



Administration and Human Services **Standing Committee Meeting Agenda**

Monday, November 27, 2023

**Immediately upon adjournment of the earlier committee,
or 5:00 p.m.**

Location: HYBRID

We invite you to view the meeting in person in the 5th Floor Conference Room, Suite 515, Municipal Office Building, 701 N. 7th Street, Kansas City, Kansas, or virtually via a Zoom webinar.

Please click this URL to join. <https://us02web.zoom.us/j/83334678353>

Or One tap mobile:

+12532050468,84681629526# US

+12532158782,84681629526# US (Tacoma)

Or join by phone:

Dial (for higher quality, dial a number based on your current location):

US: +1 253 205 0468 or +1 253 215 8782 or +1 346 248 7799 or +1 669 444 9171 or +1 669 900 9128 or +1 719 359 4580 or +1 305 224 1968 or +1 309 205 3325 or +1 312 626 6799 or +1 360 209 5623 or +1 386 347 5053 or +1 507 473 4847 or +1 564 217 2000 or +1 646 558 8656 or +1 646 931 3860 or +1 689 278 1000 or +1 301 715 8592 or 877 853 5257 (Toll-Free) or 888 475 4499 (Toll-Free)

Webinar ID: 833 3467 8353

International numbers available: <https://us02web.zoom.us/j/kcLlElOpDZ>

Name

Absent

Commissioner Angela Markley, Chair

☐

Commissioner Melissa Bynum

☐

Commissioner Christian Ramirez

☐

Commissioner Harold Johnson

☐

Commissioner Mike Kane

☐

I. Call to Order/Roll Call

II. Revisions to November 27, 2023 Agenda

III. Approval of standing committee minutes from (no minutes available)

IV. Committee Agenda

Item No. 1 - RESOLUTION: NORTHEAST KCK HERITAGE TRAIL PHASE I UTILIZING ARPA FUNDS

Synopsis: Approval of a resolution authorizing the use of \$240,000 from ARPA set-aside funds as the local match, submitted by Gunnar H. Hand, AICP, Director of Planning and Urban Design.

Approve request

Tracking #: 212772

Item No. 2 - RESOLUTION/ORDINANCE: TOBACCO RETAIL LICENSE

Synopsis: Adoption of a resolution and ordinance approving a local Tobacco Retail License, and amending an existing section, and adding new sections to the Code of Ordinances, submitted by Wesley McKain, Policy and Development Manager, Public Health Department.

This item was previously heard by this Committee on October 23, 2023.

Approve request

Tracking #: 212876

V. Public Agenda

VI. Adjourn



Report to

#212772

MEETING DATE	PRESENTER	DEPARTMENT
December 29, 2023	Gunnar Hand, Director	Planning and Urban Design
AGENDA ITEM #		
RESOLUTION: NORTHEAST KCK HERITAGE TRAIL PHASE I UTILIZING ARPA FUNDS		
BACKGROUND		
Unified Government has received a \$1.2 million grant for Phase I design and construction of the Northeast KCK Heritage Trail from the MARC Carbon Reduction Grant Program. Phase I is from Kaw Point to Jersey Creek Trail via 3rd Street. This is the first part of the adopted NEKCK Heritage Trail Plan policy within goDotte Mobility Plan which connects the NE to Downtown KCMO and the levee trail betterments via a direct bike/ped path. This request is for the local match of \$240,000 from ARPA set-aside funds. Submitted by Gunnar H. Hand, AICP, Director of Planning and Urban Design. (RECOMMENDED FOR APPROVAL)		
RECOMMENDATION		
Approve		
BUDGET IMPACTS / FINANCIAL CONSIDERATIONS		
IT/POLICY CONSIDERATIONS		
PROCUREMENT CONSIDERATIONS		
10/26/2023		
LEGAL CONSIDERATIONS		
ATTACHMENTS		
Resolution - ARPA Matching Funds - MARC - Northeast KCK Heritage Trail Phase I, Interdepartmental Grant Proposals_2023.03 Presentation to Standing		

Approved by Mayor and Administrator to add to agenda:

David Johnston, County Administrator

Dated:

11/6/2023

APPROVED BY Mayor David Johnston
11-13-23

RESOLUTION NO. R-_____

A RESOLUTION FOR THE APPROVAL OF LOCAL SET ASIDE ARPA FUNDS TO BE USED AS MATCHING FUNDING TO SECURE A GRANT FROM THE MID-AMERICAN REGIONAL COUNCIL'S CARBON REDUCTION GRANT PROGRAM TO FUND PHASE 1 OF THE NORTHEAST KCK HERITAGE TRAIL

WHEREAS, the American Rescue Plan Act (ARPA) was signed into law by President Biden on March 11, 2021, (Public Law 117-2), and was codified at 42 U.S.C. § 802 *et seq.*; and

WHEREAS, ARPA established the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund, which were together intended to provide support to State, local, and Tribal governments in responding to the impact of COVID-19 and in their efforts to contain COVID-19 on their communities, residents, and businesses; and

WHEREAS, the Recovery Funds are intended to build on and expand the support provided to these governments over the last year, including through the Coronavirus Relief Fund (CRF), which was established by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Pub. L. No. 116-136, 134 Stat. 281 (2020); and

WHEREAS, Section II.C of the Supplementary Information accompanying the federal Department of the Treasury's Interim Final Rule (31 CFR Part 35) provided in part that, for purposes of measuring revenue growth from the pre-pandemic period recipient Kansas City, Kansas would utilize the calculated rate of 4.1% and recipient Wyandotte County, Kansas would utilize the calculated rate of 6.2%; and

WHEREAS, Ordinance O-115-21 and Resolution R-58-21 approved the acceptance on behalf of the City of Kansas City, Kansas of Fifty-Five Million Three Hundred Eighty-Three Thousand Eight Hundred Seventy-Two Dollars (\$55,383,872) from the Coronavirus Local Fiscal Recovery Fund; and approves the acceptance on behalf of Wyandotte County, Kansas of Thirty-Two Million One Hundred Thirty-Two Thousand Six Hundred Forty-Four Dollars (\$32,132,644) from the Coronavirus Local Fiscal Recovery Fund; and

WHEREAS, Ordinance O-115-21 and Resolution R-58-21 approved that of the Kansas City, Kansas total allocation, Eighteen Million Seven Hundred Eighty Thousand Four Hundred Seventy Dollars (\$18,780,470) will be used to replace revenue lost due to COVID-19 during 2020, and an estimated Twelve Million Three Hundred Four Thousand Seven Hundred Seventy-Four Dollars (\$12,304,774) will be used to replace revenue lost due to COVID-19 during 2021, for a total revenue replacement allocation over the two year period of Thirty One Million Eighty-Five Thousand Two Hundred Forty-Four Dollars (\$31,085,244); and

