



City of Kent
Wednesday, July 6, 2022
City Council Committee Meetings
320 S. Depeyster Street, Kent, OH 44240

MINUTES

6:30 P.M. Public Hearing

At 06:30 PM, Mayor Jerry T. Fiala called the Public Hearing to order.

Present: Mr. Jack Amrhein, Mr. Michael DeLeone, Mr. Garret Ferrara, Ms. Gwen Rosenberg, Mr. Roger Sidoti, Mr. Robin Turner, Ms. Tracy Wallach

Also Present: Mr. Jerry T. Fiala, Mayor and President of Council; Ms. Hope Jones, Law Director; Ms. Bridget Susel, Community Development Director; Ms. Melanie Baker, Service Director; Mr. Jim Bowling, City Engineer; Ms. Joan Seidel, Health Commissioner; Ms. Rhonda Hall, Budget and Finance Director; Mr. Bill Myers, Fire Chief; Ms. Amy Wilkens, Clerk of Council

Absent: Mr. John Kuhar; Ms. Heidi Shaffer Bish (Arrived at 6:50 p.m.)

MOTION TO EXCUSE Mr. Kuhar MADE BY Mr. Roger Sidoti, SECONDED by Ms. Gwen Rosenberg and CARRIED by a voice vote of 7-0-0.

Ms. Rhonda Hall, Director of Budget and Finance, said this hearing is for public comment on the City of Kent Annual Tax Budget for the fiscal year ending December 31, 2023.

Mayor Fiala asked if there were any members of the public who wished to speak. There were no members who wished to speak at the hearing.

The Public Hearing adjourned at 6:31 p.m.

Work Session on Design Guidelines

The City of Kent has partnered with CT Consultants, Inc. to complete an update to the Design Guidelines, which are the design standards currently applied to exterior building façade and sign changes in the downtown area. Ms. Bridget Susel introduced the two consultants to talk to Council about the update to the Design Guideline process.

Alisa Duffey Rogers, AICP and Kris Hopkins, FAICP from CT Consultants provided a powerpoint presentation for City Council to follow along (**Attachment #1**). She said they

have extensive experience working on zoning codes that include design standards as well as experience writing design guidelines.

CT Consultants began their presentation by giving a brief overview of the project timeline, stating we are currently in phase 1 of the project. The next slide of her presentation addressed the Design Overlay District and said Overlay Districts can be a zoning tool for a number of reasons. They are called an Overlay District because they lay on top of the existing zoning districts. Kent's Overlay District encompasses several zoning districts and that is why it is an overlay. It is a regulatory tool that can be used for any number of defined purposes. She then went into definitions of both standards and guidelines. The Design Guidelines were adopted in 2011 and the inclusion of them in the zoning code is really unusual. Guidelines are subjective statements that guide the design conversation and typically sit outside of the zoning code. They are not mandatory and typically include "should" statements. She said Kent has guidelines that were adopted into the zoning code that make them difficult to administer. They intend on addressing the roles and responsibilities of the Architecture Review Board, the types of projects that are reviewed by the Architecture Review Board, and then the guidelines and standards themselves.

Ms. Duffy Rogers said she would like to turn the presentation into a discussion and have Council answer a few questions. She gave their contact information and encouraged Councilmembers to reach out to the consultants with any ideas, comments and questions moving forward.

Question: What are your thoughts on the ARB continuing to review signs, facade alterations and new construction?

Mr. Sidoti started by saying it is logical to look at all three of these. He said it made sense. He said if a sign has a standard it makes things easier and if it's a guideline, it would be harder. Ms. Duffy Rogers said it would not be more difficult but rather more subjective. She added that guidelines are intended to guide the conversation and tell the applicant up front what the Architecture Review Board is thinking. Compliance is not as black and white as it is with a standard but it does give guidance.

Ms. Wallach asked about the process. Ms. Duffy Rogers said typically the way it works is that in your community you could decide to have 'standards', which would be in the zoning code, or 'guidelines', which would be a separate document, or both. How these are administered would then be the next question. She added that standards are black and white and typically done by staff. It's important to make a distinction between what the standard is and how it's reviewed. Depending on how you define the role of the ARB also plays into how some can deviate from the standards. Ms. Wallach asked if Kent had a color palette, if that would be a standard or a guideline. Ms. Duffy Rogers said there are communities that do that, but they are communities that tend to have a monochromatic palette or a theme. Then it is not uncommon for people to then say we want a color palette that is neutral and then to put that into a guideline. If someone wanted to deviate from that, they would have to come to the ARB and explain why.

Mr. Ferrara said there was a case in Kent where the store owner painted their business a color before getting approval. Ms. Duffy Rogers said they need to decide if they would

like the ARB to be advisory. Mr. Ferrara asked if the ARB should have the advisory ability and also have the ability to enforce. She said if it's a standard and they are not following it, there has to be some recourse to make them fix it. Mr. Ferrara said we need to have well defined guidelines and standards and then enforce them. Ms. Susel said that in the zoning code, it is a civil offense if you violate the zoning code. If something becomes a standard, staff would administer it the same way we do all of the other zoning codes and issue fines until compliance is met. She added it is a bit trickier when dealing with guidelines. Standards are easier to enforce and are used widely.

Mr. Turner asked for further explanation. Ms. Duffy Rogers said we need to take a step back. What happened, from her understanding, in 2009, Design Guidelines were developed as 'should' statements. There is nothing about them that is black and white. Then, in 2011, something that was meant to be a 'guideline' became a standard when it was adopted into the zoning code. Here you find yourself with guidelines that are now standards and are now in this confusing place that puts you, the staff and the ARB all at crossroads with everyone trying to understand what each role and responsibilities are supposed to be. If we can define what should be a standard and what is a guideline, put the standards in the code and have guidelines to help guide the community, she thinks it will help. She said she thinks we had a set of guidelines that became standards and that has caused all of the confusion. Mr. Turner asked if we are establishing priorities and then using as a function of the guidelines a lesser to allow for a discussion for subjective applicants.

Ms. Wallach asked if we should establish something in the guidelines and the business owner go outside of these guidelines, and it's not a standard, is there anything that could be done. Ms. Duffy Rogers said we would need to establish guidelines that we would view as important. You then need to review the guidelines to see if some guardrails could be put on.

Mr. Sidoti asked about the parameters for establishing guidelines and standards. Mr. Sidoti said he remembered the chairman of the ARB said they needed updates. He used the analogy of enforcing dress codes in an educational setting. They didn't know whether the code was a standard or a guideline and this is what the ARB is struggling with. He asked if she thought the guidelines were the philosophical principal and the standard is driven by the philosophy of what we want to see in regards to the integration of certain things within the community. Ms. Duffy Rogers said some places spell out the guidelines, standards and how they enforce them in one document.

Ms. Rosenberg said she owns a business and has gone before boards and thinks it is critically important for people to know what they are getting into when they start a project. She added that people spending money with design firms or architects or personal investments do not enjoy surprises when they go in front of a board. She said things that are more permanent that would be difficult to change would be something that should be a standard, whereas things such as signage coloration would fall under a guideline.

Ms. Wallach asked if there could be exceptions to standards. Ms. Duffy Rogers said if it is a standard that is in the zoning code and there is always a variance process, we go before the Board of Zoning Appeals, or we could offer exceptions. She said there are any

number of ways to do this. She said even when standards are established, there will be buildings and things that were not anticipated. Ms. Wallach said if standards aren't followed, then it could go through an appeals process. Ms. Susel said that standards are currently in the zoning code regulations. For anyone who wants to do anything outside of this, it is a variance process through the Board of Zoning Appeals. The issue is that we have guidelines that have been codified.

Mr. Turner said the top issue was clarity for the people going through the process. Mr. Turner asked if the community would be establishing what the guidelines would be, but getting community input. Ms. Duffy Rogers said they, as consultants, would not be telling you what your standards are, but gathering information from Council and the public to define what those standards are. They held 40 interviews with staff and had a public session to begin this process. She added that as part of phase one we will include options and you will have that choice to say what the parameters are.

Ms. Shaffer Bish asked about materials. Ms. Duffy Rogers said most communities go in the negative, such as "no vinyl siding". That is typically how it is defined as a standard and that's because, as a community, they have decided what they don't want to see.

Mayor Fiala asked if anyone in the audience had a question or a comment. There were none.

Ms. Duffy Rogers thanked City Council and said they would be back before council to go through questions they did not get to this evening.

Ms. Wallach asked if they wanted input now. Ms. Duffy Rogers said they would take any input they would like to give. Ms. Wallach said she would like to see standards and guidelines with guardrails.

Ms. Rosenberg said she would need a little more time to think about it.

Mr. Sidoti said he would like us to have a vision that would allow integration of new materials and technologies into older buildings and that we can all share the same common vision.

Ms. Susel said they only got through two questions but the consultants have many more. The more input we get the better. Ms. Susel said this was very helpful in understanding the difference between a guideline and a standard and where it is going to apply. She encouraged Council to provide input to help guide the process. She concluded by stating this will be a project that will possibly take nine to twelve months.

Council Committee Meetings

Committee of the Whole Chair Fiala/ Vice-Chair Amrhein

Mayor Fiala opened the Committee of the Whole meeting at 7:10 p.m and introduced

the first speaker, Ms. Melanie Baker.

Update on New Administration Building

Ms. Melanie Baker began her presentation and PowerPoint by reviewing the building of the new administration building. **(Attachment #2)**. She said the architect was Brandstetter Carol and introduced the architect and project manager. She stated Thomarios was the lowest bidder and had been an excellent company to work with. The project has been going on for over six years, with the project starting prior to Ms. Baker coming to Kent. She acknowledged the work done over the years, such as surveying communities and the public, taking items to Heritage Fest, etc., to gain public input. The architect was chosen in late 2017 and began the design in 2018. The Architecture Review Board was consulted at the beginning of the process and took time to look at the architecture downtown. We designed the building to meet the LEED building standards that are required by our ordinance. The project was stalled a bit by the Pandemic of 2020 but we pushed through the design process towards the end of that year. The first time it went out to bid in August, we had to reject all bids because they were over the state statute of ten percent. The project was rebid in October and the contract was awarded to Thomarios for \$8.8 million. Construction was estimated to take 571 days with completion in August 2023. The lingering pandemic and material availability has pushed completion to July 2024. They are doing their best to get it moving forward but the availability of products and lead times is hampering the ability to do so.

Ms. Wallach asked what materials they were having a problem getting. Ms. Baker replied "everything". They are buying items today at the prices we can get. You pay for what it is when you get it. Ms. Wallach asked if there was a way to get prices locked in. Ms. Baker replied the bid was locked in but not availability to get the items. Lead times that used to be two- eight weeks are more like nine to twelve months.

Ms. Baker continued her presentation, highlighting the demolition of the old police building, which began March 2022. The building was leveled in seven days without any disruption to traffic. The jail came out in one piece and offered pieces of the old cells to police officers. The final site is very close to the road's right of way and the last slide of her presentation showed just how close they were to the road. The demolition was completed May 1, 2022. Under Council chambers, they discovered water pockets called a wet sandy layer. It had been kept at bay with the building that was sitting on it, but once the building was removed, the water was able to flow. The ground was ungelating like a water bed. We needed to remediate about three fourths of the area where Council will be located. Underdrains were put into and backfilled with limestone. From there, they began digging foundations and putting forms up and pouring concrete.

Next steps include stormwater drains which have been installed. The project trailer will arrive next week. She encouraged Council members to contact her to arrange a time to visit the site. Site utilities will be added and materials

purchased in advance as possible due to lead times. Within the next month or so, they will be laying out the offices and she will be meeting with each department in regards to furniture.

She thanked Council for their continued patience and support on the project. She thanked the Building Department and Community Development for assistance with permits. She thanked the contractor, Thomarios, and Brandstetter, the architect, for working together. The ability to substitute products without losing quality has been key. She thanked all of the City of Kent departments, the city's residents, businesses and visitors for their understanding and patience with this project.

Ms. Shaffer Bish asked where the materials ordered would be stored. Ms. Melanie Baker said each contractor is required to send photos of where items will be stored, and they need to be sealed and set up. They will need a certificate of insurance on the materials and clearly marked for the City of Kent. The storage is with the contractor who is purchasing the items.

Mr. Sidoti asked about the tower and if we could have a camera set up so citizens can tune in and check out the construction site. Mr. Cecil said we currently do not have the bandwidth to stream this consistently.

Ms. Shaffer Bish thanked Ms. Baker for putting together the posters and that they received a lot of positive comments at the Heritage Festival from citizens. Melanie Baker said they would put a banner outside the construction site announcing the project.

There were no further questions and the meeting concluded at 7:35 p.m.

Community Development Committee Chair Kuhar/ Vice Chair Rosenberg

Ms. Gwen Rosenberg, Vice Chair of the Community Development Committee, introduced Ms. Bridget Susel.

