

Clackamas County TRL Task Force  
Meeting Notes 7/9/19

**Attendance:**

Task Force Members: John Hill, Oregon Cigar Association; Leonard Kesterson, Milwaukie resident; Christopher Friend, American Cancer Society; Tim Driscoll, Molalla resident; Arlene Kantor, American Cancer Society volunteer; Teri Cummings, West Linn City Council President; Charina Walker, Oregon Health Authority; David Jacques, NAMI; Kari McFarlan, Multnomah County Health Department; Patrick Owen, OLCC ; Amber Smith, Gladstone; Bethany Lowe, Lake Oswego; Brainard Brauer, Oregon City.

Facilitators: Erin Ruff and Emily Shannon

Public Health Staff: Jamie Zentner, Allison Gallegos-Jeffrey, Katie Knutsen

Observers: Drenda Howatt, BCC office; Kathi Rastetter, County Counsel; Beth Byrne, PGA

**Collective Agenda Setting**

*Prioritizing Issues*

The Task Force reviewed the outstanding issues from the last meeting, took input from Legal Counsel about which issues need to be resolved during the Ordinance phase and which might wait for a rulemaking phase, and voted on the top three priorities to work on during this meeting:

1. 1000 foot setback from Youth Populated Areas
2. Penalties and Remediation
3. Exempting cigar and smoke shops from licensing

The Task Force considered taking these issues in small groups and decided to consider them as a full group.

**Public Health Presentation**

*Jamie Zentner (Public Health)*

Information on the impacts of youth nicotine addiction, the role of retail licensing in preventing youth nicotine use, responses from Clackamas County retailers to a survey about retail licensing. Potential “Policy Plug-Ins” the Task Force could consider, including reducing density, minimum pricing, eliminating coupon redemption, banning flavoring including menthol, and disallowing pharmacies to sell tobacco.

Information on the budget for the program and how it relates to the likely fees. The fee would be designed to sustain the enforcement program and is imagined to be between \$500 – 600. Multnomah County’s fees began at \$580 and increased to \$683.

### **1000 Foot Set-Back Discussion**

The group brainstormed ways to reduce youth access other than the proposed 1000 foot set-back. Ideas included:

- Increased penalties for violations within 1000 ft.
- Ban exterior advertising
- Time-based restrictions that prohibiting sales within an hour of when children are present
- Minimum pricing

The group considered and voted for language designed to:

1. Prohibit new licenses within 1000 feet of a “youth-populated area”,
2. Exempt locations that hold licenses within 1000 feet as of the passage of the rule or building of a new Youth Populated Area,
3. Allow new licenses to be issued to arms-length purchasers of an exempt business so long as there has not been a licensing gap of 6 months or more.
4. Allow the Public Health Board flexibility to clearly define what constitutes a “youth-populated area.”

The majority of the group approved this language. Consensus was blocked by members who opposed the transfer of grandparented license to a new business, and by other members who opposed any set-back. The group agreed to draft and submit majority and minority reports.

### **Penalties and Remediation**

The group discussed options for penalties and remediation, including

- Using the maximum allowable fine for all violations (\$1000)
- Remediation similar to Multnomah County’s system where remediation is available for some first-time penalties (though not available if the business has sold to an underaged person).
- Reducing the duration of license suspensions.

The group considered all the above and reached consensus on including a structure that would mirror Multnomah County’s remediation plan and penalties, including:

1. First offense: \$1000 + mandatory education,
2. Second offense: \$1000 + 30 day suspension,
3. Third offense: \$1000 + 90 day suspension,
4. Fourth offense \$1000 + 2 year license revocation

Legal Counsel advised that the amount of the fines should be included in the rule, not the ordinance. The group would like to reconsider this structure if it reconvenes to create rules.

## Language Clean-Up

The group agreed to proposed changes for clarity.

1. 8.10.011 (H): "Retail Sale" means any transfer, conditional or otherwise, of title or possession of Tobacco Products or inhalant delivery systems to a consumer of such products.
2. 8.10.011 (K)(2) Electronic cigarettes or any inhalant delivery systems containing or delivering nicotine, and
3. 8.10.013 (A) A. It is a violation of this subchapter for a Tobacco Retailer to make Tobacco Products, Tobacco Paraphernalia, or Inhalant Delivery Systems available to a consumer:
4. 8.10.014 (C): As part of program administration, Public Health shall provide educational resources to licensed Tobacco Retailers to support compliance with the license requirements. Upon request, Public Health will provide educational materials in the preferred language of a Tobacco Retailer. In addition, Public Health, in its discretion, may require Tobacco Retailers [including managers or other employees] annual, free, culturally responsive training on federal, state, and local laws to support clerks, managers, and owners in meeting applicable legal requirements.

## Mobile Vending

The group discussed exceptions for mobile vending of cigars at private events but did not vote on any proposals.

**Majority and minority report drafting:** The following members agreed to provide input for the majority and minority reports, to be completed by July 18, 2019: Patrick Owen (Majority Report); Christopher Friend and Charina Walker (Minority Report).