



Case Study

Leveraging the community voice and equity issues to strengthen tobacco retailer licensing policy in Hayward

Executive Summary

In July 2020, the Hayward City Council amended its Tobacco Retail License (TRL) policy to remove both the exemption of menthol flavored tobacco products and “grandfathering” of existing licensees, thus eliminating the sale of flavored tobacco products citywide. Additionally, the Council enacted several provisions to strengthen the TRL. The effort was led by Eden Youth and Family Center (EYFC), the Asian Pacific Islander Coalition for Health Against Tobacco (API-CHAT) and the Alameda County Tobacco Control Program (TCP) – a broad community of organizations that marshalled a powerful and diverse base of support, leveraging youth and community voices and social equity issues.

Key Partners

Key partners included the Eden Youth and Family Center (EYFC), EYFC Youth Advisory Council, the Asian Pacific Islander Coalition for Health Against Tobacco (API-CHAT), American Heart Association, American Cancer Society Cancer Action Network, African American Tobacco Control Leadership Council (AATCLC) and Calvary Baptist Church.

Approach

Hayward was the second jurisdiction in California to adopt a tobacco retail license (TRL) policy that included restrictions on the sale of flavored tobacco products in 2014, as well as a 500-foot buffer for youth-sensitive areas. However, the ordinance contained two problematic provisions that excluded menthol products and grandfathered in existing retailers.

While it was a trailblazing policy at that time, the “grandfathering” provision proved to undermine the purpose of the policy, rendering it ineffective. It was clear from the 2019 Healthy Stores for Healthy Communities survey that a majority of retailers were continuing to sell flavored tobacco products.

Although key informant interviews conducted by API-CHAT during the second half of 2018 indicated a lukewarm interest in revisiting and strengthening Hayward’s TRL, informal conversations between EYFC staff

and City Council members suggested support for strengthening the policy, prompting efforts to elevate the issue with other community partners and building of community support.

Following civic engagement training by TCP, the EYFC's Youth Advisory Council (YAC) joined API-CHAT and other Coalition members to speak during a general public comment period during a June 2019 Hayward City Council meeting, calling for more effective measures preventing youth access to flavored and menthol tobacco products. In September 2019, following growing reports of a national and statewide youth vaping epidemic, Hayward Councilmembers Al Mendall, Elisa Márquez and Francisco Zermeño issued a memorandum asking their colleagues to revisit the issue.

Councilmember Mendall, the father of two teenagers, said he was personally struck by experiences shared about tobacco use in schools, including during class. "Combined with the additional data we were getting at federal level about dangers of vaping and health issues, it was time for us to take action again," he said.

Key Community Organizing Strategies

Assessing the problem

In the years since Hayward's TRL was adopted, surrounding communities and Alameda County itself, enacted stronger tobacco retail regulations, making Hayward an outlier in the region for continuing sales of menthol and other flavored tobacco products.

TCP provided data about TRLs in other communities, along with information about loopholes that had been exploited. It also developed a detailed map for city staff that showed a concentration of tobacco retailers near youth-sensitive areas, in low-income neighborhoods and communities of color.

Elevating community voices

Following the Council's direction for staff to explore changes to Hayward's TRL, the Coalition moved into active campaign mode, coordinating educational meetings with Council members and City staff, conducting outreach and presentations at community organizations, including South Hayward Neighborhood Collaborative and Hayward Promise Neighborhood. EYFC was involved in supporting youth and provided deep connections to other community organizations and faith-based groups. API-CHAT provided important links to community college and faith-based groups.

Some decision makers worried that new and strengthened TRL measures would hurt local businesses who were already struggling due to COVID-19, making community voices – especially youth voices – crucial to illustrating support.

Working with EYFC, the TCP provided several training sessions for the YAC, offering technical assistance on the process of contacting Council members, data and educational messages, as well as coaching on presentations, resulting in confident, resonating statements that got Councilmember's attention.

“The youth voice is imperative,” said Jennifer Duncan, Substance Abuse Education & Prevention Manager for Eden Youth & Family Center. “The Council wants to hear the passion in people’s voices and passion from the community, so being able to do that effectively is really important. They weren’t just reading facts off a piece of paper. They were sharing their personal experience in a powerful way.”

EYFC YAC and Coalition members gave public comment on proposed policy changes throughout the process, starting with a review by the city’s Economic Development Committee in March 2020. Evidence-based guidance related to tobacco retailer density and proximity to youth sensitive areas sent the proposal to Hayward’s Planning Commission next, which was held as a virtual meeting due to shelter-in-place restrictions instituted as the pandemic took hold.

Leading up to the May 2020 Planning Commission meeting, local tobacco retailers flooded Planning Commission and Council inboxes with letters of support from customers and concerns about impacts on business.

Coalition partners thought they had secured support from three of the seven Planning Commission members but were surprised when their approval to send the policy forward to Council included recommendations to allow for continued sales at adult-only tobacco stores, exclude vaping products from the proposed ban and explore options other than a full flavor ban.