Rehabilitation Assistance CDBG & CHIP RLF Amendment

Ms. Susel said that those on Council in 2015 may remember that there were changes to the City's Housing Rehabilitation Loan Program. The City maintains a deferred loan until the title transfers, with a cap of \$10,000 repaid on the loan after ten years. In 2015, the State of Ohio changed its standards, requiring 75% of the loan to be forgiven for a five-year period. That amount would be deferred until the title is transferred. The state now states they need to be 100% forgiven over a five-year period. This eliminates what we call the RLF (Revolving Loan Fund) that is used to do the rehabilitation. This does not mean it's going to end the program, the City will continue to apply for the CHIP and CDBG funds. During the prior administration, the RLF made available to all of the communities nation wide, was put into our "timeliness calculation", and you are only allowed to have so much on account with HUD at any given time. Our CHIP money is subject to that same standard. Once they pulled the RLF standard in, hanging on to Revolving Loan Funds puts us in violation of that

timeliness. The State of Ohio is doing this so they can comply, while it is regrettable that over the long term, CHIP funding will continue. This is a policy change to the City's program and doesn't require formal legislation, but they request they acknowledge this.

Mr. Turner asked what the implications are for the program. Ms. Susel said there are none and that they have just received an application and the program will continue.

Mr. DeLeone asked if anyone had ever defaulted on those loans. Ms. Susel said we are very fortunate that we have less than a dozen. We have lost them.

Ms. Shaffer Bish asked if this is restricted to homeowners. Ms. Susel said they have always focused on owner occupied and that rental properties are complicated. For a community like ours, it is the best measure. She would not endorse including rental properties.

There were no questions from the audience and no further questions from Council.

MOTION TO APPROVE THE REHABILITATION ASSISTANCE, CDBG &CHIP REHABILITATION ASSISTANCE AMENDMENT MADE BY Ms. Heidi Shaffer Bish, SECONDED by Mr. Roger Sidoti and CARRIED by a voice vote of 8-0-0.

Health and Public Safety Committee Chair Amrhein/ Vice-Chair Sidoti

Mr. Amrhein introduced Ms. Joan Seidel to speak on the first topic on the Health and Public Safety Committee.

Proposed Updates to the City's Tobacco Ordinance

Ms. Seidel said the original grant for tobacco was awarded in 2017 and City Council passed the first tobacco ordinance in 2019, which was prior to the State of Ohio being able to accomplish the "None for Under 21". Thanks to Council's concern for the health of the community, we have been able to be on the leading edge of this work. We would like to expand our existing tobacco ordinance to include a Tobacco Retail License, which is often referred to as a TRL. The importance of being proactive on a TRL, is that research shows if you do not start using nicotine products prior to the age of 21, you are significantly less likely to start using those products as an adult and that means decreased risk for lung and heart diseases over a lifetime. Conversely, the majority of people who use tobacco and vape products as adults became addicted to the nicotine prior to their even being old enough to legally purchase those products. Reducing accessibility to those products is paramount to their life-long well being. Vape manufacturers have been able to show the advantage to those who try to quit smoking with those products. However, it has been clearly demonstrated that vapes target those under 18 years of age, doing so by advertising on cartoons, video games, and websites. In fact, in 2020, a second grader in Portage County was caught using vapes at school. Being able to enforce stricter regulations will positively impact the health of the youth in our

community. She added that some may have concerns about the impact on businesses, but there have been multiple instances of sales to underage residents. There should be no business plan that incorporates the sale of nicotine products to our youth.

Ms. Jaleesa Caples, the Kent City Health Department's Grant Coordinator, thanked all who completed the TRL survey and advocated for Council to adopt this policy tonight. The work we are doing is working but is not enough to cause a significant change. She reviewed statistics on the age of smokers and vape users. She said this TRL initiative is self sufficient and is an amazing step in a vape prevention program. The cost of the application to the program is \$400 per retailer, which equates to 64 packs of cigarettes. A TRL Policy will allow the City Health Department to allow for easy and consistent training yearly and provide routine compliance checks to ensure the IDs are being checked at every tobacco transaction. The Health Department is currently conducting compliance checks in the city of Kent, but we have plans to expand these compliance efforts into other areas of Portage County as we hold the County Tobacco Grant for the entire county. As part of the training process, the Health Department plans to provide retailers with a free digital calendar, which is provided by the FDA. It is a quick way for store clerks to check an ID, make sure the birthday matches and will be provided free along with training on how to use them. Ms. Caples referred to the folder of information that was provided (**Attachment #3**), which includes the TRL policy and how it positively affects the community. There is a sample budget that shows how the funds will be utilized to create a comprehensive tobacco program and how it will help them improve their tobacco work.

Mr. Ferrara asked about the data presented and what percent of 13-year-olds were vaping. Ms. Caples said it was 9% of 13 year olds. He asked how large the data pool was. Ms. Caples said she would need to check. Mr. Ferrara said he thinks it would be important to know how many people were surveyed. Mr. Ferrara asked if the \$400 per year is per business that sells tobacco in Kent. He asked what businesses would be getting for that \$400. Ms. Caples said that we get a clock and free training and assistance, making it streamlined. He asked if training would be mandatory. Jaleesa said they would target owners and managers. He asked if they are prepared for the pushback on training from businesses.

Ms. Wallach asked if the training would be online. Ms. Caples said it would be.

Ms. Rosenberg said right now businesses that sell tobacco don't have to pay a permit fee. She said, by comparison, a restaurant needs to pay certain fees and asked Ms. Seidel if she knew what those charges were. She did not. Ms. Rosenberg thinks it might be a comparable fee. Restaurants also need to have Serv Safe Certification for their employees and managers also need Person in Charge Training which is paid for by the business owner. If we are comparing different businesses where customers are consuming something that could potentially impact their health, there are fees in place for other businesses and it

is in a similar vein. Ms. Seidel said it's comparable to a liquor license and not being able to sell liquor to people under a certain age, so it's along the same lines.

Ms. Seidel said she wanted to introduce Ms. Wendy Hyde, who is from the Preventing Tobacco Addiction Foundation. On an evening in 2018, she spoke with City Council regarding Chapter 527, titled "The Illegal Distribution of Cigarettes". This legislation involved raising the minimum sales age in the city of Kent to 21. Kent has been a leader in acting to protect the lives of children in the city. If Kent decides to pass the TRL, they will be the 15th in the state to do so. Currently, Federal and State enforcement has not been effective and many continue to violate the law. The lack of licensing exists for vapor only retail products. We don't have a list of electronic vapor shops. The TRL will protect young people in Kent by requiring businesses to get TRL to do business. She said under current Federal law, there is no follow-up for offenders. There is no way to effectively remove a license. At the local level, you would have a graduated penalty structure which would then effectively be able to enforce a suspension of that license if they continue to violate that law. She urged the Council to pass the ordinance. She said their leadership is needed now more than ever to protect kids from a lifetime of nicotine addiction.

Mr. George Joseph from Kent City Schools shared with the Council that he felt so strongly about this that he wanted to come before Council. He said this year the expulsion rate was up by 1/3 due to electronic cigarettes, which is much higher than the last time he was before Council. The different flavors are attracting these students. During the expulsion hearings, he asked an elementary student why they used e-cigarettes, and the student replied they just liked the flavor of bubble gum. He thanked the Kent City Health Department for moving this forward. He said young people are getting hold of these e-cigarettes and they are addictive.

Ms. Sandy Reed, the Board Chair of the American Heart Association, spoke next. She said tobacco retailers are incentivised to sell tobacco products to kids. Studies show that young people who live in these communities have lower rates of cigarette and e-cigarette use compared to those with less restrictive policies. Youth should not be punished for using products that are actively marketed to them. With strong requirements, the tobacco industry can be held responsible and provide stronger oversight with compliance checks.

Ms. Joan Seidel said that they concluded their presentations this evening and that they would be back on July 20th with the Ohio Tobacco License policy for you to review. Mr. Ferrara asked if they are asking for Council to approve the TRL, but you have yet to establish any fines or consequences for retailers. He asked if that was yet to come. Ms. Seidel said that would be coming at the July 20th meeting. Ms. Hope Jones, Law Director, clarified it is not a policy but will be an ordinance.

Ms. Shaffer Bish asked if Council should move it forward to the next Council meeting. Mayor Fiala and Hope Jones said they would need to for it to go to a

vote on the ordinance. Ms. Hope Jones said the ordinance had not been finalized to put into the packet. Ms. Hope Jones referenced the packet that was given to them that included a model policy.

Mr. Ferrara said that looking at the startup budget, it looks like the cost of the license is roughly \$12,000 and it covers the expense as long as we have the grants. Ms. Seidel stated it is separate from the grant and the cost of the license is going to be what funds the program. In case the tobacco grant is ever depleted, we would continue to be self-sustaining in these efforts and we can continue this work. Mr. Ferrara asked if the whole budget is the implementation cost and the sales and admin expenses which is revenue funded. He asked if the implementation cost would be \$10,000. Ms. Caples said that is correct. Mr. Ferrara asked if they have the grant money regardless of whether they have the TRL or not. Ms. Seidel stated they have grant money from the tobacco grant but this would be in addition to that grant so that we could do the extended work in regards to enforcement and education. Mr. Ferrara asked if they did not get the grant money if they did not get the TRL. Ms. Seidel said that is correct and that the TRL is a major component of the Tobacco 23 grant that we're currently working on. Mr. Ferrara asked if they did not pass the TRL, they would lose approximately \$100,000 in grant funding. Ms. Seidel said that was correct.

Mr. Ferrara said he would like to see the data in regards to the percentages they are talking about. The 30% violation rate. What does that mean? Ms. Caples said they currently do compliance checks. That's where we take underage young people and have them try to buy tobacco products. Sometimes they are carded and sometimes they are not. If they fail the compliance check, that is what those numbers are showing.. Mr. Ferrara asked if three out of ten times when the checks are done, the youth is allowed to buy the tobacco. Ms. Caples said that is correct. She added that right now they do not have the capacity to do two compliance checks a year, and that's where the TRL money will come into play. Mr. Ferrara asked about state law. Ms. Caples said there was nothing in place. Mr. Ferrara asked if they do compliance checks once a year and they confirmed this.

Mr. DeLeone asked about bars and if they still had the pull machines. Ms. Seidel said there may be one of those left in the community.

Mr. Sidoti asked about the wording of the motion and Ms. Hope Jones clarified this would be a whole new ordinance and would be a compliment to the original "None Under 21" where if we caught the establishment, they would get cited. There will be a separate chapter number in the ordinances. Ms. Hope Jones said if they are uncomfortable moving it forward without first reading the ordinance, this item could be moved to August.

Mr. Turner asked what the new policy would impact young people in the community. Ms. Seidel said it would put up another hurdle or roadblock for young people to purchase these tobacco products. Mr. Turner said it would up the level of compliance and asked what the numbers would be. Both Ms. Seidel and Jaleesa said they could look at measures moving forward.

Ms. Shaffer Bish asked about outcomes, enforcement and surrounding communities. Ms. Seidel said she is hopeful they will begin this process in other communities.

Mayor Fiala asked about borders in Kent and those outside of the city limits who fall under the Portage County Health Board. Ms. Seidel said they have partnered with the Portage County Health District and will be working closely with them and will be able to do compliance checks that are outside their jurisdiction.

MOTION TO APPROVE PROPOSED UPDATES TO THE CITY'S TOBACCO ORDINANCE MADE BY Mr. Roger Sidoti, SECONDED by Ms. Gwen Rosenberg and CARRIED by a voice vote of 8-0-0.

Comments: Mr. Sidoti said it is in line and a fair proposal. He would like to hear back in a couple of years that this made a difference.

Ms. Shaffer Bish said the retailers may have a concern and she is happy to see there is a program and an adequate budget to run this. She said the benefits outweigh the harms.

Mr. Turner said this is a great starting point and Kent is taking a leadership role. He said we have to do better and believes this is a good beginning point for us as a city. He loves the prospect of stepping out early. He said we need to get the data to see the impact.

There were no further questions from City Council and no questions from the audience. The meeting concluded at 8:30 pm.

Streets, Sidewalks & Utilities Committee Chair Sidoti/ Vice-Chair Wallach

Chair Wallach opened the Streets, Sidewalks & Utilities Committee and asked Ms. Melanie Baker to address the first topic.

Sanitary Sewer - Codified Ordinance 915.11 Local Limits Update

Ms. Melanie Baker said she is before Council to ask for approval for the water reclamation plant in conjunction with the OHIO EPA reviewing the NPDES (National Pollutant Discharge Elimination System) permit which needs to be reviewed and renewed every five years. The City of Kent has an NPDES permit in order to operate effectively and efficiently with the cleaning of the wastewater and to allow for the proper return of clean water to the Cuyahoga River. The code changes presented are a culmination of review and updates made in conjunction with the Ohio EPA. The only section of the sewer ordinance that needs updating is Chapter 915.11. Local Limits. The changes proposed are the removal of language no longer needed and the addition of clarification of our wastewater discharge permit process for local industrial users. The changes include clarification of the process for obtaining special permits for higher than allowed limits, requirements for obtaining special permits

for higher than allowed limits, and updates on EPA approval of pollutant groups.

Ms. Wallach asked if the requirements changed and became less stringent? Do we keep them as they are? Ms. Baker said we can go better than the EPA but not less than them.