WHEREAS, Ordinance O-115-21 and Resolution R-58-21 approved that of the Wyandotte County, Kansas total allocation, Six Million Six Hundred Fifty Thousand Eight Hundred Eighty Dollars (\$6,650,880) will be used to replace revenue lost due to COVID-19 during 2020, and an estimated Four Million Three Hundred Seventy Thousand Ninety-Five Dollars (\$4,370,095) will be used to replace revenue lost due to COVID-19 during 2021, for a total revenue

replacement allocation over the two year period of Eleven Million Twenty Thousand Nine Hundred Seventy-Five Dollars (\$11,020,975); and

WHEREAS, of the amount received on behalf of Kansas City, Kansas, that was used to replace revenue lost due to COVID-19, Three Million Five Hundred Thousand Dollars (\$3,500,000) was set aside specifically for grant matching funds; and

WHEREAS, the Unified Government of Wyandotte County, Kansas City, Kansas has been awarded a \$1.2 million grant from the Mid-America Regional Council (MARC) Carbon Reduction Grant Program to fund Phase 1 of the Northeast KCK Heritage Trail; and

WHEREAS, the receipt of grant funds through MARC is contingent on the Unified Government providing matching funds in the amount of Two Hundred Forty Thousand Dollars (\$240,000); and

NOW, THEREFORE, BE IT ORDAINED AND RESOLVED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/ KANSAS CITY, KANSAS AS FOLLOWS:

Section 1. The Unified Government Board of Commissioners hereby approves Two Hundred Forty Thousand Dollars (\$240,000) of the Kansas City, Kansas total allocation be allocated for matching funds for Phase 1 of the Northeast KCK Heritage Trail

Section 2. Effective Date. This resolution shall take effect and be in full force from and after its passage and approval.

ADOPTED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS, AND APPROVED AND SIGNED BY THE MAYOR/CEO THIS Xth DAY OF OCTOBER 2023.

Tyrone A. Garner, Mayor/CEO

Attest:

Unified Government Clerk

Approved as to Form:

Unified Government Chief Counsel

2023 Grants Recommendations

Proposed Projects
for Upcoming
Funding
Opportunities

Presented by Gunnar H. Hand
Director Planning & Urban Design

Maximize Impact | Federal Funds

- Missed opportunities and lessons learned from 2022 grant pursuits
- Further leverage collaboration between departments for more focused pursuit of funds
- Move from chasing funding to prioritizing projects.

DECEMBER 2022

Multi-Department
“Coalition” Convenes
to Prepare for 2023
Grant Opportunities

UG Grants Point of
Contact Retires

JANUARY 2023

Team Reviewed:

- Current policy or policy review;
- Capacity for implementation;
- Alignment of multiple departments;
- Builds on other investments.

FEBRUARY 2023

Detailed Known State,
Federal Funding

Brainstormed
Comprehensive List of
Previously-Defined,
“Fundable” Projects

MARCH 2023

Refined 2023 Project Lists
for Presentation to
Commission



Collaborate | Maximize Every Dollar



PROJECT A
Levee Betterment Project



PROJECT B
East-West Transit Study Phase II



PROJECT C
Northeast Watershed Betterment & Heritage Trail Implementation



PROJECT D
Regional Public Safety Training Facility & Community Center



PROJECT E
Countywide Weatherization Program



PROJECT F
Kansas Avenue Bridge



PROJECT G
Northeast & Edwardsville Micro-Transit and Other Rideshare Programs



PROJECT H
Citywide Fleet Electrification Pilot Project



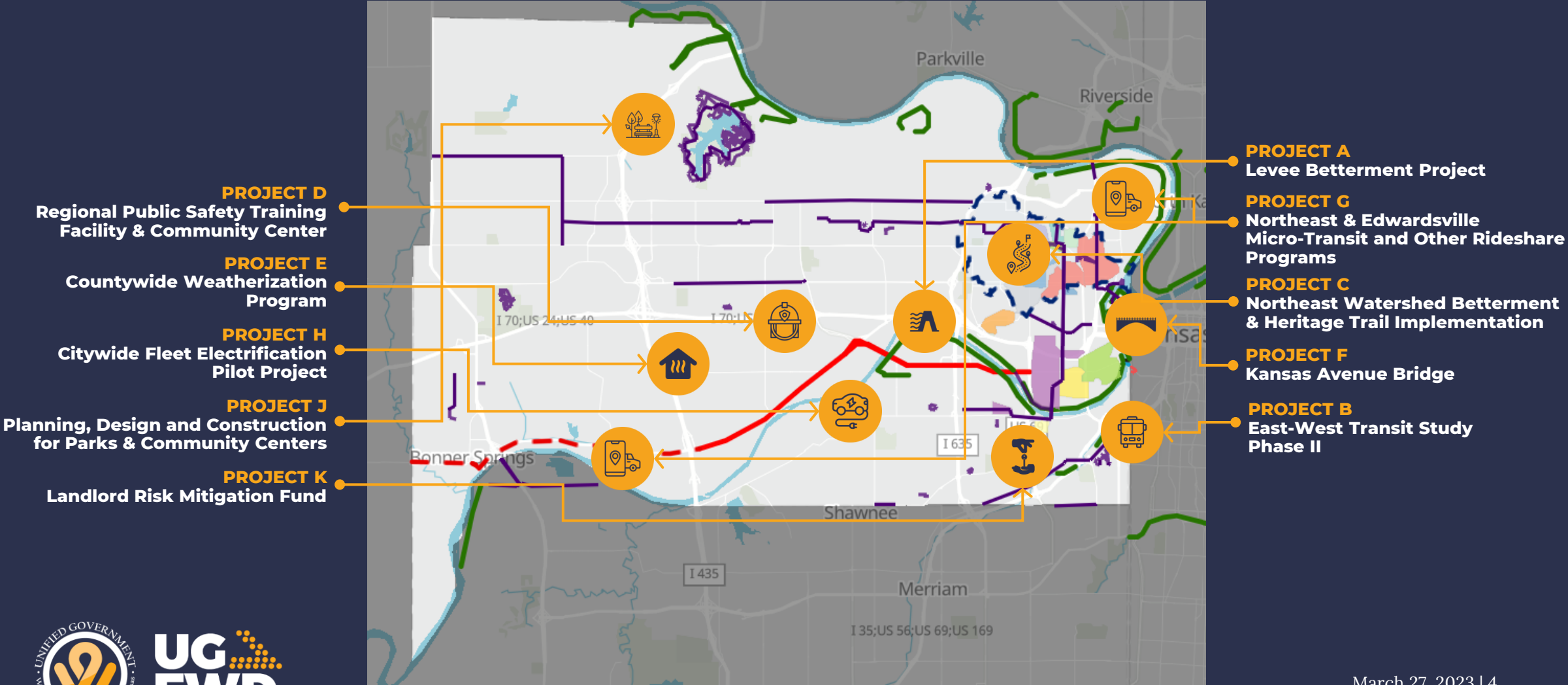
PROJECT J
Planning, Design and Construction for Parks & Community Centers



PROJECT K
Landlord Risk Mitigation Fund



Collaborate | Maximize Every Dollar



PROJECT A | Levee Betterment Project



PROJECT AT-A-GLANCE

Partners	Public Works, Public Health, Planning & Urban Design, Armourdale Renewal Association, Rock Island Bridge Development
Project Cost	>\$25M
Project Timeline	As soon as funding is awarded
Relevant Plans	Armourdale Area Master Plan; goDotte Countywide Mobility Strategy
Relevant Grants	BASE grant (submitted January 2023)

PROJECT SCOPE

As the United States Army Corps of Engineers is improving the Kansas River levee system across Wyandotte, it is time for reinvestment in KCK’s waterfront communities. Beginning in the historic Northeast and Armourdale neighborhoods, the UG is developing riverfront access, trails, and amenities. The Rock Island Bridge and Heritage Trail connections are designed to provide access to healthy activities, connection to neighboring communities and job markets (including Kansas City, Missouri and Johnson County Kansas), as well as entertainment and new business ventures.