The Coalition scheduled educational follow up meetings with City Councilmembers and staff, and conducted phone banking for community educational purposes to educate the community and public about the need to do more to prevent youth access to flavored tobacco products. The Campaign for Tobacco-Free Kids set up a letter-writing platform, which resulted in 35 letters from youth and community members. In addition, the Coalition secured 31 support letters from organizations.

Shifting gears, social justice messaging and COVID-19

The COVID-19 pandemic erupted mid-campaign in March 2020, pushing outreach to virtual platforms and threatening to shift attention away from tobacco issues. Planned public opinion polls and other outreach through community events were cancelled.

Rosalyn Moya, project director for API-CHAT, credited the strength of partnerships and strong ties to the community cultivated by organizations for the campaign’s success, given challenges posed by COVID-19 restrictions.

“We had to go through a lot of community leaders, who are the gatekeepers in the city, to have them help amplify the message and use their local influence and voice to affect city council,” Moya said. “Religious leaders, local activists and neighborhood groups became key because they have those established relationships and influence.”

One key tactic to keeping the campaign relevant to both the community and city leaders was educating them on how menthol and flavored tobacco access was an equity and social justice issue. As the COVID-19

pandemic unfolded across the globe, growing reports linked COVID-19 complications and tobacco, as well as the disproportionate impact on racial and ethnic minority communities, adding urgency to addressing the issue.

The African American Tobacco Control Leadership Council, whose mission centers on raising awareness about the impact of tobacco on the lives of Black-American and African immigrant populations, supported the strengthening of the TRL and brought attention to the disproportionate impact from flavored tobacco and the COVID-19 pandemic on communities of color.

Demonstrating Support

In July 2020, the Coalition conducted a public comment speaker training with all community partners, including a tutorial on the public comment protocol using the online platform in advance of the July 7 Council vote to amend the TRL.

Participants were recruited through the myriad organizational and personal networks of Coalition members, reflecting a wide array of community organizations, including faith leaders, youth and concerned parents who shared personal experiences about the impact of tobacco in their lives. Youth speakers spoke about widespread vaping on-campus and even during class.

About 45 community speakers made public comments in support of a strengthened TRL at the July 7, 2020, council meeting, and the measure, without a carve-out for adult-only tobacco retailers, was passed unanimously.

Results

In July 2020, Hayward's TRL was amended to remove both the exemption of menthol tobacco products and "grandfathering" of existing licensees, thus eliminating for once the sale of all flavored tobacco products. The Council also doubled the buffer for youth sensitive areas, increased the minimum sales price for both packages of cigarettes and little cigars and cigars, and prohibited tobacco sales at pharmacies. Under the amended TRL, sales of all electronic smoking devices were also banned. The revised ordinance includes stronger enforcement language, including a "look back" period for violations from 3-to-5 years, ensuring a revocation hearing at the Planning Commission at the third violation, and includes data on enforcement activity in the annual reports to City Council.

Councilmember Mendall, who championed a strengthened TRL, credited broad community support, engagement and collaboration with City officials for the success. He said conversations with stakeholders about ways to minimize loopholes that had been exploited in other communities and additional measures that could strengthen Hayward's TRL and personal testimonials by a diverse group of community members were key factors.

Campaign Analysis: Challenges and Lessons Learned

- **Exemptions hurt the policy, helped win campaign.** Effective policy should avoid the kind of exemptions and grandfathering provisions in the Hayward ordinance, which rendered ineffective restrictions on flavored tobacco sales. However, it was this total lack of policy effectiveness that provided the coalition with the ability to rally its forces to win the strengthening amendments.
- **Data is a powerful tool.** Using data to demonstrate the availability of flavored tobacco products in youth areas, low-income neighborhoods and communities of color was crucial to generating momentum among key community groups as well as with Council leadership.
- **Linking tobacco control issues to social and health equity is effective.** Demonstrating the relationship between the amendment campaign and the impacts of the public health crisis driven by the coronavirus pandemic proved to be powerful. By linking both increased risks associated with smoking and vaping for COVID-19 patients as well as disparities in health outcomes among communities of color, organizers were able to generate a powerful sense of urgency for stronger measures.
- **It's not enough just to have youth voices.** The campaign took seriously the engagement of youth through outreach and organizing efforts. Also, to ensure that the youth voice was effective, training and civic engagement coaching helped the youth speak powerfully and confidently. That along with understanding the rules of the process, made an important impact on City Council.
- **Numerous, diverse voices countered opposition.** Marshalling a wide variety of community voices to support tobacco control measures elevated the issue throughout the community and provided important momentum to counter opposition voices and arguments.

Looking ahead

The TCP will continue to engage the community to act as watchdogs on the implementation of the strengthened TRL, asking community members to offer their insights into what is being sold in their neighborhoods on a daily basis and reporting violations to local enforcement.

In addition, TCP will review and provide feedback on updated retailer education materials, conduct quarterly implementation check-ins with Hayward Code Enforcement to support effective implementation and monitoring of the new law and provide ongoing technical assistance to Hayward Code Enforcement as requested. TCP will also maintain communication with EYFC YAC to discuss the policy and how ongoing community vigilance is integral to effective implementation and enforcement.

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organizingtonendtobacco@heart.org | organizingtoendtobacco.org