MOTION TO ADOPT THE CHANGES TO THE SANITARY SEWER CODIFIED ORDINANCE 915.11 MADE BY Ms. Gwen Rosenberg, SECONDED by Mr. Michael DeLeone and CARRIED by a voice vote of 8-0-0.

There were no further items on the agenda and the Committee meeting ended at 8:35 pm.

Finance Committee Chair DeLeone/Vice-Chair Wallach

Chair DeLeone opened the Finance Committee and asked Ms. Seidel to speak on Health Department Grants.

2022-23 Health Department Grant Opportunities

Ms. Joan Seidel said they have received grants and listed the grants that have been received so far- \$100, 000 for the Tobacco Use 2023 Grant, the full amount of the Healthy Eating and Active Lifestyle Grant (HEAL) for \$10,000 and then just this afternoon she was notified about receiving the full amount for the Falls Prevention Grant, totaling \$4,000. They are still waiting on hearing about the Community Health Worker Grant again that would help assist in community outreach. The total amount of these grant awards would be \$171,000 and is requesting Council to accept these grant funds.

Ms. Shaffer Bish commended Ms. Seidel on receipt of all the grants and said this is an example as to why it is so important to have a health department for our residents.

Ms. Amrhein said he works with Joan and the board and that the whole department does a phenomenal job.

MOTION TO APPROVE 2022-23 Health Department Grant Opportunities MADE BY Ms. Heidi Shaffer Bish, SECONDED by Mr. Jack Amrhein and CARRIED by a voice vote of 8-0-0.

Disposal of Call Recorder Server

Mr. Nick Cecil said he was before Council to request permission to dispose of the Police Department Call Recorder Server. It contained data for 2012 to 2017 and he has verified with Captain Ennemoser that all the data there has exited its required retention period. He is requesting them to recycle the hard drive and then have the drives themselves with data on them properly destroyed.

Ms. Shaffer Bish said she doesn't remember ever having to do this in the past. Mr. Cecil said they haven't really recycled any ancient technology in quite some

time. Mr. Ferrara added that we are probably still using it. Mr. Cecil said they are diligently working to update older systems and upgrade them as necessary. He added this is being done partially because it was the data from the recorder for the police department. He felt it especially appropriate to request approval for that destruction.

MOTION TO AUTHORIZE THE DISPOSAL OF THE CALL RECORDER SERVER MADE BY Mr. Roger Sidoti, SECONDED by Ms. Gwen Rosenberg and CARRIED by a voice vote of 8-0-0.

Fire Department Selling Old Self-Contained Breathing Apparatus

Chief Myers is looking at old self-containing breathing apparatus, which is the air tank you see on the backs of firefighters. They were fortunate enough to purchase new ones, which have been a big difference to them. He thanked the Council for the purchase. The old units still have some value and can be utilized in other communities. This will be a stop gap for them until they get new units.

Ms. Wallach asked about the different values of the apparatus being sold. Chief Myers said the values were different for different communities based on the age of the apparatus, whether they were a volunteer fire department and the size of the department.

MOTION TO AUTHORIZE FIRE DEPARTMENT SELLING OLD SELF-CONTAINED BREATHING APPARATUS MADE BY Ms. Heidi Shaffer Bish, SECONDED by Ms. Tracy Wallach and CARRIED by a voice vote of 8-0-0.

2023 Tax Budget

Ms. Rhonda Hall came before Council to discuss the 2023 Tax Budget for approval this evening.

There were no questions from the Council or the audience.

MOTION TO APPROVE 2023 Tax Budget MADE BY Mr. Garret Ferrara, SECONDED by Mr. Roger Sidoti and CARRIED by a voice vote of 8-0-0.

Budget Appropriation

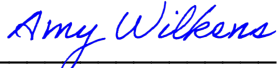
Ms. Hall referenced her memo of June 28th regarding Budget Appropriation Amendment #4, for everything discussed at tonight's meeting.

MOTION TO AUTHORIZE THE BUDGET APPROPRIATION AMENDMENT MADE BY Mr. Garret Ferrara, SECONDED by Mr. Jack Amrhein and CARRIED by a voice vote of 8-0-0.

Adjourn

The Council Committee Meetings adjourned at 8:40 p.m.

Special Council Meeting (Separate Agenda)



Amy Wilkens
Clerk of Council

UPDATE TO DESIGN GUIDELINES

Kent, OH

7/6/2022



LEADING THROUGH
the next 100 years

Aerial View of Business District, Kent, Ohio



6504

ALISA DUFFEY ROGERS, AICP

KRIS HOPKINS, FAICP





PHASE 1

Comprehensive evaluation of relevant planning documents and the existing built environment

PHASE 2

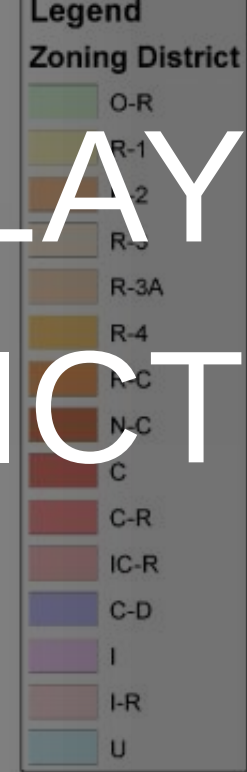
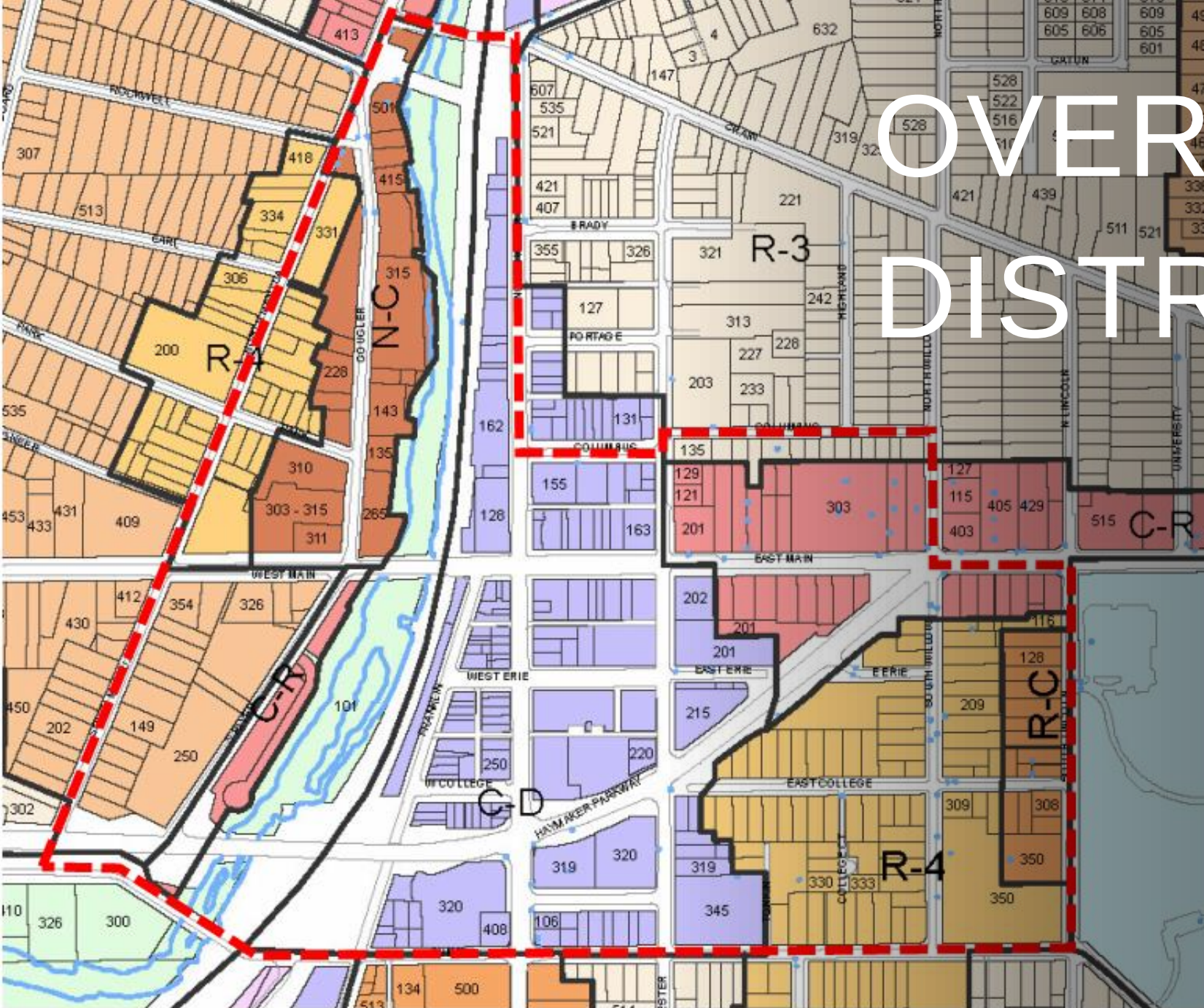
Develop the substance of the revised design guidelines, based on Phase 1

PHASE 3

Provide the revised Design Guidelines suitable for adoption

PROCESS FOR UPDATING THE DESIGN GUIDELINES

OVERLAY DISTRICTS



City of Kent
Portage County, Ohio
Zoning Districts Map
Updated August 2021

What are Design Guidelines?



Guidelines

- Guide the Conversation
- Not Mandatory

Standards

- Objective standards in Zoning Code
- Mandatory

Standards



D. Street Facade Requirements. Refer to Figure 4.5-D Storefront Building: Street Facade Requirements and 4.18.4 Street Facade Requirements for explanation.

21	Minimum Transparency on Ground Story of Front Facade measured between 2' and 8' above grade	75%	75%	65%	65%
22	Minimum Transparency per each Story	15%	15%	12%	12%
23	Blank Wall Limitations	Required per floor on all stories (refer to 4.18.4.B. for requirements)			
24	Front Facade Entrance Type refer to 4.19.1 Entrance Types	storefront			
25	Principal Entrance Location	front facade			
26	Required Number of Street Entrances	1 per each 75' of front facade			1 per each 100' of front facade
27	Ground Story Vertical Facade Divisions	minimum of every 30' of facade width			minimum of every 50' of facade width
28	Horizontal Facade Divisions	required within 3' of the top of the ground story and within 3' of top story over 3 stories			

Guidelines



- Scaling elements & details should be integral with the building form & construction, not a thinly applied façade
- Variation in building scaling & detail should relate to the scale & function of pedestrian-active uses along the street
- Buildings should be inviting places that interact with the life of the street.



ADDRESS:

ROLES & RESPONSIBILITIES OF THE ARCHITECTURAL
REVIEW BOARD

TYPES OF PROJECTS REVIEWED

GUIDELINES & STANDARDS

QUESTIONS

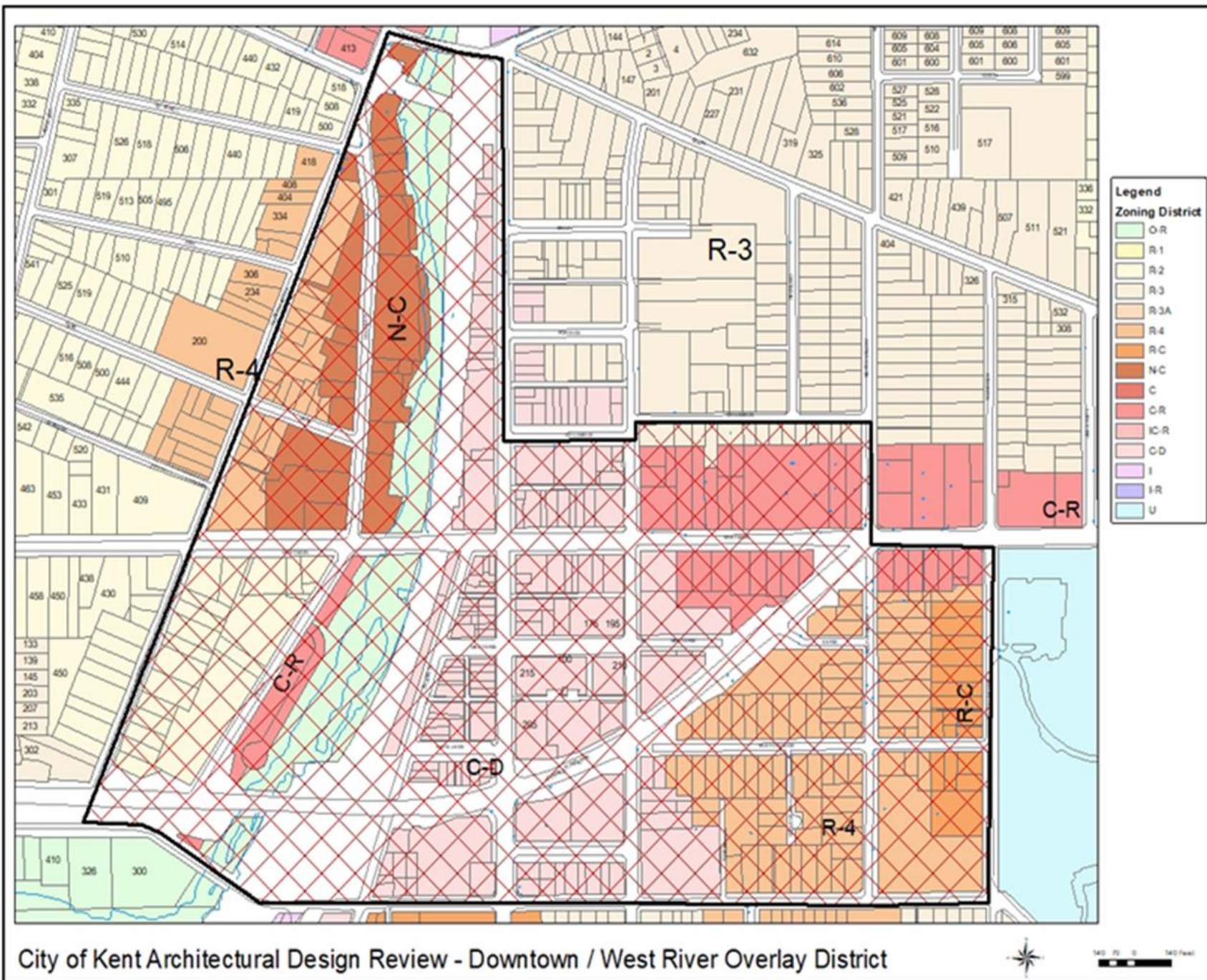


1. WHAT ARE YOUR THOUGHTS ON THE ARB CONTINUING TO REVIEW SIGNS, FAÇADE ALTERATIONS, & NEW CONSTRUCTION?

2. WHAT ARE YOUR THOUGHTS ON THE ARB BECOMING AN ADVISORY BODY OR HAVING FINAL APPROVAL OVER SOME OR ALL PROJECTS THEY REVIEW?

