeting. It was noted that Contra Costa County and the cities of Antioch, Lafayette, Orinda, Pinole, Pleasant Hill, Richmond, San Pablo, and Walnut Creek have adopted similar bans.

According to results from a 2019-20 Tobacco Survey presented by King, 32.5% of Contra Costa high school students had used a tobacco product; 92% of students who were current tobacco users reported using a flavored tobacco product; highest use of flavored tobacco products was among current vape users (95.8%) and smokeless tobacco (73.3%); 40.6% of current cigarette smokers report using menthol cigarettes in the previous 30 days; and 77% believed that tobacco companies targeted youth through flavored product advertisements.

A New York Times article by Christina Jewett states this year's National Youth Tobacco Survey "showed that 85% of adolescent e-cigarette users favored vapes in fruit, dessert and candy flavors. Some mentioned PuffBar; Vuse and Juul as their favorite brand among those on the survey's list. But many said their favored e-cigarette brand was not one of the 13 listed. That finding highlights how nimble the industry has been in stamping an array of brand names on vapes with flavors like strawberry ice cream and fresh vanilla that are largely made in China and shipped from warehouses to corner stores and into e-commerce."

On a more local level, Campolindo High School's 2019 Healthy Kids survey results found that 36% of the students admitted to using vaping products. An unexpected and nearly tragic by-product of vaping was the cause of the 2019 Merrill Fire in the Sanders Ranch neighborhood where a discarded vape pen was found at the fire's origin.

King described flavored tobacco and vape products as being a "gateway" for some users to potentially seek a progression to more dangerous tobacco products and even drugs.

The sale of tobacco products to anyone under 21 years of age is prohibited thanks to an existing law, Stop Tobacco Access to Kids Enforcement (STAKE) Act. There are currently five tobacco retailers in Moraga: ARCO-Carwash; 7-Eleven; Moraga Chevron; Moraga Star Station; and Moraga Wine & Spirits. None of these rely solely on the sale of tobacco-related products to stay in business, nevertheless the town council was willing to postpone the ban until Jan. 1, 2023, in order for those retailers to legally sell or dispose of their inventories.

Staff's proposed ordinance would repeal and replace an existing one (Chapter 7.24), which would "prohibit the sale of flavored tobacco and vaping products in the Town of Moraga." Modeled after Orinda's May 2022 ordinance, aspects of it include: "updated definitions of specific products; prohibition on the non-sale distribution of tobacco products; an updated requirement that all tobacco sales be tobacco retailer assisted; and a change to the Violation/Penalty section allowing the town to utilize civil, criminal or administrative sanctions rather than mandating a misdemeanor violation, which could potentially result in a jury trial in Superior Court for a minor violation."

The Ordinance will return at a future town council meeting for a second review and approval.

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