

LEGISLATIVE #

110592b

Regulation of Candy-Flavored Tobacco Products

PRESENTED BY:
OFFICE OF THE CITY ATTORNEY

SUZANNE TZUANOS, LEGAL EXTERN
MARION KADSON, CITY ATTORNEY

Issues

- (1) Whether Federal or State Law Prevents the City of Gainesville from Prohibiting the Sale and Distribution of Candy-Flavored Tobacco Products
- (2) Whether the City of Gainesville has the Requisite Legal Basis for Such a Prohibition

Proposed Course of Action

- (1) Resolution Urging Retailers to Stop the Sale and Marketing of Candy Flavored Tobacco Products
- (2) Targeted Enforcement Effort to Enforce Existing Law Prohibiting Sale of Tobacco to Minors
- (3) Education and Outreach to Discourage Adults from Giving Tobacco to Minors

RESOLUTION NO. 10-175

A RESOLUTION URGING TOBACCO RETAILERS TO STOP THE SALE AND MARKETING OF FLAVORED TOBACCO IN POLK COUNTY; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, tobacco use is the number one cause of preventable death in the United States, and almost 90 percent of tobacco users started before they were 18 years old; and

WHEREAS, research from the Harvard School of Public Health found that tobacco manufacturers are targeting youth with flavored products that mask the harsh and toxic properties found in tobacco smoke and spit residue; and

WHEREAS, in Polk County, nearly 1 in 4 high school youth have used tobacco in one or more forms in the past 30 days; and

WHEREAS, studies indicate that Polk County youth use smokeless tobacco products at a significantly higher rate than the youth in the State of Florida, often times using products which contain flavoring characteristics; and

WHEREAS, tobacco manufacturers are banned from directly or indirectly targeting youth in advertising, marketing and promotion of tobacco products aimed at initiating, maintaining or increasing youth use of tobacco in accordance with the 1998 Master Settlement Agreement; and

WHEREAS, internal tobacco industry documents strongly suggest that manufacturers intentionally target youth through the various flavors in tobacco products and their marketing; and

WHEREAS, tobacco companies use youth-oriented colorful and stylish packaging, and exploit adolescents' attraction to flavors such as Green Apple, Cherry, Root Beer, French Vanilla, Grape, Mango, Peach and numerous other flavors identified in retail outlets in Polk County, and

WHEREAS, national studies have found that the vast majority of people who are using these flavored tobacco products are youth and young adults; and

WHEREAS, research by the Students Working Against Tobacco youth and the Tobacco-Free Partnership of Polk County found that the majority of tobacco retailers surveyed in Polk County sell flavored tobacco products of various kinds; and

WHEREAS, flavored tobacco products are defined as loose tobacco, snuff flour, plug and twist tobacco, fine cuts, long cuts, chewing tobaccos, dissolvable tobaccos, snus, shisha tobaccos, cigarettes, cigarillo, cigars, other smoking and snuffing products,

and all other forms of tobacco products, that contain any product or additive, either artificial or natural, that is designed to be a characterizing flavor of either the tobacco product or the byproduct it produces.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, POLK COUNTY, FLORIDA THAT:

1. The Polk County Board of County Commissioners urges all local retailers who sell tobacco products where youth have access to their store or products to cease the sale and marketing of all flavored tobacco products, in order to reduce the exposure and use of tobacco products to Polk County youth.
2. If any provision of this Resolution is held to be illegal, invalid, or unconstitutional by a court of competent jurisdiction the other provisions shall remain in full force and effect.
3. This Resolution shall become effective upon adoption by the Board of County Commissioners.

ENACTED BY THE BOARD OF COUNTY COMMISSIONERS OF POLK COUNTY, FLORIDA this _____ day of December, 2010.

BEFORE THE MARTIN COUNTY BOARD OF COUNTY COMMISSIONERS
MARTIN COUNTY, FLORIDA

RESOLUTION No. 11-9.53

**A RESOLUTION URGING TOBACCO RETAILERS TO STOP THE
SALE AND MARKETING OF FLAVORED TOBACCO PRODUCTS
IN MARTIN COUNTY, FLORIDA.**

WHEREAS, tobacco use is the number one cause of preventable death in the United States, and almost 90 percent of tobacco users started before they were 18 years old; and

WHEREAS, each day, more than 4,000 young people try smoking for the first time, and another 2,000 youth become regular daily smokers; and

WHEREAS, the Surgeon General has concluded that tobacco advertising greatly contributes to youth smoking rates; and

WHEREAS, an estimated one third of adolescent experimentation with smoking can be directly attributed to tobacco advertising and promotional activities; and

WHEREAS, the Master Settlement Agreement (MSA) reached in 1998 between state Attorneys General and major tobacco companies forbids cigarette manufacturers from directly or indirectly targeting youth in advertising, marketing, and promotion of tobacco products aimed at initiating, maintaining, or increasing youth smoking; and