PROJECT B | East-West Transit Study Phase II



PROJECT AT-A-GLANCE

Partners	Transportation; Public Works; Public Health; Planning; KCKFD; Rosedale Development Association; KCATA; City of Kansas City, Missouri; RideKC Streetcar; University of Kansas Health System
Project Cost	\$4.5M (no match from Project Partners)
Project Timeline	Q1 2024 – Q1 2027
Relevant Plans	Northeast Area Master Plan; NE KCK Heritage Trail Plan; goDotte Countywide Mobility Strategy
Relevant Grants	RAISE Grant (submitted Feb 2023; no match)

PROJECT SCOPE

Beginning in 2022, the Kansas City Area Transportation Authority (KCATA) and project partners, including the UG, evaluated an east-west, high-capacity transit connection between the University of Kansas Health System and Rock Island Corridor/Truman Sports Complex (Kauffman Stadium and Arrowhead Stadium). Results of this initial project phase have determined a streetcar route that will end at the KU Medical Center in Rosedale. Project partners, which include RideKC Streetcar and Kansas City, Missouri, are pursuing funding through the 2023 RAISE grant, which will allow for advanced planning and preliminary engineering of the selected streetcar route. The East-West transit corridor would be the first bi-state fixed route line in over 100 years and opens the door for future streetcar expansion into KCK and Wyandotte County.

PROJECT C | Northeast Watershed Betterment & Heritage Trail Implementation



PROJECT AT-A-GLANCE

Partners	Public Works; Parks & Recreation; Planning; Public Health; Land Bank; KCKFD; Groundwork NRG; Quindaro Foundation Project; Sumner Academy; USD 500
Project Cost	See call-out
Project Timeline	See call-out
Relevant Plans	Northeast Area Master Plan; Watershed Deficiency Study; Combined Sewer Overflow Control Plan; Parks Master Plan; UG Sidewalk & Trails Master Plan; goDotte Countywide Mobility Strateg
Relevant Grants	See call-out

PROJECT SCOPE

Northeast KCK requires many infrastructure updates and implementation which the commission has supported through the approvals of WIFIA/SRF/ARPA funded programs and partnering with MARC to fund much needed studies. Many ongoing projects, such as Jersey Creek Naturalization, are partially funded but require additional grants to be completed. Funding the Heritage Trail will pull the community’s history to the forefront, generate positive economic impacts, increase mobility, and contribute to improve human and environmental health. The Heritage Trail project can weave in adjacent projects that address community needs, such as access to healthy foods, green infrastructure improvements, and any betterment additions to the ongoing Jersey Creek naturalization and Waterway Corridor Improvements.



PROJECT C |
Northeast Watershed Betterment
& Heritage Trail Implementation



1. Jersey Creek Naturalization

Committed Costs: \$3M for preliminary design
Needed Funds: \$1.5M match, \$25M+ construction.
Project Timeline: Engineering study awaiting congressional approval.
Relevant Grants: USACE General Investigation Program

3. Waterway & Big 11 Lake Parks

Committed Costs: \$7.5M WIFIA/SRF
Needed Funds: \$5M-\$7M (design-dependent)
Project Timeline: Detail Design & Funding Needs by 2024
Phase I Complete: 2027
Relevant Grants: None yet identified.

2. NE KCK Heritage Trail

Committed Costs: \$300,000 (Sunflower)
Needed Funds: \$5.2M-\$5.5M
Project Timeline: 3-5 years
Relevant Grants: Carbon Reduction Funding (June 2023)

4. Sumner Green Corridor

Committed Costs: \$15.7M WIFIA/SRF
\$1.5M Community Projects
Needed Funds: Design-dependent
Project Timeline: Study Funding Need: 2025
Phase I Complete: 2027
Relevant Grants: None yet identified.

PROJECT D | Regional Public Safety Training Facility & Community Center



PROJECT AT-A-GLANCE

Partners	KCKFD; KCKPD; Sheriff’s Department; Parks & Recreation; Planning; Public Health; Land Bank; Groundwork NRG; KCKCC; USD 500; Donnelly College; MIDE; Tesseract
Project Cost	\$100M
Project Timeline	Five years from start.
Relevant Plans	
Relevant Grants	Technology & Innovation Hub Program (EDA)

PROJECT SCOPE

This regional training facility would serve public safety organizations across the metropolitan area, offering training and educational opportunities for existing professionals and workforce development for future public safety professionals. The facility would serve as a multi-service hub, offering health care services, childcare, enhanced transit facilities and an interactive museum. Collaboration with multiple entities is essential in the execution of this interdisciplinary facility, engaging stakeholders such as health-focused organizations and local schools and colleges. The facility can also double as potential income generator, renting out space, equipment, and amenities for events and training. The facility serves many community needs while preparing future generations for careers in public safety, trades, and technology.

PROJECT E | Countywide Weatherization Program



PROJECT AT-A-GLANCE

Partners	BPU; Public Health; Planning; Parks & Recreation; Public Works; Land Bank; KCKFD; NBRs; Local Colleges; Public Schools; Housing Authority
Project Cost	\$2.5M-\$3M (weatherization + community solar)
Project Timeline	1-2 years
Relevant Plans	
Relevant Grants	Energy Efficiency & Conservation Block Grant Program (due 4/28/2023). Healthy Homes & Weatherization Cooperation Demonstration Grant (HUD).

PROJECT SCOPE

The Board of Public Utilities (BPU) recognizes the need to shift to more efficient, affordable energy production and consumption. Utility bills are rising while many of the aging homes require retrofitting and weatherization. One component of this program would be an Energy Audit and Weatherization Program, which could provide weatherization solutions and financial assistance for more energy efficient upgrades. BPU would also pursue a Community Solar Farm to expand its renewable energy portfolio and diversify production away from fossil fuels. This will not only help decrease the cost of utilities, but contribute to lower emissions and by extension, better air quality. Services related to weatherization could partner with existing home programs, such as lead pipe replacement.

PROJECT F | Kansas Avenue Bridge



PROJECT AT-A-GLANCE

Partners	Public Works, Transportation; Planning
Project Cost	\$200M
Project Timeline	Grant dependent
Relevant Plans	goDotte Countywide Mobility Plan
Relevant Grants	MegaInfra Grant (May 2023)

PROJECT SCOPE

The Kansas Avenue Bridge project is an interjurisdictional project partnering with KCMO to replace and rehabilitate this bi-state connector from Southwest Trafficway to 7th Street. This infrastructure endeavor will be an opportunity to implement the UG’s Complete Streets ordinance, service ongoing Levee betterment projects, and serve as an economic development tool.