Alisa Duffey Rogers, AICP
aduffeyrogers@ctconsultants.com
919-930-2860

Kris Hopkins, FAICP
khopkins@ctconsultants.com
216-430-8505



Questions:

What are your thoughts on the boundaries of the Overlay District? Should they be changed?

QUESTIONS



4. DOES THE DOWNTOWN HAVE A COHESIVE IDENTITY TODAY? IF NOT, SHOULD IT HAVE ONE IN THE FUTURE?

5. WHAT ARE YOUR THOUGHTS ON COUNCIL CONTINUING TO SERVE AS THE APPEAL BODY FOR ARB DECISIONS?

6. WHAT ARE YOUR THOUGHTS ON THE MAKE-UP OF THE ARB? SHOULD IT INCLUDE NON-RESIDENTS OF KENT (1 OR 2 OF FIVE MEMBERS) IN ORDER TO BROADEN THE POOL OF DESIGN PROFESSIONALS THAT COULD SERVE ON THE BOARD?

Alisa Duffey Rogers, AICP
aduffeyrogers@ctconsultants.com
919-930-2860

Kris Hopkins, FAICP
khopkins@ctconsultants.com
216-430-8505

FINAL COMMENTS





Architect



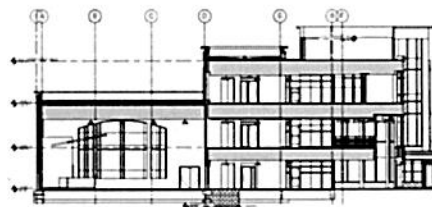
Nancy Nozik, Principal & Architect
David Bales, Project Manager



Contractor

THOMARIOS

Paul Thomarios, President
David DiPerna, Director of Construction
Jim Larkey, Project Manager
David Rankin, Project Superintendent



Kent City Hall

Took over 6 years to develop, design and bid.

- Used surveys, public meetings and festivals to gain public input.
- Professional Design Qualification – City chose Brandstetter Carroll, Inc. as the Architect.
 - Architect was picked and approved in late 2017 and design began in 2018.
- Building is designed with assistance from the ARB & to LEED Silver standards.
- Design was nearing completion at the end of 2019.
- 2020 the pandemic hit and we stalled but finished design in late 2020.
- August 2021 - First bid was rejected due to bids exceeding the state statute of 10% over architects estimate.
- October 2021 – Second bid was opened - Thomarios was awarded the bid in December.

Thomarios

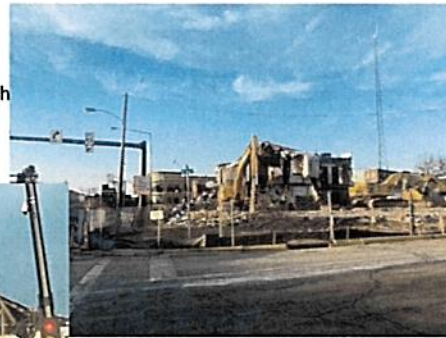
- The contract is for \$8.8 million dollars.
- Construction began in March 2022.
- Construction was estimated to take 571 days – completion August of 2023.
- Lingering pandemic and material availability has pushed completion to July 2024.

Demolition starts - March 2022



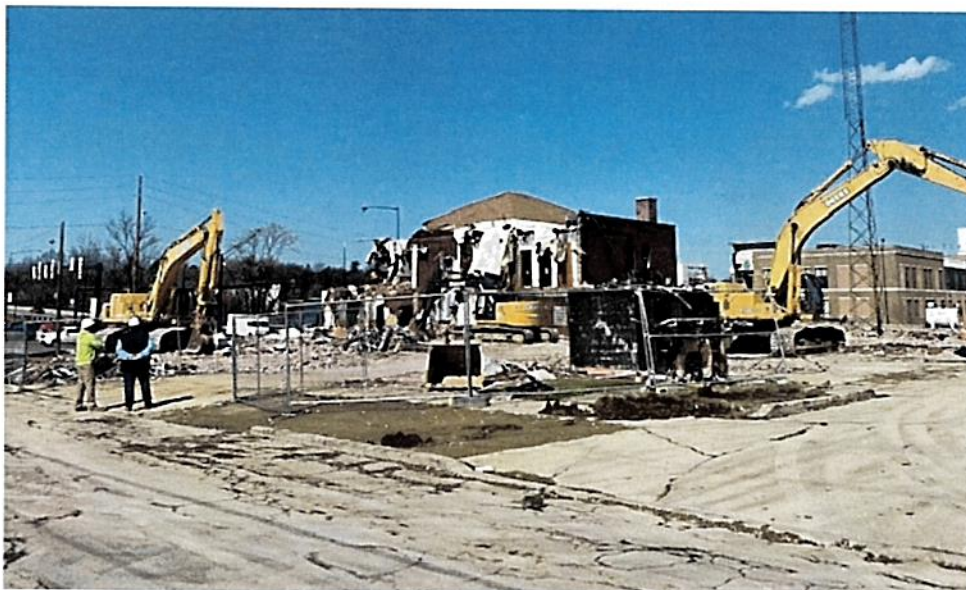


Mayor Fiala and
Council Person Ms. Heidi Shaffer Bish
Approve of the demolition



Thomarios and their sub
Winters Excavating
was able to demo the building
in 7 days without
affecting the moving
traffic on South Water or Haymaker.
No small feat.



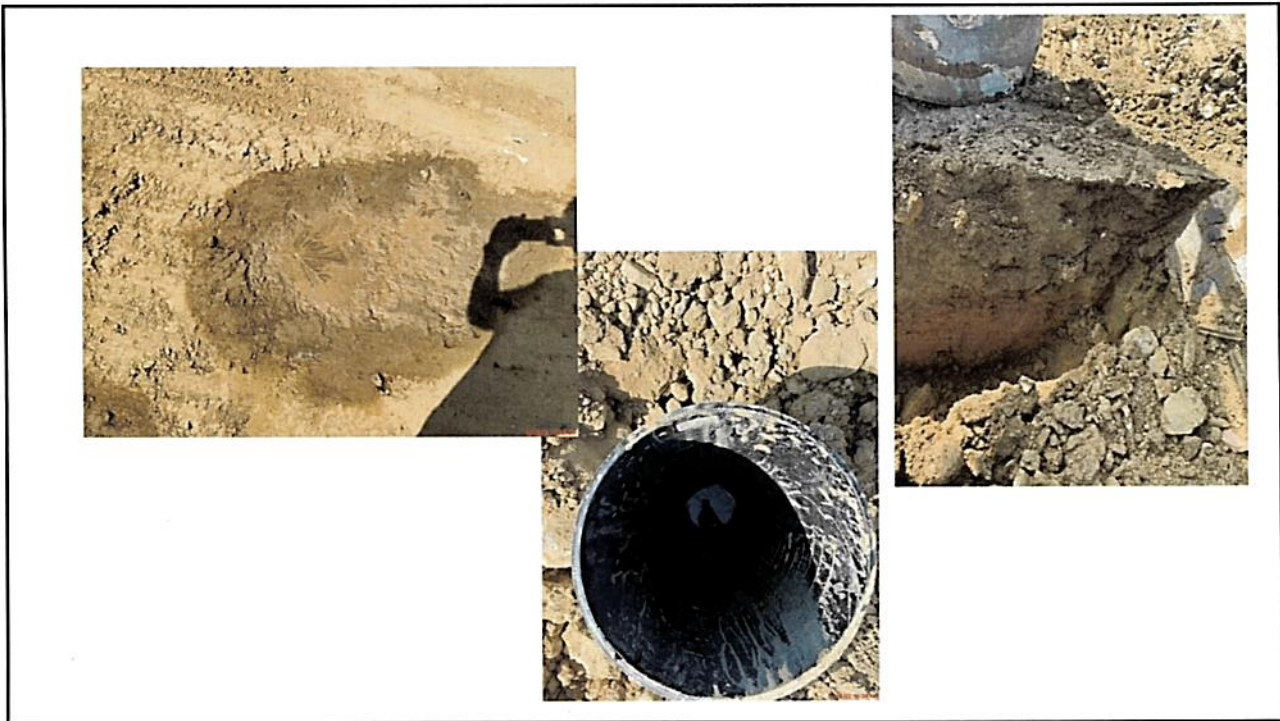






Demolition Complete - May 2022





Site remediated – Foundations start June 2022





Next Steps – July 2022

- Site Storm water installed / site trailer to arrive next week.
- Continue with foundations and poured concrete walls to come out of the ground.
- Continue with site utilities to be installed and brought to building.
- Continue to order and purchase materials well in advance of need.
 - Lead times are so long we have ordered:
 - Doors and hardware.
 - Windows
 - HVAC Units
 - Electrical items such as wire, switch plates, electrical boxes, etc.
 - We are picking colors and will begin layout of offices in order to get furniture under contract.

Thank you:

- Council for your continued patience, interest and support.
- Community Development / Building Department for assistance with permits.
- Thomarios and Brandstetter for working together to continue to move the project forward.
- To all the City of Kent departments, residents, businesses and visitors for your patience and understanding during the duration of this project.

Thank you for visiting

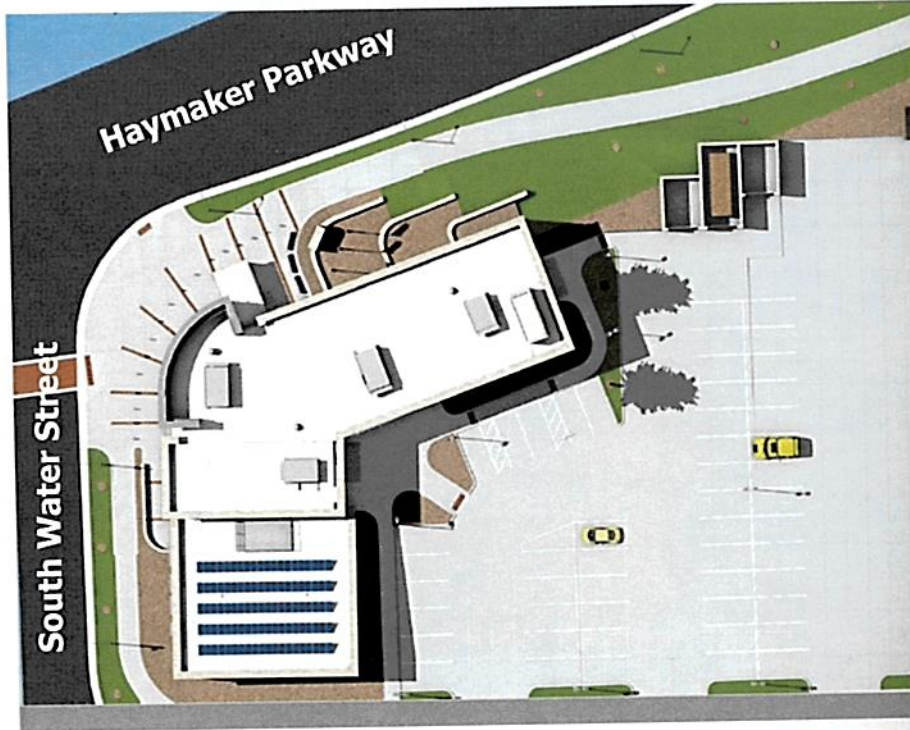


The Kent City Hall

The Kent City Hall will be located at the intersection of Haymaker Parkway and South Water Street. The address will be 319 South Water Street.