WHEREAS, internal tobacco industry documents strongly suggest that manufacturers intentionally target youth through use of candy-like flavors in tobacco products; and

WHEREAS, research from the Harvard School of Public Health (published November 2005) found that cigarette makers are targeting young smokers with new candy- and liqueur-flavored brands that mask the toxic properties found in tobacco smoke; and

WHEREAS, tobacco companies use youth-oriented colorful and stylish packaging, and exploit adolescents' attraction to candy flavors with names such as "Mandarin Mint," "Winter Warm Toffee" and "Twista Chill"; and

WHEREAS, research by the Martin County Students Working Against Tobacco youth shows 75 percent of local tobacco retailers located within three miles of middle and high school campuses in Martin County sell flavored tobacco products (*2010 Martin County StoreAlert Surveillance*); and

WHEREAS, the Florida Youth Tobacco Survey shows that at least 87 percent of tobacco obtained by youth in Martin County is obtained through social sources, not direct underage purchases by the minors themselves, and, therefore, existing age restrictions are inadequate protection to keep these flavored products out of the hands of their primary users.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MARTIN COUNTY, FLORIDA THAT:

The Martin County Commission urges all local retailers who sell tobacco products to cease the sale and marketing of all flavored tobacco products, which are defined as loose tobacco including snuff flour, plug and twist tobacco, fine cuts, chewing tobacco, snus, smoking or snuffing tobacco products, and all other kinds and forms of tobacco, including but not limited to cigarettes, cigars, smokeless tobacco products and blunt wraps, prepared in such a manner with the purpose for chewing, inhaling, smoking, or ingesting in any manner which have been flavored through the addition of natural or artificial flavorings, herbs, spices, or other means with flavors characterizing fruit, candy, alcohol, or other similar flavorings with the exception that menthol will not be included in this definition.

DULY ADOPTED THIS 27th DAY OF SEPTEMBER, 2011

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
MARTIN COUNTY, FLORIDA**

**BY: _____
MARSHA EWING, CLERK**

**BY: _____
EDWARD V. CIAMPI, CHAIRMAN**

APPROVED AS TO FORM AND CORRECTNESS:

**BY: _____
STEPHEN FRY
COUNTY ATTORNEY**

DRAFT
FOR DISCUSSION ONLY

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA, URGING TOBACCO RETAILERS TO STOP THE SALE AND MARKETING OF CANDY FLAVORED TOBACCO PRODUCTS IN GAINESVILLE, FLORIDA.

WHEREAS, tobacco use is the leading cause of preventable death in the United States; and

WHEREAS, the Centers for Disease Control and Prevention reports that more than 80-percent of current tobacco users started using before age 18; and

WHEREAS, the Centers for Disease Control and Prevention reports that youth cigarette use has declined since the late 1990's, but youth smokeless tobacco product use has increased in recent years; and

WHEREAS, the latest data for Alachua County shows 7.5-percent of middle school students used a form of tobacco on at least one occasion within the past 30-days and 22.9-percent of high school students used some form of tobacco on at least one occasion within the past 30-days; and

WHEREAS, the Florida Department of Health reports that 2.9-percent of middle school students and 9.8-percent of high school students in the State had smoked a flavored cigar within the past 30-days; and

WHEREAS, the Florida Department of Health reports that 1.5-percent of middle school students and 4.6-percent of high school students in the State had used flavored smokeless tobacco products within the past 30-days; and

WHEREAS, the Food and Drug Administration reports that flavored tobacco products are especially attractive to young tobacco users; and

WHEREAS, the Food and Drug Administration reports that studies of youth expectations of flavored tobacco products such as hookahs have found that young users report choosing flavored products over non-flavored products because they "taste better" and are perceived to be "safer"; and

WHEREAS, flavored tobacco products carry the same health risks to users as their non-flavored counterparts; and

WHEREAS, flavored tobacco products are defined as loose tobacco, snuff tobacco, chewing tobacco, dissolvable tobaccos, snus, cigarillos, cigars, and all other forms of tobacco products that contain any product or additive, either artificial or natural, designed to flavor the tobacco or the byproduct the tobacco produces.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF GAINESVILLE, FLORIDA:

Section 1: The City Commission of the City of Gainesville, Florida, urges all vendors who sell flavored tobacco products to cease the sale and marketing of all such products in order to reduce the exposure and use of tobacco products to Gainesville youth.

Section 2: This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED THIS _____ DAY OF _____, 2012.

CRAIG LOWE
Mayor

ATTEST:

Approved as to form and legality

KURT M. LANNON

CLERK OF THE COMMISSION

MARION J. RADSON

CITY ATTORNEY