PROJECT G | Northeast & Edwardsville Micro-Transit & Other Rideshare Programs



PROJECT AT-A-GLANCE

Partners	Transportation; Public Works; Planning; Public Health; NBRs; City of Edwardsville
Project Cost	TBD
Project Timeline	Summer 2023
Relevant Plans	goDotte Countywide Mobility Plan; Northeast Area Master Plan
Relevant Grants	Congestion Mitigation and Air Quality Grant (CMAQ)

PROJECT SCOPE

Micro Transit is flexible routing and scheduling using a smaller vehicle within a designated area. The service only operates when there is a demand, making it more efficient and responsive to riders. The Department of Transportation intends to expand service in Northeast KCK and Edwardsville. The Department of Transportation would also like to expand rideshare programs such as non-emergency medical transportation.

PROJECT H | Citywide Fleet Electrification Pilot Project



PROJECT AT-A-GLANCE

Partners	Transportation; BPU; Public Works; KCKFD; KCKPD; Sheriff’s Department; Parks & Recreation; and all UG vehicles
Project Cost	TBD
Project Timeline	Grant dependent
Relevant Plans	goDotte Countywide Mobility Plan
Relevant Grants	Climate Pollution Reduction Grant

PROJECT SCOPE

Electrifying fleet vehicles (including UG Transit vehicles, school buses, and municipal fleets) would increase cost savings in the long run, reduce emissions, and contribute to improved air quality. This project requires educational initiatives, the implementation of EV infrastructure, and development of a solar farm and battery storage system. Any electrification project seeking federal funds will require a Zero-Emission Fleet Transition Plan. Available federal funding focuses on a fleet electrification demonstration, such as electric vehicle charging at transit stops along State Avenue or charging stations around City Hall.

PROJECT J | Planning, Design and Construction for Parks & Community Centers



PROJECT AT-A-GLANCE

Partners	Parks & Recreation; KCKFD; Transportation; Public Works; Planning; and community engagement partners
Project Cost	Dependent on grant scope (facilities, grounds, programming, etc.)
Project Timeline	As funds are awarded
Relevant Plans	Parks Master Plan; Recreation Center Study
Relevant Grants	HUD Community Project Funding

PROJECT SCOPE

Many Wyandotte parks facilities need remediation, revitalization, and repurposing to meet community needs. Additionally, many active facilities need HVAC and other basic infrastructure improvement to maintain functionality. Wyandotte County Parks must also improve programming to meet the needs of their neighborhoods and communities. Not all communities have the same programming needs, and through the necessary investment programs can be tailored, created, and staffed to meet those needs. Wyandotte County has committed to investing in its parks through local grant awards, master plans, beautification programs, and other health initiatives. To capitalize on this investment and maximize its impacts, we would like to pursue grants for facilities, grounds, beautification, health, and programming as they become available.

PROJECT K | Landlord Risk Mitigation Fund



PROJECT AT-A-GLANCE

Partners	Public Health; Livable Neighborhoods; Housing Authority; Wyandot Behavioral Health Network; United Way of Greater KC; Cross-Lines Community Outreach; Avenue of Life; Friends of Yates; Metro Lutheran Ministries; Community Health Council of Wyandotte County
Project Cost	\$251,500
Project Timeline	2-Year Program Pilot; start with receipt of funding
Relevant Plans	Community Health Improvement Plan; Analysis of Impediments to Fair Housing
Relevant Grants	Local health foundations; Community development funders

PROJECT SCOPE

The Landlord Risk Mitigation Fund was identified in the Community Health Improvement Plan (CHIP) and championed by the Mayor’s Task Force on Unhoused/Residents in Need.

This fund would provide financial assurance by covering damaged property, non-payment of rent, or eviction costs to incentivize local landlords to accept vouchers and participate in other affordable housing programs.





Staff Request for Commission Action

Tracking No. 212876

Full Commission Meeting Date:

Committee: Administration & Human Services

Date of Standing Committee Action:

(If none, please explain):

Publication Required: No

<u>Date:</u>	<u>Contact Name:</u>	<u>Contact Phone:</u>	<u>Contact Email:</u>	<u>Department/Division:</u>
11/17/2023	Wesley McKain	X8833	wmckain@wycokck.org	Health Department

Item Description:

The Unified Government of Wyandotte County Public Health Department is recommending the implementation and development of a Tobacco Retail Licensing Program (TRL) in Wyandotte County, Kansas. A TRL ordinance provides municipal regulation over tobacco sales towards youth populations by enforcing already existing laws. In the United States, the average age for when people first try a cigarette is 14.5 years and the average age when people become a daily smoker is 17.7 years of age. The problem of youth tobacco use can be largely attributed to retailers selling to underage customers. One study found up to 74% of retailers were selling to underage customers; several other studies have found between 30% and 40% of retailers violating age restrictions. TRLs have been shown to drastically reduce the number of retailers selling to underage customers. In the State of Kansas, the municipalities of Wichita, Newton, and Lawrence have already implemented a local TRL.

The ordinance proposes a Tobacco Retail License cost of \$1,000 per year for all Wyandotte County tobacco retailers. Due to Wyandotte County having over 150 tobacco retailers, this amount will generate \$150,000 or more in revenue. This revenue will fully pay for the program, funding a position within the UGPHD that will conduct semi-annual license checks and educational materials. As a result, no funding is being requested from the UG's annual budget.

Action Requested:

Approve request

Budget Impact: (if applicable)

Amount:

Source:

Included In Budget:

Other (explain):

Attachments List:

Tobacco License, TRL Presentation 10.17.2023, WyCo TRL Final 10-20-23



Report to Administration & Human Services

MEETING DATE	PRESENTER	DEPARTMENT
November 27, 2023	Wesley McKain, Policy & Development Manager	Health Department
AGENDA ITEM #IV.2.		
RESOLUTION/ORDINANCE: TOBACCO RETAIL LICENSE		
BACKGROUND		
Adoption of a resolution and ordinance approving a local Tobacco Retail License, and amending an existing section, and adding new sections to the Code of Ordinances, submitted by Wesley McKain, Policy and Development Manager, Public Health Department.		
<i>This item was previously heard by this Committee on October 23, 2023.</i>		
RECOMMENDATION		
Approve		
BUDGET IMPACTS / FINANCIAL CONSIDERATIONS		
IT/POLICY CONSIDERATIONS		
PROCUREMENT CONSIDERATIONS		
LEGAL CONSIDERATIONS		
ATTACHMENTS		
Tobacco License, TRL Presentation 10.17.2023, WyCo TRL Final 10-20-23		

Approved by Mayor and Administrator to add to agenda:

David Johnston, County Administrator

Dated:

Commission Agenda Item Report

Title: KCK Tobacco Retail License proposal

Proposed Agenda Date: September 25, 2023 AHS Standing Committee

Presented by: Uzo Nwafor, Tobacco Prevention Coordinator, Public Health
Kari Rinker, State Government Relations Director, American Heart Association
Dustin Hare, Public Policy Analyst, Public Health
Wesley McKain, Policy & Development Manager, Public Health

BACKGROUND:

About the Health Department's Tobacco Retail License Ordinance

The Unified Government of Wyandotte County Public Health Department (UGPHD) is recommending the implementation and development of a Tobacco Retail Licensing Program (TRL) in Wyandotte County, Kansas. A TRL ordinance provides municipal regulation over tobacco sales towards youth populations by enforcing already existing laws. In the United States, the average age for when people first try a cigarette is 14.5 years and the average age when people become a daily smoker is 17.7 years of age. The problem of youth tobacco use can be largely attributed to retailers selling to underage customers. One study found up to 74% of retailers were selling to underage customers; several other studies have found between 30% and 40% of retailers violating age restrictions. TRLs have been shown to drastically reduce the number of retailers selling to underage customers. In the state of Kansas, the municipalities of Wichita, Newton and Lawrence have already implemented a local TRL. A presentation for this TRL in Wyandotte County was requested by Commissioners Melissa Bynum and Angela Markley who proposed that this be presented to the Human Services Standing Committee.

Current partnership with American Heart Association

For nearly a year, Uzo Nwafor, Tobacco Prevention Coordinator, and Dustin Hare, Policy Analyst, have been engaging with Kari Rinker who is the State Government Relations Director with the American Heart Association. Kari has worked with other communities around the state to craft TRL ordinances and her knowledge and expertise has been critical in developing an ordinance that adheres to best practices.

BUDGET IMPACTS/FINANCIAL CONSIDERATIONS

The ordinance proposes a Tobacco Retail License cost of \$1,000 per year for all Wyandotte County tobacco retailers. Due to Wyandotte County having over 150 tobacco retailers, this amount will generate \$150,000 or more in revenue. This revenue will fully pay for the program, funding a position within the UGPHD that will conduct semi-annual license checks and educational materials. As a result, no funding is being requesting from the UG's annual budget.

POLICY CONSIDERATIONS:

The tobacco retail license proposes to the following changes to the UG Municipal Code:

- Amends Section 17-8: Selling, giving or furnishing cigarettes or tobacco products to any person under 21 years of age.

Furthermore, the tobacco retail license will add the following sections to the Municipal Code:

- Sec. 17-9. License Application
- Sec. 17-10. License Fee
- Sec. 17-11. License Renewal
- Sec. 17-12. Compliance checks
- Sec. 17-13. Suspension or Revocation

LEGAL CONSIDERATIONS:

The stakeholders from the UGPHD and the American Heart Association are working in collaboration with Jeff Conway from the UG's Legal team to review the policy language prior to presenting to the Standing Committee.

RECOMMENDED ACTION:

We are seeking a vote from the Standing Committee on the adoption of a local Tobacco Retail License ordinance.

Administrator: Approved ~~at~~ 9/13/2023


Mayor: JYMONA J. JAMES 9-13-23

Tobacco Retail License Ordinance

Overview of TRL

- Provides for municipal regulation over tobacco sales
- Create a local solution to reduce youth tobacco access to protect them from a lifelong addiction
- Holds retailers accountable for illegal tobacco sales, not low-wage clerks or youth

Community Outreach and Support



History

- Unified Government first Kansas community to pass “T21” in 2015- raising legal minimum sale age of all tobacco products from 18 to 21.
- Over 20 Kansas communities followed, preceding subsequent federal and state alignment.
- In 2020, the Commission acted upon the Health Department’s recommendation and repealed youth penalty for tobacco possession.

Youth Tobacco Use

- The average age people try smoking a cigarette is 14.5 years
- 88% of people who have ever tried a cigarette have done so by age 18
- A 2019 survey found that 25.8% of Kansas high school students had used tobacco products in the past 30 days
- The 2022 Kansas Communities that Care survey found that 14.51% of Wyandotte County youth said it would be "very easy" to get vaping products (state average was 13.97%)
- Studies in various states have shown between 23% and 40% of retailers were selling tobacco to underage customers

Health in Wyandotte County

Wyandotte County

104

Health Factors Rank

103

Health Outcomes Rank

Population: 167,046

20
23

	2019	2020	2021	2022	2023	Kansas 2023
Number of Counties Ranked	102	104	104	104	104	104
Health Outcomes- Rank	99	104	104	102	103	N/A
Length of Life- Rank	87	93	90	98	98	N/A
Premature death (years of potential life lost, per 100,000) ^a	9230	9626	9684	10612	10612	7458
Quality of Life- Rank	102	104	104	104	104	N/A
% Reporting poor or fair health, adults ^b			26	25	20	13
Average number of poor physical health days, adults ^b			5	4	4	3



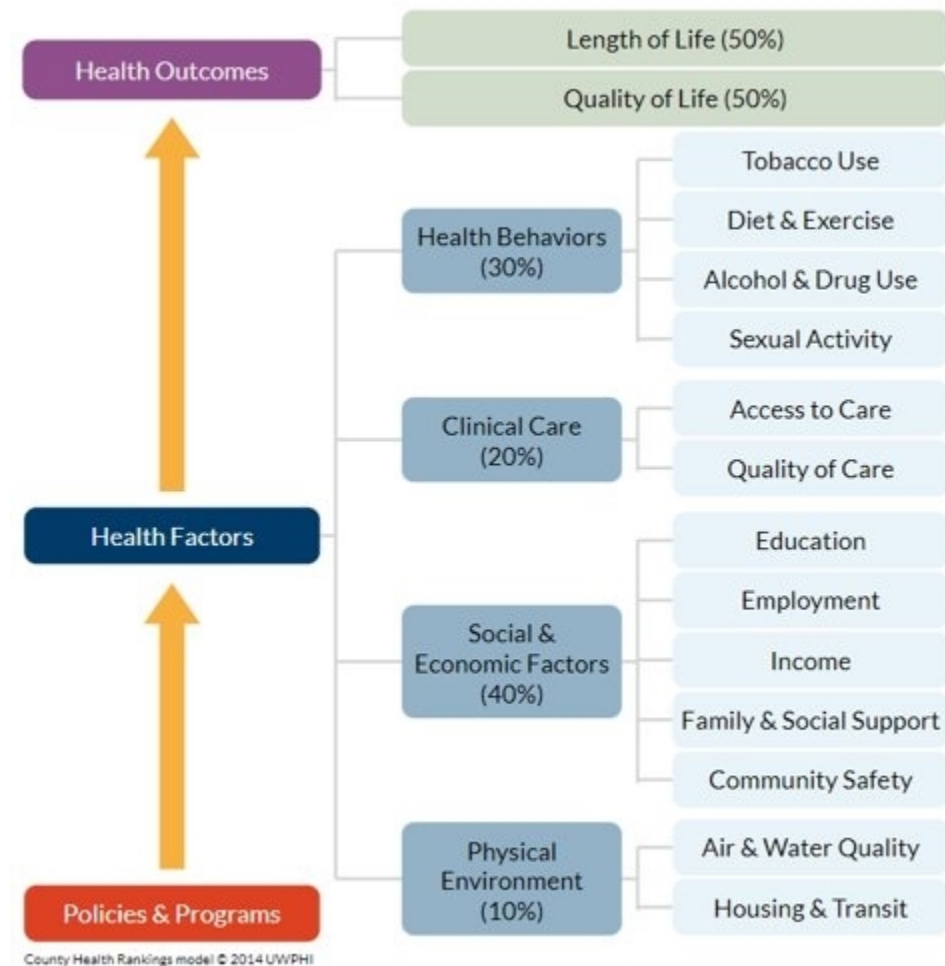
Wyandotte County remains last place in Kansas health rankings in most recent Robert Wood Johnson Foundation report.