The building will consist of 3 floors and be about 25,000 square feet in total.

There is a large glass atrium at the entrance off of Haymaker and South Water which provides transparency to the public and clear connectivity from the front of the building to the rear of the building.



The building was designed to meet LEED Silver requirements.

The project took over 6 years to develop, design and bid, taking time to look for public input, department reviews and many hours of Council's time to review and approve. Design was performed by Brandstetter Carroll, Inc. Bids were open in October of 2021 and the project was awarded in December.

The bid was awarded to Thomarios for \$8.8 million dollars. This price also included the demolition of the old Police Station and site remediation.

A preconstruction meeting was held in January of 2022 and the project began in March of 2022. The old Police Station was demolished in April and site remediation was done through May of 2022. The building foundations and structure began to come out of the ground in June.

The project was projected to take approximately 1 year and 8 months with a completion date of August of 2023. However due to the lingering effects of Covid-19 and supply chain difficulties, the projected completion date is pushed out to July of 2024. The City continues to make prudent decisions without compromising quality to change products, and lesson costs in order to assist with pushing the project forward and hopefully arriving at a completion date sooner than July of 2024.



Entrance from parking off of Day Street



Entrance off of Haymaker and South Water

The new administration building will consist of 3 floors.

The Upper Floor will house:

- Mayor and Clerk of Council
- City Manager and Executive Assistant
- Economic Development
- Law Department
- Human Resource Department

This floor will house a large conference room for meetings with residents, businesses and staff.



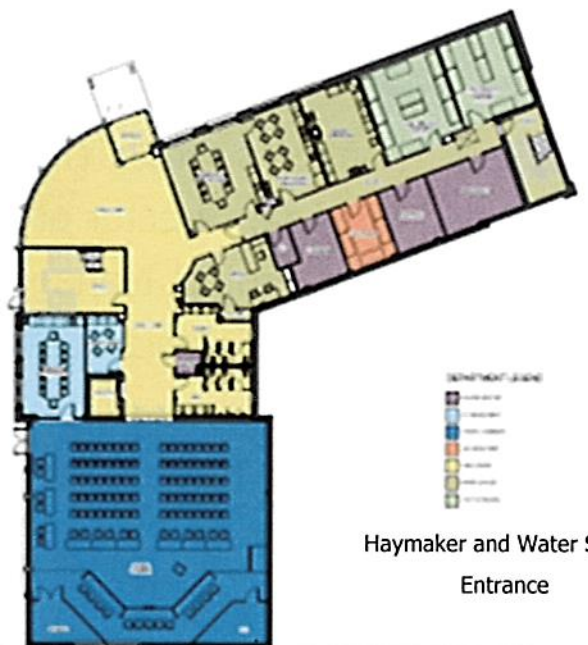
The Main Floor will house:

- Finance Department -
Utility Billing
Taxes
Accounts payable
Accounts receivable
- Civil Service



The Haymaker and Water Street Floor will house:

- Council Chambers
- City Council Office
- IT Department
- Mechanical and Storage areas.



Kent City Council

Mayor Jerry Fiala, President

Garret Ferrara, Ward 1

Jack Amrhein, Ward 2

Robin Turner, Ward 3

John Kuhar, Ward 4

Heidi Shaffer Bish, Ward 5

Tracy Wallach, Ward 6

Michael DeLeone, Member at Large

Gwen Rosenberg, Member at Large

Roger Sidoti, Member at Large

Kent City Manager

Dave Ruller

Project Designer

Brandstetter Carroll, Inc.

Nancy Nozik, Principal & Architect

David Bales, Project Manager

Contractor

Thomarios

Paul Thomarios, President & CEO

David DiPerna, Director of Construction

Jim Larkey, Project Manager

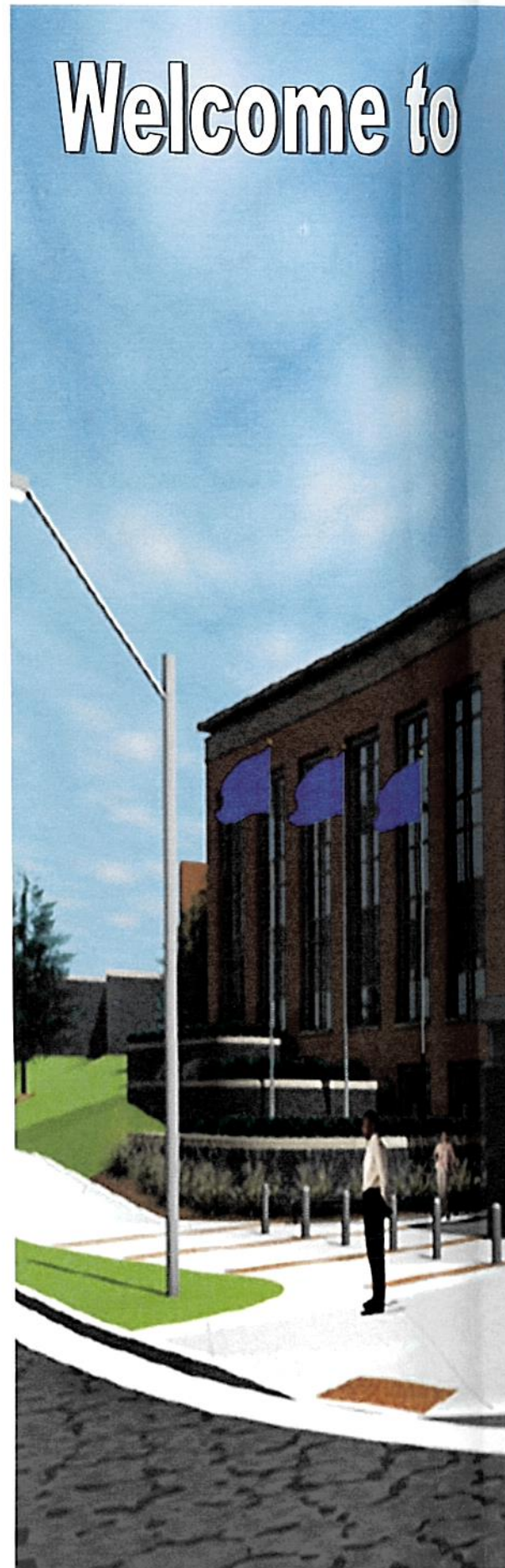
David Rankin, Project Superintendent

Kent City Service Director

Melanie Baker

For questions or information, please call the
Service Director at 330.678-8105.

Attachment #2



A KENT TOBACCO RETAIL LICENCE

Visit www.licensetoprotect.org/ohio



MORE ABOUT KENT

PRIORITY COMMUNITY

For market staff, Kent is a priority community in northeast Ohio as it is known to be a **policy trendsetter**. It was one of the early adopters of the Tobacco 21 policy in 2018 before state law was passed in 2019. Other communities in the region followed suit.

COVID-19 & COMPLIANCE RATE PLUNGE

The compliance rates in Kent have decreased, from **84% in 2019 to 77% in 2021**, post-pandemic. Retailers most likely have dealt with higher financial constraints, and with a likely increase in youth customers, they may have been more willing to overlook the policy.

KENT STATE UNIVERSITY

Prioritization of tobacco policy implementation is crucial in Kent, because nicotine addiction is a pressing issue in the city. The population impacted will not only be the 28,000 residents but also the approximately **35,000 students attending Kent State University**.

Compliance Checks

In Kent, compliance check analyses of tobacco retailers showed nearly a **30% violation rate** for selling to underage youth-- a rate over **5% higher** than the national average (as of 2021)



Scan Me To Learn More!

KENT TRL:

How
Will
it Help?

- Allow the municipality to **regulate** locations, density, and types of tobacco retailers to operate within the jurisdiction.
- Allow the local health department the **ability to revoke or suspend a retailer's license** if they repeatedly violate age-of-sale and other sales regulations.
- It will further reduce youth initiation to nicotine and tobacco through **improved compliance with Tobacco 21 and other tobacco control initiatives.**



TOBACCO IN KENT

There are a total of 25 tobacco retailers in Kent.

Roughly **20** of these retailers are found in the central area; an area also home to the majority of Kent city **middle schools and high schools.**



2.7 retailers per square mile. 0.9 is the recommended amount per the Ohio Department of Health.

1. SAFEWAY FOOD STORE

1340 Fairchild Rd

2. CIRCLE-K

850 N Mantua St

3. SHEETZ

600 N Mantua St

4. EMPIRE

135 E Main St

5. ZEPHYR CAFE

106 W Main St

6. FIREFLY

124 S Water St

7. GROOVE-E-JUICE

132 S Water St

8. DOMINICK'S REST & LOUNGE

147 Franklin Ave

9. LIGHTLY TOASTED

331 E Main St

10. 101 BOTTLES OF BEER ON THE WALL

115 N Willow St

11. PUFF N STUFF

423 E Main St

12. KENT BP

1434 E Main St

13. FLASH VAPES

1444 E Main St

14. WALGREENS

320 S Water St

15. UNIVERSITY DRIVE-THRU

541 S Water St

16. GULF OIL

706 S Water St

17. MIDNIGHT OASIS

1108 S Water St

18. FAMILY DOLLAR

1316 S Water St

19. GAS USA

1337 S Water St

20. DOLLAR GENERAL STORE

170 Cherry St

21. BUBBA KUSH

168 Cherry St

22. MARC'S

1600 S Water St

23. WESTSIDE FOOD MART

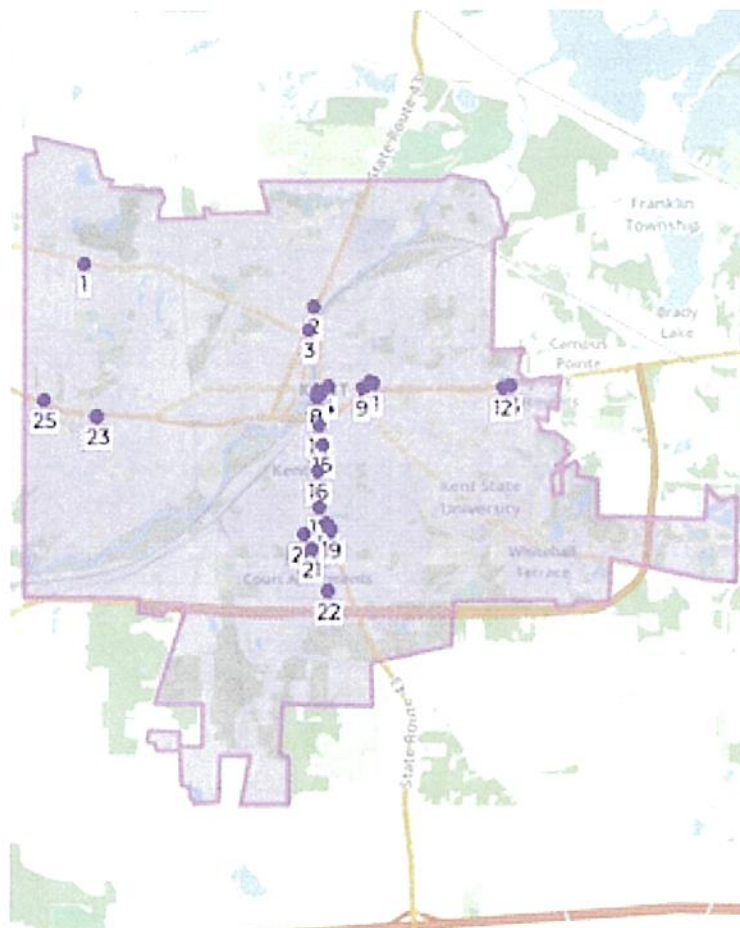
1152 W Main St

24. KINGS OF VAPOR

1154 W Main St

25. REBEL

1295 W Main St



Ohio Tobacco Retail License Model Policy

ORDINANCE NO. [_____]

AN ORDINANCE REGULATING THE SALE OF TOBACCO AND NICOTINE PRODUCTS AND RELATED DEVICES

PURPOSE

Responsible [CITY] retailers recognize the health risks associated with nicotine and tobacco use and addiction, especially for young people. However, U.S. Food and Drug Administration (FDA) data indicate that one in five Ohio retailers illegally sell these products to underage buyers. In addition, tobacco retailers may choose to concentrate near schools and in low-income neighborhoods. [CITY] believes that local licensing and regulation of retailers that sell nicotine and tobacco products offers the best opportunity to protect our children and other vulnerable populations while ensuring a level playing field for all retailers.

