

**CITY OF MIDDLETOWN
ORDINANCE NO. 08-12-21-B
AN ORDINANCE ADOPTING REGULATIONS RELATED
TO SMOKING RETAIL STORES**

WHEREAS, according to the Centers for Disease Control and Prevention (CDC), Smoking is the leading cause of preventable death in the U.S.;

WHEREAS, according to the CDC, electronic smoking devices (e-cigarettes) entered the U.S. marketplace around 2007, and since 2014, they have been the most used tobacco product among U.S. youth. E-cigarette use by Kentucky 10th graders doubled between 2016 and 2018, from 11.7% to 23.2%, and in 2019, increased again to 27.5%;

WHEREAS, youth who use e-cigarettes are twice as likely to take up smoking traditional cigarettes and addiction to nicotine may also increase likelihood of addiction to other substances in the developing adolescent brain;

WHEREAS, a high density of tobacco retailers has been associated with increased smoking rates, particularly among youth;

WHEREAS, the density and proximity of tobacco retailers influence smoking behaviors, including number of cigarettes smoked per day;

WHEREAS, adults who smoke have a harder time quitting when residential proximity to tobacco retailers is smaller and density is higher;

WHEREAS, there are laws that prevent the sale of products to minors but there are no specific regulations in place to limit the retail locations and their efforts to appeal to minors;

AND WHEREAS, based upon the findings stated above, the City of Middletown does hereby adopt the amendments to the Land Development Code recommended by the Planning Commission relating to smoking retail stores as follows;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF MIDDLETOWN, KENTUCKY:

SECTION 1:

The City of Middletown does hereby add to Chapter 1, Part 2 of its approved version of the Land Development Code, definitions relating to smoking retail stores, as follows:

Electronic Smoking Device- any product containing or delivering Nicotine, or any other substance intended for human consumption that can be used by a person in any manner or in any form for the purpose of inhaling vapor or aerosol from the product. The term includes such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any product name or descriptor. Electronic Smoking Device also includes any fitment, add-on, auxiliary or attachment type device that is designed to be utilized in conjunction with or during the usage of an electronic smoking device.

Smoking Retail Store- a store that primarily sells tobacco, tobacco products and/or electronic smoking devices. For the purposes of this definition primarily means that either the store devotes 10 percent or more of floor area of the retail space and/or derives 51 percent or more of gross sales receipts from the sale of tobacco, tobacco products and/or electronic smoking devices.

Tobacco or Tobacco Product- any cigarette, cigar, snuff, smokeless tobacco product, smoking tobacco, chewing tobacco, and any kind or form of tobacco prepared in a manner suitable for chewing or smoking or both, or any kind or form of tobacco that is suitable to be placed in a person's mouth. The definition of Tobacco Products also includes tobacco paraphernalia. Tobacco or tobacco products excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

Tobacco Paraphernalia- cigarette papers or wrappers, blunt wraps, pipes, holders of smoking materials of all types, cigarette rolling machines or other instruments, or things designed for the smoking or ingestion of tobacco products or any product containing or delivering nicotine, or any other substance intended for human consumption. Tobacco Paraphernalia also includes any fitment, add-on, auxiliary or attachment type device that is designed to be utilized in connection with or during the usage of tobacco paraphernalia.

SECTION 2:

The City of Middletown does hereby add to Chapter 2, Part 4 of its approved version of the Land Development Code, the permitted use for smoking retail stores as follows:

C-1 Commercial District

A. PERMITTED USES

Smoking Retail Stores (allowed with additional regulations in Chapter 4, Part 3).

C-2 Commercial District

A. PERMITTED USES

Smoking Retail Stores (allowed with additional regulations in Chapter 4, Part 3)

SECTION 3:

The City of Middletown does hereby add to Chapter 4, Part 3 of its approved version of the Land Development Code, additional regulations relating to smoking retail stores as follows:

Smoking Retail Store

In the C-1, C-2, C-3, and C-M zoning districts, Smoking Retail Stores may be permitted in accordance with the following special standards:

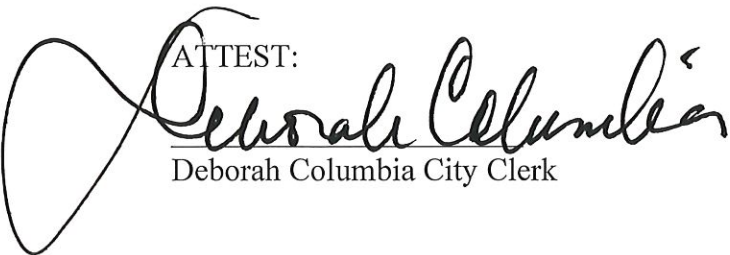
- A. No Smoking Retail Store shall be located within one thousand (1,000) feet of the boundary of any parcel occupied by any of the following uses (as measured in a straight line from parcel boundary to parcel boundary):
1. Public or private early childhood, elementary, middle, or high school,
 2. Park,
 3. Public Playground,
 4. Recreational (Use) outdoor,
 5. Community Center,
 6. Day Care Center, and
 7. Athletic Facility, Indoor and Outdoor,
- B. No Smoking Retail Store shall be located within six hundred (600) feet of a site occupied by another Smoking Retail Store, as measured in a straight line from parcel boundary to parcel boundary. This separation requirement is eligible for a variance.
- C. The hours of operation for a Smoking Retail Store shall be no earlier than six (6) A.M. and no later than ten (10) P.M., seven (7) days a week.

SECTION 4:

This ordinance shall take effect upon enactment and publication according to law.

First Reading: 8/12/21
 Second Reading: 11/11/21
 Passed and Approved: 11/11/21


 Mayor J. Byron Chapman

ATTEST:

 Deborah Columbia City Clerk

In Favor: 4
 Opposed: 0

SMOKING RETAIL STORES IN MIDDLETOWN
August 26, 2021

Total CBD
11414 Shelbyville Road
Louisville, KY 40243

Trippy's Smoke Shop
11801 Shelbyville Road
Louisville, KY 40243

Vapor Derby Cigs
11517 Shelbyville Road, Suite A
Louisville, KY 40243

Encore Smokes, Vapes and More
13210 Shelbyville Road, Suite 103
Louisville, KY 40243