Tobacco Use & Health

Tobacco Product use can have many adverse effects on an individuals' health. Some of these effects include:

- Cancer - most commonly lung cancer
- Chronic Obstructive Pulmonary Disease (COPD)
- Tuberculosis
- Coronary heart disease
- Diabetes
- Reduced immune function



Tobacco Retail License

1. **Establish** a comprehensive list of all retailers of nicotine and tobacco products in the jurisdiction.
2. **Fund** Public Health enforcement of tobacco sales regulations at no cost to the taxpayer.
3. **Prevent** illegal sales of nicotine and tobacco products to those under 21.
4. **Provide** weight to current laws by imposing a threat of suspension for repeated violations.
5. **Reduce** productivity loss, public and private health insurance costs, related illness and death.
6. **Impact** public health through prevention, responsibility, and accountability.

Other Cities

- Wichita, Kansas passed TRL in 1994. Updated in March 2023.
- Newton, Kansas unanimously passed TRL in September 2019.
- Lawrence, Kansas unanimously passed a TRL in November 2022.
- Communities throughout the nation have adopted- too numerous to track. Retailers are accustomed to varying licensing and regulations and consider it the cost of doing business.

TRL Benefits

- Wichita, KS established a TRL in 1994.
- Higher compliance rate than many other communities with TRL.
- Sedgwick County Smoking rate 18.5% vs Wyandotte 23.2%
- Updated March 2023 – Via unanimous vote, the City Council repealed youth penalty and strengthened retailer penalties for illegal sales to youth.

Historical Data					
Measure	2018	2019	2020	2021	2022
Compliance Rate	94%	95%	91%	95%	96%
Compliance Checks Conducted	260	391	174	410	452
Warnings Issued ⁴	N/A	N/A	N/A	N/A	N/A
Citations Issued	16	21	16	21	18

Policy Recommendations

- Amend section 17-8 - Selling, giving or furnishing cigarettes or tobacco products to any person under 21 years of age.
- Establish a municipal tobacco retail license program housed within and enforced by UGPHD.
- Establish a process to apply for and renew licenses.
- Establish an annual retail license fee, paid by all tobacco retailers.
- Establish compliance check protocol.
- Amend the penalty structure.
- Clarify language.

Penalty to Retailer

- At least 1 unannounced compliance check per year of each tobacco retailer
- Compliance checks conducted by Wyandotte County Health Department
- Engage youth ages 18-20 to conduct compliance checks
- Unannounced follow-up compliance checks of all non-compliant tobacco retailers are required within 6 months of any violation of this article

Compliance Enforcement Protocol

A penalty is assessed to the business/retailer, **not the clerk, or the purchaser, user, or possessor** of a tobacco product. Tiered fines and penalties are as follows:

1. For a first violation, a fine of \$500
2. For a second violation within a 36 month period, a fine of \$750 and the tobacco retailer shall be prohibited from distributing tobacco products for 10 days
3. For a third violation within a 36 month period, a fine of \$1,000 and the tobacco retailer shall be prohibited from distributing tobacco products for 30 days
4. For a fourth and any subsequent violations within a 36 month period, a fine of \$1,250 and revocation of tobacco retail license for a period of two years

*Appeals process defined in ordinance



Annual Fee

- Recommended Annual Fee: \$1000
- Covers the administrative cost for licensing administration and enforcement
- Allows for increased tobacco programming and education by UGPHD

Clarifying Language

- Signage
- Samples
- Age verification
- Vending machines
- Mobile tobacco sales

Questions?



Unified Government Public Health Department

(Summary Published _____)

RESOLUTION NO. _____

ORDINANCE NO. _____

**AN ORDINANCE AND RESOLUTION RELATING TO
THE TOBACCO RETAIL LICENSE ORDINANCE**

WHEREAS, preventing the use of tobacco products by those under 21 years of age is a goal of the Health Department;

WHEREAS, requiring retail licensing through the Health Department for tobacco sales in Wyandotte County will help curtail underage use of tobacco products;

WHEREAS, inspections by the Health Department for compliance with the retail licensing program in Wyandotte County will help curtail underage use of tobacco products;

NOW, THEREFORE, BE IT RESOLVED AND ORDAINED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS:

Section 1. That original Section 17-8 of the Code of the Unified Government of Wyandotte County/Kansas City, Kansas, be and the same is hereby amended to read as follows:

Sec. 17-8. - Selling, giving or furnishing tobacco products to any person under 21 years of age.

(a) The following words, terms and phrases when used in this article shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

Tobacco product means any product containing, made, or derived from tobacco or that contains nicotine that is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested, or by any other means, including but not limited to a cigarette, a cigar, hookah, pipe tobacco, chewing tobacco, snuff, snus and electronic smoking device. Notwithstanding any provision to the contrary, "tobacco product" includes any component, part, or accessory intended or reasonably expected to be used with a tobacco product, whether or not any of these contain tobacco or nicotine, including but not limited to filters, rolling papers, blunt or hemp wraps, hookahs, and pipes, and whether or not any of these are sold separately. The term "tobacco product" does not include drugs, devices or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

Electronic smoking device means 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 that may be aerosolized or vaporized by such 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, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

Tobacco retailer means 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.

Tobacco retail establishment means 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 products shops, kiosks, convenience stores, gasoline service stations, bars, and restaurants.

UGPHD means the Unified Government Public Health Department.

Tobacco Retailer License means a license issued by UGPHD for the sale of tobacco products. "Tobacco retailer license" and "license" are used interchangeably in this article and shall have the same meaning.

Licensee means the holder of a valid license for the sale of tobacco products.

Person means any natural person.

Self-service display means 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 direct person-to-person transfer between the purchaser and the tobacco retailer or tobacco retailer's agent or employee. A tobacco vending machine is a form of self-service display.

Sale includes delivery, barter, exchange, transfer or gift, or offer thereof, and each such transaction made by any person, whether as principal, proprietor, agent, servant, or employee.

Moveable Place of Business means 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.

Licensed Product means the term that collectively refers to any tobacco product.

Arm's Length Transaction means a sale in good faith and for valuable consideration that reflects the fair market value between two informed and willing parties, neither of which is under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for which a significant purpose is avoiding the effect of the violations of this section is not an Arm's Length Transaction.