WHEREAS, commercial tobacco use is the foremost preventable cause of premature death in America, causing a half million deaths annually, and has been responsible for 20.8 million premature deaths in the U.S. since the first U.S. Surgeon General's report on smoking in 1964;

WHEREAS, [CITY] recognizes that young people are particularly susceptible to the addictive properties of tobacco and nicotine, and that youth who begin using tobacco and nicotine products are more likely to become lifelong users, reversing previous progress in the reduction of the overall tobacco use rate;

WHEREAS, [CITY] has the authority to protect life, health, and safety by requiring tobacco retailers within the [CITY] to obtain and maintain a tobacco retailer license ("TRL") as a condition for engaging in the business of selling tobacco products;

WHEREAS, TRL is an evidence-based strategy to reduce initiation to nicotine and tobacco through improved compliance with Minimum Legal Sales Age (MLSA) and other important tobacco sales regulations;

WHEREAS, TRL is a regulatory tool that further enables [CITY] to monitor tobacco sales, fund compliance efforts, and create effective penalty and suspension structures for repeated violations,

WHEREAS, TRL laws in other communities have been effective in reducing the number of illegal tobacco sales to underage purchasers; now, therefore,

BE IT ORDAINED by the Council of the [CITY], State of Ohio:

Note: The "Purpose" section is part of the ordinance and legislative record, but it usually does not become part of the municipal code. In addition to serving an educational purpose and building political and popular support for the ordinance, the findings can also serve a legal purpose. In the event of litigation, a "Purpose" section will provide a record of the legislature's intent and rationale for the policy. Common findings associated with a comprehensive tobacco control policy will identify health concerns and other problems related to use and/or access to commercial tobacco.

Findings specific to your jurisdiction, such as use rates among local teens and young adults, retailer violations rates, and high tobacco retailer density rates within your jurisdiction, will provide further rationale for your policy and should be included to the extent possible.

DEFINITIONS

Compliance Checks - The system the city uses to investigate and ensure that those authorized to sell tobacco products are following and complying with the requirements of this ordinance. Compliance Checks involve the use of persons over the age of 18, but under the age of 21 who purchase or attempt to purchase tobacco products. Compliance checks may also be conducted by the city or other units of government for educational, research, and training purposes or for investigating or enforcing federal, state, or local laws and regulations relating to tobacco products.

Delivery Sale - The sale of any tobacco product to any person for personal consumption and not for resale when the sale is conducted by any means other than an in-person, over-the-counter sales transaction in a licensed retail establishment. Delivery Sale includes but is not limited to the sale of any tobacco product when the sale is conducted by telephone, other voice transmission, mail, the internet, or app-based service. Delivery Sale includes delivery by licensees or third parties by any means, including curbside pick-up.

Electronic Smoking Device - Any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen or e-hookah. Electronic smoking device includes any component, part, or accessory of the device, and also includes any substance intended to be aerosolized or vaporized during the use of the device, whether or not the substance contains nicotine. Electronic smoking device does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration for cessation purposes, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

Moveable Place of Business - Any form of business that is operated out of a kiosk, truck, van, automobile or other type of vehicle or transportable shelter and that is not a fixed address or other permanent type of structure licensed for over-the-counter sales transactions.

Person - Any natural person.

Purchaser - Any person who obtains or attempts to obtain a tobacco product.

Sale - Any transfer of goods for money, trade, barter or other consideration.

Self-Service Display - Any display from which customers may select a tobacco product without assistance from the tobacco retailer or the tobacco retailer's agent or employee and without a direct person-to-person transfer between the purchaser and the tobacco retailer or tobacco retailer's agent or employee. A vending machine is a form of self-service display.

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

Tobacco Retail Establishment - Any place of business where tobacco products are available for sale to the general public. The term includes but is not limited to grocery stores, tobacco product shops, kiosks, convenience stores, gasoline service stations, bars, and restaurants.

Tobacco Retailer - Any person, partnership, joint venture, society, club, trustee, trust, association, organization, or corporation who owns, operates, or manages any tobacco retail establishment. Tobacco retailer does not mean the non-management employees of any tobacco retail establishment.

Vending Machine - Any mechanical, electric or electronic, or other type of device that dispenses tobacco products upon the insertion of money, tokens, or other form of payment into or onto the device by the person seeking to purchase the tobacco product.

Youth-Oriented Facility - Any facility with residents, customers, visitors, or inhabitants of which 25 percent or more are regularly under the age of 21 or that primarily sells, rents, or offers services or products that are consumed or used primarily by persons under the age of 21. Youth-oriented facility includes, but is not limited to, schools, playgrounds, recreation centers, and parks.

LICENSE REQUIRED

- A. Each tobacco retailer engaging in the sale of tobacco products, at each location in this city, shall secure, and display at all times, a tobacco retail sales license from the [Health Department] before engaging or continuing to engage in such business. No tobacco retailer may sell tobacco products without a valid tobacco retail sales license.

While Ohio law does require retail dealers of cigarettes to obtain a simple tax permit, it does not require retailers of tobacco products (electronic cigarettes, cigars, hookah, etc.) to obtain any kind of privilege permit or license. The state has no systematic way to know who is selling tobacco and nicotine products. A true tobacco retail license (TRL) should also include all tobacco and nicotine products.

- B. An application for a license to sell tobacco products must be made on a form provided by the [Health Department]. The application must contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary.

Ohio's Investigative Unit, an arm of the Ohio State Highway Patrol, is the designated enforcement agency. This unit is understandably designed to prioritize enforcement of criminal law. Tobacco sales are a critical health issue and local health departments are better-equipped to work with local retailers to ensure compliance.

- C. The [Health Department] may approve or deny the application for a license, or it may delay action for a reasonable period of time to complete any investigation of the application or the applicant deemed necessary. If the [Health Department] approves the application, the license will be issued to the applicant. If the [Health Department] denies the application, notice of the denial will be given to the applicant along with notice of the applicant's right to appeal the decision.

Licenses may be denied or fail to be renewed if:

1. The applicant is under 21 years of age;
2. The applicant has had prior suspensions or revocation;
3. The applicant fails to provide any of the information required on the licensing application or provision of false or misleading information;
4. The applicant was convicted within past 5 years of any violation of a federal, state, or local law, ordinance provision or other regulation relating to tobacco products;

5. The applicant has had a license to sell tobacco products suspended or revoked within the preceding 12 months of the date of application;
6. The applicant is prohibited by federal, state, or other local law, ordinance, or other regulation from holding a license; or
7. The business for which the license is requested is a moveable place of business. Only fixed-location retail establishments are eligible to be licensed.

- D. If a license is mistakenly issued or renewed to a person, the city will revoke the license upon the discovery that the person was ineligible for the license under this ordinance. The city will provide the license holder with notice of the revocation, along with information on the right to appeal.
- E. The fee for a tobacco retail sales license shall be set by the Health Department, who shall have the authority to adjust the fee amount from time to time. Such fees shall be calculated to recover the cost of administration and enforcement of this Ordinance, including, but not limited to, issuing licenses, administering the license program, retailer education, retailer inspection and compliance checks, documentation of violations, and prosecution of violators. All fees and interest on proceeds from fees shall be used to exclusively fund the administration and enforcement of this Ordinance.

[CITY] should establish and insert the desired initial application and license fee amounts prior to enacting this ordinance. As a reference, the city of Cincinnati has a \$300 annual tobacco retailer license fee for applications filed in 2019 and authorizes the city council to adjust the license fee from time to time by resolution.

- F. All licenses issued are valid only on the premises for which the license was issued and only for the person to whom the license was issued. The transfer of any license to another location or person is prohibited.
- G. Such license shall be renewed annually and valid for a period beginning with the date of license to the first day of [Month] next succeeding the date of the license unless sooner revoked as allowed by penalties in this article, or unless the retailer to whom it was issued discontinues business, in either of which cases the holder of the license shall immediately return it to the [Health Department]. A license shall not be transferred from one retailer to another or from one location to another.
- H. A tobacco retail sales license cannot be renewed if the tobacco retailer has outstanding fines pursuant to this ordinance.
- I. The issuance of a license is a privilege and does not entitle the license holder to an automatic renewal of the license.
- J. No tobacco retail sales license shall be issued or renewed to a tobacco retail sales licensee unless the tobacco retailer signs a form stating that the tobacco retailer has read this ordinance and has provided training to all employees on the sale of tobacco products. Such training shall include information that the sale of tobacco products to persons under 21 years of age is illegal, the types of identification legally acceptable for proof of age, and that sales to persons under 21 years of age shall subject the tobacco retailer to penalties.
- K. Any business found to be selling tobacco products without a license may be issued a No Sales Order for Tobacco Products and be ineligible to receive a tobacco retail license for a period not to exceed three (3) years.

MINIMUM LEGAL SALES AGE FOR TOBACCO PRODUCTS

The sale of any tobacco product to a person under the age of 21 is prohibited.

AGE VERIFICATION

Before distributing any tobacco product, the tobacco retailer or the tobacco retailer's agent or employee shall verify that the purchaser is at least 21 years of age. Each tobacco retailer or tobacco retailer's agent or employee shall examine the purchaser's government-issued photographic identification. No such verification is required for a person over the age of 30. That a purchaser appeared to be 30 years of age or older shall not constitute a defense to a violation of this section.

Identification verification is not required in Ohio state code.

SIGNAGE

No tobacco retailer shall sell, permit the sale of, or furnish tobacco products in the City unless a notice is posted at any location where tobacco products are available for purchase. All notices must be posted in a manner conspicuous to both employees and consumers, unobstructed from view in their entirety, and within six feet of each register where tobacco products are available for purchase. The [Health Department] shall provide this notice, which shall state "NO PERSON UNDER THE AGE OF 21 MAY BE SOLD NICOTINE OR TOBACCO PRODUCTS, INCLUDING ELECTRONIC SMOKING DEVICES." The notice must be at least 14" by 11" and the words on the notice must be legibly printed in a high contrast red color with capitalized letters at least one inch high.

PROHIBITED SALES

No tobacco retailer or their employee or agent shall sell, offer to sell, or furnish tobacco products:

1. By means of any type of vending machine.
2. By means of self-service display. All tobacco products must be stored behind the sales counter, in a locked case, in a storage unit, or in another area not freely
3. By means of delivery sales. All sales of tobacco products must be conducted in person, in a licensed retail establishment, in over-the-counter sales transactions.
4. By any other means, to any other person, or in any other manner or form prohibited by federal, state, or other local law, ordinance provision, or other regulation.

EDUCATION

The [Health Department] shall engage in a continuing public health education program to explain and clarify the purposes and requirements of this ordinance to persons affected by it, and to guide tobacco retailers and their agents or employees in their compliance. The program may include publication of a brochure for affected tobacco retailers explaining the provisions of this ordinance and signage mandated by this this ordinance.

PROXIMITY TO YOUTH-ORIENTED FACILITIES

No license will be granted to any person for a retail establishment location that is within [1,000] feet of a youth-oriented facility, as measured by the shortest line from the property line of the space to be occupied by the proposed licensee to the nearest property line of a youth-oriented facility. This restriction does not apply to an existing license holder who has been licensed to sell tobacco products in that same location for at least one year before the date this section was enacted into law.

RESPONSIBILITY

All licensees are responsible for the actions of their employees regarding the sale, offer to sell, and furnishing of tobacco products on the licensed premises. The sale, offer to sell, or furnishing of any tobacco product by an employee shall be considered an act of the licensee.

ENFORCEMENT

The tobacco retailer shall be subject to at least two unannounced compliance checks per year. The [Health Department/Designated Authority] shall conduct compliance checks by engaging persons between the ages of 18 and 20 to enter the tobacco retail establishment to attempt to purchase tobacco products. Unannounced follow-up compliance checks of all non-compliant tobacco retailers are required within three months of any violation of this ordinance. The results of all compliance checks shall be published by the [Health Department] at least annually and made available to the public upon request.

Ohio does not mandate a minimum number of annual compliance checks for underage sales. In the absence of a mandate, historically few checks are ever done. Without adequate enforcement, noncompliant retailers take full advantage of this loophole, putting both kids and law-abiding retailers at risk.

PENALTIES

- A. Tobacco retailers. Any tobacco retailer found to have violated this ordinance in person, by agent, representative, or employee or in any other way shall be subject to: (1) For a first violation, a fine no less than \$500; (2) For a second violation within a 36 month period, a fine no less than \$750 and the tobacco retailer shall be prohibited from distributing tobacco products for a minimum of seven days; (3) For a third violation within a 36 month period, a fine no less than \$1,000 and the tobacco retailer shall be prohibited from distributing tobacco products for a minimum of 30 days; and (4) For a fourth and any subsequent violation within a 36 month period, a fine no less than \$1,000 and the tobacco retailer shall be prohibited from distributing tobacco products for a period of three years.
- B. Other persons. Any person 21 years of age or older, besides a tobacco retailer or a tobacco retailer's agent or employee, who violates this ordinance is subject to an administrative fine of \$50.
- C. Related violations. A violation of any federal, state, or local law, ordinance provision, or other regulation relating to tobacco products is also a violation of this ordinance. In addition to any other penalty, a tobacco retailer who violates any provision of this ordinance or any federal, state, or local law, ordinance provision, or other regulation relating to tobacco products, shall be subject to penalties stated in this ordinance, including fines and a prohibition of the distribution of tobacco products.
- D. Criminal Prosecution. The City shall not initiate criminal proceedings against any person other than a tobacco retailer for any alleged violation of this ordinance.
- E. Affirmative Defense. It shall be an affirmative defense for any tobacco retailer charged with violation hereof that a purchaser or recipient exhibited to the tobacco retailer, or to the tobacco retailer's agent, employee, or representative that provided or sold the tobacco products, a valid driver's license or other form of federal or state identification showing that the purchaser was at least twenty-one years of age at the time of the alleged offense.
- F. Exceptions.
 - 1. The penalties in this ordinance do not apply to a person younger than 21 years old who purchases or attempts to purchase tobacco products while under the direct supervision of City staff or their authorized appointees for training, education, research, or enforcement purposes.