Compliance Check means the system UGPHD uses to investigate and ensure that those authorized to sell tobacco products are following and complying with the requirements of this ordinance. Compliance checks can involve the use of persons under the age of 21 who purchase or attempt to purchase tobacco products. Compliance checks may also be conducted by UGPHD, or other designated agencies for educational, research, and/or training purposes, or for investigating or enforcing federal, state, or local laws and regulations relating to tobacco products.

Delivery Sale means 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.

(b) It shall be unlawful for any tobacco retailer to:

- (1) Sell tobacco products to any person under the age of 21 years; or
- (2) Sell or otherwise distribute tobacco products by or from a self-service display except in places where persons under the age of 21 are not permitted access at any time; or
- (3) Fail to verify that the purchaser is at least 21 years of age.

a. 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 known by the tobacco retailer to be 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.

(4) Sell or offer to sell any tobacco product without first having obtained a license from UGPHD or an authorized designee of UGPHD, or without having renewed the license as required by this article. A Tobacco Retail License is required for each location in which such tobacco retailer sells or distributes tobacco products.

a. No tobacco retail establishment or person shall sell or offer to sell any tobacco product through vending machine or self-service displays in Wyandotte County without first having obtained a license from UGPHD or an authorized designee of UGPHD, or without having renewed the license as required by this article.

b. No tobacco retail establishment or person shall sell or offer to sell any tobacco product without first having posted notice of the legal sales age for the purchase of tobacco products, age verification requirements, and possible penalties for underage sales within 6 feet of each cash register or place where payment may be made in a place conspicuous to both employees and customers, and where the sign(s) are unobstructed in their entirety. The sign shall state, "THE SALE OR PROVISION OF TOBACCO PRODUCTS, INCLUDING E-CIGARETTES, TO AN INDIVIDUAL UNDER 21 YEARS OF AGE IS PROHIBITED BY LAW." The sign required shall be 5 ½ inches by 8 ½ inches and the statement required shall be printed in 36-point boldfaced type. The required signage will be provided to the licensee by UGPHD.

c. No tobacco retailer, tobacco retail establishment, or person shall gift or distribute samples of any tobacco product free of charge or at a nominal cost, regardless of the age of the person acquiring the product. The distribution of a tobacco product as a sample, free donation, gift, or at otherwise nominal cost, is prohibited and shall subject the tobacco retailer or tobacco retail establishment to the penalties prescribed under this article and those prescribed by other local, state or federal laws pertaining to samples, donation, or otherwise nominally priced tobacco products.

d. Licenses must be posted and displayed at all times in plain view of the general public or clientele of the tobacco retail establishment. Failure to display the tobacco retailer license is an accruable violation under this section.

(c) It shall be a defense to an administrative citation under subsection (b) of this section if:

- (1) The tobacco retailer sold, furnished or distributed the cigarettes, electronic cigarettes, or tobacco products to the person under 21 years of age with reasonable cause to believe the person was of legal age to purchase or receive cigarettes, electronic cigarettes or tobacco products; and
- (2) To purchase the cigarettes, electronic cigarettes, or tobacco products, the person under 21 years of age exhibited to the tobacco retailer a driver's license, Kansas non-driver's identification card or other official or apparently official document containing a photograph of the person and

purporting to establish that the person was of legal age to purchase or otherwise receive tobacco products.

(3) The tobacco retailer engages in the lawful sale, furnishing or distribution of cigarettes, electronic cigarettes, or tobacco products by mail; and

(4) The tobacco retailer sold, furnished or distributed the cigarettes, electronic cigarettes, or tobacco products to the person by mail only after the person had provided to the tobacco retailer an unsworn declaration, conforming to K.S.A. 53-601, that the person was 21 or more years of age.

~~(d) It is unlawful for any tobacco retailer to fail to post and maintain in a conspicuous place in the tobacco retail establishment the following notice: "BY LAW, CIGARETTES AND TOBACCO PRODUCTS MAY BE SOLD ONLY TO PERSONS 21 YEARS OF AGE AND OLDER."~~

~~(e)~~(d)(1) Violation of this section is a civil infraction subject to sections 2-654 through 2-662 of this Code. Any tobacco retailer found to have violated this article shall be subject to the following penalties:

a. A first violation of this section punishable by a minimum penalty of ~~\$200.00~~ \$500.00.

b. A second violation of this section, *occurring within a 36-months period from a first conviction*, is punishable by a minimum penalty of ~~\$500.00~~ \$750.00.

c. A third violation of this section, *occurring within a 36-months period from a first conviction*, is punishable by a minimum penalty of ~~\$500.00~~ \$1,000.00.

d. A fourth or subsequent violation of this section within a 36-month period is punishable by a minimum penalty of ~~\$1,000.00~~ \$1,250.00 and constitutes grounds for the denial of, refusal to renew, suspension of, or revocation of any food, liquor, tobacco, or other business license issued by the city for a period of 30 days.

(2) The monies collected from violations of this section shall be used to cover the costs of tobacco retail establishment inspections, unannounced compliance checks, education and training, and administrative oversight of the tobacco enforcement program within the public health department.

(3) For purposes of this article, the person who violates this article shall be the tobacco retailer where the transaction takes place.

Section 2. That Article I of Chapter 17 of the Code of the Unified Government of Wyandotte County/Kansas City, Kansas, is amended by the addition of new sections to read as follows:

Sec. 17-9. License Application

(a) Application for a License under this article shall be made with the UGPHD, on a form provided by the UGPHD for that purpose. 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 UGPHD deems necessary. If UGPHD or its specified designee, determines that an application is incomplete, the application will be returned to the applicant with notice of the deficiency and the requisite information necessary to make the application complete.

(b) Within 14 days of receipt of an application for a License, UGPHD shall issue the license unless:

(1) The applicant is under 21 years of age;

- (2) The application is incomplete;
 - (3) The application is determined to be fraudulent, to include a material misrepresentation, or to contain a false statement;
 - (4) UGPHD determines that the applicant is not currently in compliance with the Kansas Cigarettes and Tobacco Products Act of 1933, codified as amended at K.S.A. 79-3301 et seq.;
 - (5) The applicant has had a Tobacco Retail License revoked within 24 months, preceding the date of application;
 - (6) The applicant is in arrears with respect to the license fee or any fine imposed for violation of this ordinance; or
 - (7) The business for which the tobacco retailer license is requested is a moveable place of business. Only fixed-location retail establishments are eligible to be licensed.
- (c) If the application is determined to be deficient because it is incomplete, including the failure to pay the license fee or failure to sign the document provided by UGPHD, UGPHD shall give notice to the applicant 14 days therefrom within which to provide a completed application.
 - (d) If the application is denied, or the applicant fails to complete the application within the 14-day period, then UGPHD shall deny the application by giving Notice of Denial to the applicant.
 - (e) If a license is mistakenly issued or renewed to an applicant, UGPHD or its designee may revoke the license upon the discovery that the applicant was ineligible for the license under this ordinance. UGPHD or its designee will provide the tobacco retailer license holder with notice of the revocation, along with information on the right to appeal.
 - (f) If a tobacco retail license is suspended or revoked, whether due to applicant or licensee ineligibility, or determination of a violation under this ordinance, or any other federal, state, or local law or regulation, the license fee is forfeited to UGPHD and shall not be refunded to the applicant or licensee.
 - (g) Licenses issued under this article are non-transferable.
 - (h) The license term is one calendar year, beginning on January 1. During the first year of the tobacco retail license program after enactment or if a business is newly established within the city after January 1 of any year, the amount for the license fee is determined by dividing the annual license fee by four and multiplying the figure so obtained by the number of quarters or fractions of quarters remaining until the next January 1.
 - (i) Licenses issued under this article shall be valid until 11:59 p.m. on December 31 of the year in which the License is issued.