2. Nothing in this ordinance prohibits an underage person from handling tobacco products in the course of lawful employment by a tobacco retailer.
3. Nothing in this ordinance prevents the provision of tobacco products to any person as part of an indigenous practice or a lawfully recognized religious, spiritual, or cultural ceremony or practice.

Penalties for violations of selling to underage youth are not clearly defined in Ohio state code. Nor does state code indicate that selling privileges may be suspended or revoked for repeated violations.

RULES AND REGULATIONS

The [Health Department] is hereby authorized to promulgate rules and regulations to carry out the purpose and intent of this Ordinance in order to protect the public health, safety, and welfare.

LIBERAL CONSTRUCTION

This ordinance shall be liberally construed so as to further its purposes.

SEVERABILITY

If any provision of this ordinance, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect any other provision of this ordinance that can be given effect without the invalid provision or application. Each invalid provision or application of this ordinance is severable.

EFFECTIVE DATE

This ordinance shall take effect on [effective date].

Tobacco Retail License Model Policy Add-Ons

Additional Provisions That May Be Included in A TRL Ordinance:

Maximum number of licenses.

The maximum number of licenses issued by the city at any time is limited to [X]. When the maximum number of licenses has been issued, the city may place persons seeking licensure on a waiting list and allow them to apply on a first-come, first-served basis, as licenses are not renewed or are revoked. A new applicant who has purchased a business location holding a valid city license will be entitled to first priority, provided the new applicant meets all other application requirements in accordance with this ordinance.

Proximity to other licensed retailers.

No license will be granted to any person for a retail establishment location that is within [2,000] feet of any other existing licensed retail establishment, as measured by the shortest line from the property line of the space to be occupied by the applicant for a license to the nearest property line of the existing licensee. This restriction does not apply to an applicant who has been licensed to sell tobacco products in the same location for at least one year before the date this section was enacted into law.

Pharmacies ineligible for licensure.

No existing license will be eligible for renewal to any pharmacy, including any retail establishment that operates or contains an on-site pharmacy, and no pharmacy or any retail establishment that operates an on-site pharmacy will be granted a new license.

Prohibition on sales of flavored products.

No person shall sell or offer for sale any flavored products. For purposes of this section, "Flavored Products" means any tobacco product 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 the consumption of the product, including, but not limited to, any taste or smell relating to chocolate, cocoa, menthol, mint, wintergreen, 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, 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 a taste or smell of tobacco will constitute presumptive evidence that the product is a flavored product.

TRL Policy Start Up Cost-Budget

Kent City Health Department

This budget is based on an Annual Retailer License Fee set at \$400. Further, cost are based on 28 retailers (list provided by ODH) but broken down by individual retail cost for each retail establishment for the City of Kent Ohio. Fees from retailer license program will be used for retailer and community education, 2 compliance checks with 1 undercover buy annually. Staffing cost are based on the following:

- * KCHD Accreditation Coordinator
- * Public Health Outreach Workers (Temporary/Grant Funded)
- * 52 weeks in one year

TRL PROGRAM IMPLEMENTATION COST- TRL Revenue Funded	AMOUNT
Administrative Forms-Mailings	\$1,000.00
Retailer Education Materials Signage	\$1,000.00
Retailer Training Course	\$2,000.00
Other-Buffer	\$1,000.00
Total	\$5,000.00

Equipment & Outreach -Grant Funded	AMOUNT
Computers for TRL/Tobacco Programming	\$5,000.00
Office Supplies	\$5,000.00
Outreach and Promo Materials	\$5,000.00
Other-Buffer	\$1,000.00
Total	\$16,000.00

SALARIES AND ADMIN EXPENSES-Grant Funded	AMOUNT
Cessation Specialist (Grant Funded-5 hours per week @ \$25/hr)	\$6,500.00
Community Outreach Coordinator (Grant Funded- 10 hour per week @ \$25/hr)	\$13,000.00
Other-Buffer	\$1,000.00
Training & Education	\$2,000.00
Ryan Staffing Cost	
Total	\$22,500.00

SALARIES AND ADMIN EXPENSES-TRL Revenue Funded	AMOUNT
Accreditation Coordinator Overtime (\$40.5 x 28 X2)	\$2,268.00
Undercover Confidential Informant Employees (\$20 per retailer x 2)	\$1,120.00
Administrative Cost-Milage, Data Entry (\$15 per Retailer)	\$420.00
Product Funding For Undercover Buys (\$40 per Retailer)	\$1,120.00
Other-Buffer	\$72.00
Total	\$5,000.00

Total Expenses **\$48,500.00**

SOURCES OF CAPITAL	AMOUNT
ODH Annual Tobacco Use and Cessation Grant	\$100,000.00
TRL Policy Revenue (\$400 fee X 28 retailers)	\$11,200.00
Tobacco Grant Surplus (Previous Years as of _____)	\$0.00
Total	\$111,200.00

Total Income	Total Expenses	Surplus
\$111,200.00	\$48,500.00	\$62,700.00

Notes:

Local TRL Provides Penalty Structure

**4th and any subsequent
violations within a
36-month period**

A. 4th Violation: Fine
no less than \$1,000
and the tobacco
retailer shall be
prohibited from
distributing tobacco
products for a period
of **3 years**.

3rd Violation: Fine no
less than \$1,000 and
the tobacco retailer
shall be prohibited
from distributing
tobacco products for
a minimum of **30
days**

2nd Violation: Fine no
less than \$750 and
the tobacco retailer
shall be prohibited
from distributing
tobacco products for
a minimum of **7 days**

1st Violation: Fine no
less than \$500

RETAIL ENFORCEMENT:

MISSION CRITICAL



PREVENTING TOBACCO ADDICTION FOUNDATION

Local TRL Policies in Ohio with Local Health Department Enforcement



- ✓Columbus
- ✓Cincinnati
- ✓Brook Park
- ✓Brooklyn
- ✓Cleveland Heights
- ✓Euclid
- ✓Hamilton
- ✓Norwood
- ✓Lakewood
- ✓Springfield
- ✓Maple Heights
- ✓Moreland Hills
- ✓Newburgh Heights
- ✓University Heights



PREVENTING TOBACCO ADDICTION FOUNDATION

Why Implement A Tobacco Retail License?

In October 2019, Ohio implemented a statewide Tobacco 21 law, and in December 2019, the federal government followed suit, enacting legislation that raised the legal sale age for all nicotine products from 18 to 21 effective across the United States.

However, no law works unless it is enforced.

Statewide, Ohio has failed to undertake a comprehensive compliance approach to enforce the new minimum legal sales age of 21, and the Food and Drug Administration, which is empowered to enforce federal tobacco sales laws, has historically failed to enforce underage sales laws in Ohio. It has always been up to local authorities to require local retailers to abide by youth protection laws.

Tobacco Retail Licensing (TRL) has become an essential tool in both protecting kids from irresponsible or unscrupulous retailers, and in leveling the playing field for those retailers who do abide by the rules. Current Ohio law has a weak tobacco-tax permit system for cigarettes that ignores e-cigarettes, cigars, hookah and spit tobacco. TRL is therefore a vital regulatory tool that enables localities to monitor tobacco sales, fund compliance efforts, and create effective penalty and suspension structures for repeated violations – it closes the gap in tobacco regulation that was left open by both the federal and state Tobacco 21 laws.



Tobacco products kill more than half a million Americans annually.



3.6 million middle-school and high-school kids use e-cigarettes (vape).



Adolescent vaping quadruples the risk of becoming a long-term smoker.



Youth nicotine addiction substantially increases risk of drug use and mental illness.



95% of current adult smokers began before the age of 21.



Teen vapers are up to 7 times more likely to get COVID-19 than non-e-cigarette users.

A Local Tobacco Retail License Will

The Preventing Tobacco Addiction Foundation has analyzed Ohio's statewide tobacco control laws to provide local advocates with a summary of the current landscape. This document highlights the opportunities and best practice methods that exist under Ohio statute in order for local jurisdictions to create a more robust and comprehensive system through the adoption of a local Tobacco Retailer Licensing Program.

PROTECT KIDS

- Reduces youth initiation to nicotine and tobacco through improved compliance with Tobacco 21 and other tobacco control initiatives.
- Provides foundational support for the implementation of other youth protections such as flavored product restrictions (including menthol), product discounts, tobacco-free pharmacies, mail-order/internet delivery regulation, and point-of-sale restrictions.
- Allows a municipality to regulate location, density, and types(s) of tobacco retailers permitted to operate in their jurisdiction.

HOLD RETAILERS ACCOUNTABLE

- Establishes a comprehensive list of retailers in the local community, allowing the jurisdiction to adequately monitor retailer compliance while creating a database that can be used for future tobacco control initiatives.
- Authorizes local health departments to inspect tobacco and vape shops and conduct essential compliance checks on a regular basis to ensure retailer compliance.
- Allows local health departments the ability to revoke or suspend a retailer license if they repeatedly violate age-of-sale or other regulations.

FUND ENFORCEMENT

- Supports the federal and Ohio Tobacco 21 laws by providing supplemental local enforcement through an annual license fee at no cost to the taxpayer.
- Creates a self-funding mechanism for administration, retailer education/training and comprehensive enforcement activity.

This document is the short-form, executive summary of "Best Practices In Tobacco Retail Licensing" available on the Tobacco21.org website. Further details and scientific citations are available there.

Ohio Tobacco Retail License Landscape

The Preventing Tobacco Addiction Foundation has analyzed Ohio's statewide tobacco control laws to provide local advocates with a summary of the current landscape. This document highlights the opportunities and best practice methods that exist under Ohio statute in order for local jurisdictions to create a more robust and comprehensive system through the adoption of a local Tobacco Retailer Licensing Program.

RETAIL LICENSE

While Ohio law does require retail dealers of cigarettes to obtain a simple tax permit, it does not require retailers of tobacco products (electronic cigarettes, cigars, hookah, etc.) to obtain any kind of permit or license. The state has no systematic way to know who is selling tobacco and nicotine products.

Opportunity:

Tobacco Retail License should include all tobacco products.

DEFINITIONS

Ohio law does include a comprehensive definition of tobacco products – “tobacco products” includes electronic smoking devices.

Tobacco Product - Any product that is made or derived from tobacco or that contains any form of nicotine, if it is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by any other means, including, but not limited to, a cigarette, an electronic smoking device, a cigar, pipe tobacco, chewing tobacco, snuff, or snus. Tobacco product” also means any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes, blunt or hemp wraps, and liquids used in electronic smoking devices, whether or not they contain nicotine. “Tobacco product” does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g).

AGE RESTRICTION

Consistent with federal law, Ohio law prohibits sales of all nicotine and tobacco products to persons under the age of 21.

ENFORCEMENT AGENCY

Ohio's Investigative Unit, an arm of the Ohio State Highway Patrol, is the designated enforcement agency. This unit is understandably designed to prioritize enforcement of criminal law.

Opportunity:

Tobacco sales are a critical health issue and local health departments are better equipped to work with local retailers to ensure compliance.

COMPLIANCE CHECKS

Ohio does not mandate a minimum number of annual compliance checks for underage sales. In the absence of a mandate, historically few checks are ever done.

Opportunity:

Without adequate enforcement, noncompliant retailers take full advantage of this loophole, putting both kids and law-abiding retailers at risk. Each tobacco retailer shall be subject to at least two unannounced compliance checks per year. The health department/designated authority shall conduct compliance checks by engaging persons between the ages of 18 and 20 to enter the tobacco retail establishment to attempt to purchase tobacco products.

PENALTIES

Penalties for violation of selling to underage youth are not clearly defined in state code. Nor does state code indicate that selling privileges may be suspended or revoked for repeated underage tobacco sales.

Opportunity:

A TRL (Tobacco Retail License) ordinance should establish a civil penalty structure that holds the retailers accountable; not the clerk or the underage buyer.

Any tobacco retailer found to have violated this [statute/ ordinance] shall be subject to:

- (1) For a first violation, a fine no less than \$500;
- (2) For a second violation within a 36-month period, a fine no less than \$750 and the tobacco retailer shall be prohibited from distributing tobacco products for a minimum of seven days;
- (3) For a third violation within a 36-month period, a fine no less than \$1,000 and the tobacco retailer shall be prohibited from distributing tobacco products for a minimum of 30 days; and
- (4) For a fourth and any subsequent violations within a 36-month period, a fine no less than \$1,000 and the tobacco retailer shall be prohibited from distributing tobacco products for a period of three years.

AGE VERIFICATION

Identification verification is not required in state code.

Opportunity:

Before distributing any tobacco product, the tobacco retailer or the tobacco retailer's agent or employee shall verify the purchaser is at least 21 years of age by examining the purchaser's government-issued ID if the purchaser appears to be under 30 years of age.

SIGNAGE

Ohio law does require retail establishments to "have posted in a conspicuous place a legibly printed sign in letters at least one-half inch high stating that giving, selling, or otherwise distributing cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under twenty-one years of age is prohibited by law."