Sec. 17-10. License Fee

- (a) To commence the Tobacco Retailer License program, Tobacco Retailer License applications shall be sent to tobacco retailers and tobacco retail establishments by UGPHD on or about November 1, 2024. The license fee of \$600.00 shall be due with the application before January 1, 2025. On and after January 1, 2025, the license fee for each Tobacco Retail License required by this article shall be \$600.00 per year and shall be due at the time of application.
- (b) The license fee shall not be refunded upon suspension or revocation of a Tobacco Retail License.
- (c) The fees stated in this section shall be used to cover the administrative costs for administering licenses, providing education and training, and making retail inspections, and unannounced

compliance checks as authorized by law. The County Administrator, pursuant to 2-291, shall from time to time review the costs of the license fees and adjust the license fees to ensure that the program established by this article remains revenue neutral.

Sec. 17-11. License Renewal

- (a) On or about November 1 of each year, UGPHD will mail to each Tobacco Retail Licensee a renewal notice and a renewal application form.
- (b) To renew a license under this article, the Licensee must, before January 1 of the succeeding year: (1) remit to UGPHD the license fee; (2) complete the renewal application form; (3) sign the statement that the Licensee has read this article and has provided training to all of its employees, if any, who engage in the distribution of tobacco products; and (4) return the completed renewal application form and all requested information to UGPHD.
- (c) A license issued under this article shall not be renewed if the Licensee has any outstanding fines issued under this Article, if the renewal form is incomplete, or if UGPHD determines that the Licensee is no longer in compliance with the Kansas Cigarettes and Tobacco Products Act of 1933, codified as amended at K.S.A. 79-3301 et seq..

Sec. 17-12. Compliance checks

- (a) A tobacco retailer shall be subject to at least one unannounced compliance check per year. UGPHD or its authorized designee shall conduct compliance checks for the purposes of evaluating compliance with this article, by engaging persons that are 18 years old through 20 years old to enter the tobacco retail establishment to attempt to purchase tobacco products. Unannounced follow-up compliance checks of all non-compliant tobacco retailers shall occur within six months of any violation of this article.

Sec. 17-13. Suspension or Revocation

- (a) The UGPHD may deny, suspend, revoke or refuse to renew a license for any tobacco retailer pursuant to this section. Such denial, suspension or revocation order shall be mailed to the applicant or the licensee by registered or certified mail at the address shown on the application. In lieu of such mailing, the health director or the director's representative may personally serve such order. The order shall set forth the reasons for the action taken. Such service must be made within ten calendar days after the day the order is signed. Unless appealed, the order shall become final and effective 15 days from the date of its service.
- (b) UGPHD shall deny, suspend, revoke or refuse to renew a license for a period not less than 10 days upon second violation of provisions of this article or any federal or state laws related to the distribution or use of tobacco products.
- (c) UGPHD shall deny, suspend, revoke or refuse to renew a license for a period not less than 30 days upon third violation of provisions of this article or any federal or state laws related to the distribution or use of tobacco products.
- (d) UGPHD shall deny, suspend, revoke or refuse to renew a license for a period not less than 2 years upon fourth violation of provisions of this article or any federal or state laws related to the distribution or use of tobacco products.
- (e) Any person, tobacco retailer, or tobacco retail establishment found to be selling without a valid tobacco retail license shall be subject to a civil infraction punishable by a minimum penalty of \$500.00 fine upon first violation. If the same person, tobacco retailer, or tobacco retail establishment is found to be selling without a valid tobacco retail license a second time within 12 months of the first violation, such individual, tobacco retailer, or tobacco retail establishment

shall be issued a No Sales Order for Tobacco Products and shall be ineligible to receive a tobacco retailer license for a period of two (2) years.

- (f) Court prosecution or conviction of a violation is not necessary to prove an occurrence that triggers an administrative penalty or suspension or revocation under this section. A journal entry of conviction shall serve as prima facie evidence of an occurrence.
- (g) In addition to any other penalty, a person, tobacco retailer or tobacco retail establishment that violates any provision of this article or any local, state or federal law relating to tobacco product sales is subject to the penalties prescribed in this section, including civil penalties and the prohibition from distributing tobacco products.

Sec. 17-14. Appeals

- (a) Any applicant or licensee who is aggrieved by such order of suspension or revocation may, within 15 days after the date of service, request a hearing on the order. Such request shall be sent to the health director by registered or certified mail and shall specify why the denial, suspension or revocation is unjust, unreasonable or illegal. Upon receipt of such request, the health director shall fix a date for a hearing which shall not be less than ten days or more than 30 days after the date of receipt of the request. Any appeal shall stay the administrative penalty, suspension or revocation of the license until the matter is heard by the director.
- (b) Hearings will be conducted by a hearing officer. On the basis of the evidence produced at the hearing, the hearing officer shall make findings of fact and conclusions. The health director shall then make an order pursuant to the findings and conclusions and cause the order to be served on the applicant or licensee. The order of the director shall be final.
- (c) In any hearing before the Director pursuant to this section, a certified copy of conviction from any local or state court is prima facie evidence of a violation.
- (d) Any notice, order or instrument issued by or with the authority of the health director or the hearing officer may be made by mailing a copy by registered or certified mail directly to the person affected at such person's last known post office address as shown by the records of the public health department.
- (e) An appeal may be taken from any final order or final determination of the director to the district court in Wyandotte County, Kansas. Notice of appeal from any such final order or determination shall be served on the health director. Service of a notice of appeal shall not operate as a stay of the public health department's order.

Section 3. That said original Section 17-8 be and the same is hereby repealed.

Section 4. If any provision of this Ordinance or the application thereof to any persons or circumstances is held invalid, such invalidity shall not affect other provisions or application of the Ordinance which can be given effect without the invalid provisions or application and to this end the provisions of this Ordinance are declared to be severable.

Section 5. This resolution and ordinance shall take effect and be in full force from and after its passage, approval, and a summary published in the official Unified Government newspaper.

**PASSED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT OF
WYANDOTTE COUNTY/KANSAS CITY KANSAS
THIS ____ DAY OF _____, 2023.**

[The balance of the page is left intentionally blank. Signature page to follow.]

APPROVED:

Tyrone A. Garner
Mayor/CEO

Attest:

Unified Government Clerk

Approved as to form:

Chief Counsel