PURCHASE, USE OR POSSESSION

Under O.R.C. 2151.87, youth under the age of 18 are prohibited from purchase, use or possession of tobacco products.

Opportunity:

Purchase, use, or possession laws are unlikely to reduce youth smoking significantly. Also, they may undermine other conventional avenues of youth discipline, divert attention from more effective tobacco control strategies and relieve the tobacco industry of responsibility for its marketing practices. Some communities are concerned that these provisions may be enforced inconsistently with respect to youth from certain racial and ethnic groups, resulting in their introduction into the criminal justice system.

INTERACT
FOR HEALTH

Your trusted source of health information



PREVENTING TOBACCO
ADDICTION FOUNDATION

EXTINGUISHING THE TOBACCO EPIDEMIC *in* OHIO

THE PROBLEM

Cigarette smoking remains the leading cause of preventable death and disability in the United States, despite a significant decline in the number of people who smoke. Over 16 million Americans have at least one disease caused by smoking. This amounts to \$170 billion in direct medical costs that could be saved every year if we could prevent youth from starting to smoke and help every person who smokes to quit.



OHIO KEY FACTS

\$2.4M

Was received from CDC for tobacco prevention and control activities in FY 2020

In 2019, **36.7%** of Ohio high school **youth** reported currently using **any tobacco product**, including e-cigarettes. Among Ohio high school **youth**, **4.9%** reported currently smoking **cigarettes**.

20.8%

Of adults smoked cigarettes in 2019

20,200

Adults die from smoking-related illnesses each year

\$5.6B

Was spent on healthcare costs due to smoking in 2009

PUBLIC HEALTH RESPONSE TO TOBACCO USE IN OHIO

There is no safe level of exposure to secondhand smoke. It causes stroke, lung cancer, and coronary heart disease in adults. Ohio has a comprehensive smoke-free law that prohibits smoking in all indoor areas of workplaces, restaurants, and bars, which has been in effect since 2006. Since that law was adopted, Ohio has continued to inform efforts to protect residents from exposure to secondhand smoke. Upon request, the state provides research, data and analysis, and scientific consultation to communities, multiunit housing operators, hospitals, businesses, and colleges and universities that want to protect residents from secondhand smoke. Currently, 13 colleges and universities have adopted tobacco-free campus policies in the state, and public housing authorities in 8 counties or cities have adopted policies making housing units smoke-free.

CURRENT AS OF MARCH 2021



U.S. Department of
Health and Human Services
Centers for Disease
Control and Prevention

www.cdc.gov/tobacco

OHIO

CDC's ROLE IN ADVANCING STATE TOBACCO CONTROL PROGRAMS

Ohio is one of 50 states plus DC that receives funding and technical support from the Centers for Disease Control and Prevention to support comprehensive tobacco control efforts and quitlines. The Office on Smoking and Health (OSH) is the lead federal agency for comprehensive tobacco prevention and control. For decades, OSH has led public health efforts to prevent young people from using tobacco and to help all tobacco users to quit.

CDC's TIPS FROM FORMER SMOKERS® (Tips®) CAMPAIGN HELPS OHIO SMOKERS QUIT SMOKING



Despite significant progress, tobacco use remains the leading preventable cause of death and disease in the US. The good news is that 7 out of 10 smokers want to quit smoking. That is why since 2012 CDC has been educating the public about the consequences of smoking and exposure to secondhand smoke and encouraging smokers to quit through a federally funded, national tobacco education campaign, *Tips From Former Smokers®*. The campaign features former smokers suffering from the real consequences of smoking.

The *Tips®* campaign connects smokers with resources to help them quit, including a quitline number (1-800-QUIT-NOW) which routes callers to their state quitline. The Ohio quitline provides free cessation services, including counseling and medication. These services are effective in improving health outcomes and reducing healthcare costs.

"I was thinking about relapsing today and the new commercials came on. It changed my mind real fast. You don't understand the power of these commercials until you have made the decision to quit. Terrie Hall makes me cry every time . . . that could easily be me."

— Justin: January 2016

Incoming calls to the Ohio state quitline increased by an average **29%** during the 2020 *Tips®* campaign. The Ohio state quitline received a total of **10,089** calls from March 23rd – October 8th during the 2020 *Tips®* campaign.

OHIO TOBACCO PREVENTION & CONTROL PROGRAMS REDUCE HEALTHCARE COSTS

Tobacco prevention and control activities are a public health "best buy." Evidence-based, statewide tobacco control programs that are comprehensive, sustained, and accountable have been shown to reduce the number of people who smoke, as well as tobacco-related diseases and deaths. For every dollar spent on tobacco prevention, states can reduce tobacco-related health care expenditures and hospitalizations by up to \$55. The longer and more states invest, the larger the reductions in youth and adult smoking. A comprehensive statewide tobacco control program includes efforts to:

1 
Prevent initiation of tobacco use especially among youth and young adults

2 
Promote cessation and assist tobacco users to quit

3 
Protect people from secondhand smoke

For more information on tobacco prevention and control, visit cdc.gov/tobacco.

CURRENT AS OF MARCH 2021



U.S. Department of
Health and Human Services
Centers for Disease
Control and Prevention

www.cdc.gov/tobacco



American
Heart
Association.



THE NEED FOR TOBACCO RETAIL LICENSING

We need to know where harmful tobacco products are being sold and that retailers are following tobacco laws. Tobacco retail licensing policies will help.

THE PROBLEM



PREVALENCE:

Tobacco products are sold all over - grocery stores, gas stations, pharmacies, convenience stores - from big cities to rural communities.

YOUTH USE:

23.6 percent of high school students report current use of any tobacco product

(cigarettes, electronic cigarettes, cigars, smokeless tobacco, hookah, pipe tobacco, and/or bidis)

YOUTH ACCESS:

3 out of 4 kids who try to buy tobacco products are not refused sale even though they are under the legal sales age.



MARKETING/ TARGETING:

Tobacco companies advertise where kids regularly gather and shop.

For example, menthol cigarettes, which are less harsh to smoke and more addictive, are intentionally sold at discounted prices near schools that Black students attend. To reach rural kids, smokeless tobacco brands sponsor rodeos, where up to 1/3 of the audience are children and teens.



EQUITY: Tobacco companies have targeted racial and ethnic minorities with their products for decades.

Research shows that there are more tobacco retailers in communities with predominantly Black and Hispanic residents. More stores selling tobacco products = more exposure to ads and products.

THE BENEFITS

Tobacco retail licensure (TRL): An effective tobacco control tool that requires every store that sells tobacco products to apply for a license.



Track and Limit the Sale of Tobacco Products:

Licensing enables communities to know where tobacco products are being sold, and it can allow officials to set limits on the location, number, and types of stores that sell tobacco products.



Enforce Tobacco Laws:

Fees from licensing can be used to fund compliance checks, giving officials the resources needed to enforce tobacco laws and consequently reduce illegal sales to youth.



Curb Youth Use:

With tobacco retail licensure, we can monitor where tobacco products are being sold and who they're being sold to. Tobacco retail licensure holds retailers accountable to refuse sale of harmful and additive products to youth.

THE AMERICAN HEART ASSOCIATION RECOMMENDS



Eliminate Youth Penalties:

Kids should not be penalized for purchase, use or possession of harmful products that have been aggressively marketed and illegally sold to them. Tobacco retailers should be held accountable.



Fine the License Holder:

Penalties for failing to follow tobacco control laws should be levied on the business owner rather than store employees who are likely low-wage earners and unable to afford financial penalties. By holding the retailer accountable for fees and fines, proper training on tobacco control laws is more likely to take place.



Allocate Funding for Compliance Checks:

Fees collected from retail licensing should be used to fund compliance checks to ensure retailers are not selling dangerous tobacco products to kids.

**We have the tools to make tobacco retail licensing standard in our community.
Join the American Heart Association's work to make it happen.**

Strong tobacco retail licensure (TRL) provides standards for retailers of tobacco products and electronic smoking devices in order to ensure the minimum legal sales age is being enforced, that applicable local, state, and federal laws are being followed, and where applicable, taxes are being accurately collected.

Following the 1998 Master Settlement Agreement that restricted advertising by tobacco companies, the industry shifted its focus to marketing in the retail setting. Since 1998, tobacco company advertising and marketing has increased from \$6.7 billion to \$9.1 billion in 2018.¹ This focus on retail spending is strongly associated with smoking initiation, particularly among youth.²

The increase in popularity of e-cigarette and vaping products has placed increased need for tobacco retail licensure among all products.³

- According to the National Youth Tobacco Survey, 16.5% of middle and high school students under the age of 18 report obtaining e-cigarettes in a vape shop in the past month, and 9.8% from a gas station or convenience store.³
- Furthermore, nearly 75% of youth that tried to buy tobacco products stated they were not refused sale.⁴
- The easy availability for over 1 in 4 youth e-cigarette users to obtain products from retail settings also likely contributes to the high amounts of youth reporting that they obtain e-cigarette products from social sources like friends and classmates.

In response, some states and communities have passed laws requiring e-cigarette retailers and vape shops to have a license or permit to sell their products.

In an evaluation of multiple jurisdictions with varying degrees of retail licensure requirements, the jurisdictions with more restrictive requirements may benefit from lower cigarette and e-cigarette use and initiation among youth and young adults.⁴

Strong retail licensure requirements are an effective policy tool to limit youth initiation of tobacco products, as well as to prevent access and continued usage of these products.

- In 2016, California required retailers to obtain tobacco product retailer license for any retailer that attempted to sell any product containing nicotine or tobacco, electronic smoking or vaping devices that deliver nicotine, and any component, part, or accessory of a tobacco product. A 2019 study evaluating the impact of California's local tobacco retail licensing ordinances on youth smoking rates found that youth and young adults that reside in jurisdictions with strong tobacco retail licensing ordinances had lower rates of e-cigarette and cigarette use compared to those who live in jurisdictions with poor TRL policies.⁵ Additionally, youth were less likely to smoke in high school and initiate smoking at 18.

Retail licensure strategies are an effective approach to decrease the prevalence of youth tobacco use and reduce the socioeconomic disparities in tobacco use and retailer density.

- A study conducted in Philadelphia, Pennsylvania found a significant decline in tobacco retailer density after implementation of strong tobacco retail regulations. Retailer density declined by 20.3% after 3 years of implementation, and a 12% decrease in the rates of retailers near schools.⁶

To effectively curb the high rates of access to tobacco products by youth in the retail setting, adequate retail licensure is necessary. The American Heart Association recommends that in order to be effective, the following elements must be included:

- An annual license fee that is high enough to cover the cost of enforcement and compliance.
- Clear process to establish requirements to apply for a license.
- Minimum of one compliance check per store per year, with a mandatory recheck for compliance failures.
- Escalating monetary compliance check failure penalties paid by the retailer, with a license suspension of at least 15 days by the third offense, and license revocation by the fourth offense within at least a two-year period.
- No criminal or monetary penalties for youth use and possession.
- Penalty for selling tobacco products without a license.

¹ U.S. Federal Trade Commission (FTC), Cigarette Report for 2018, 2019, <https://www.ftc.gov/system/files/documents/reports/federal-trade-commission-cigarette-report-2018-smokeless-tobacco-report-2018/p114508cigarette-report-2018.pdf> [data for top 5 manufacturers only]; FTC, Smokeless Tobacco Report for 2018, 2019, <https://www.ftc.gov/system/files/documents/reports/federal-trade-commission-cigarette-report-2018-smokeless-tobacco-report-2018/p114508smokelesstobaccoreport2018.pdf> [data for top 5 manufacturers only].

² 2012 U.S. Surgeon General's Report, supra note 4, at 543; see also Lisa Henriksen et al., Is Adolescent Smoking Related to the Density and Proximity of Tobacco Outlets and Retail Cigarette Advertising Near Schools?, 47 Preventive Med. 210-12 (2008); William J. McCarthy et al., Density of Tobacco Retailers Near Schools: Effects on Tobacco Use Among Students, 99 Am. J. of Pub. Health 2006, 2011-2012 (2009); Sandy J. Slater et al., The Impact of Retail Cigarette Marketing Practices on Youth Smoking Uptake, 161 Arch. Pediatr. Adolesc. Med. 440 (2007); Nina Schleicher et al., Tobacco Outlet Density Near Home and School: Associations with Smoking and Norms Among Teens, 91 Preventive Med. 287-93 (2016), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5065244>.

³ Liu, ST, et al., "Youth Access to Tobacco Products in the United States, 2016-2018," Tobacco Regulatory Science, 5(6): 491-501, 2019

⁴ Pediatrics February 2019, 143 (2) e20173536; DOI: <https://doi.org/10.1542/peds.2017-3536>

⁵ Astor RL, Urman R, Barrington-Trimis JL, et al. Tobacco Retail Licensing and Youth Product Use. Pediatrics. 2019;143(2): e20173536

⁶ Lawman HG, Henry KA, Scheeres A, et al., "Tobacco Retail Licensing and Density 3 Years After License Regulations in Philadelphia, Pennsylvania (2012-2019). American Journal of Public Health 110, 547-553, <https://doi.org/10.2105/AJPH.2019.305512>