

**SCOPE OF SERVICES SHALL BE INCORPORATED AS IF FULLY RESTATED IN THE CONTRACT**

**The City agrees to support the Board in the implementation and education of the Tobacco Retailer Licensing program by mandating Operators of a Tobacco Retail Establishment adhere to the following:**

- 1. Apply For and Maintain a Certificate of Compliance – via the Tobacco Retailer Licensing (TRL) Application Process**
  - a. At no time shall an Operator fail to have a (TRL) Certificate of Compliance. Operators found to be operating without a Certificate of Compliance (TRL) shall be subject to penalties provided in \_\_\_\_\_ Codified Ordinances Chapter \_\_\_\_\_ or any applicable ordinance, law, or regulation adopted by any legislative body in Franklin County, Ohio and enforced by the Board pursuant to ORC 3709.281.
  - b. All Operators shall apply for a valid Certificate of Compliance (TRL) from the Board. Certificates of Compliance shall be issued by the Board upon determination by the Board that the Operator is in compliance with \_\_\_\_\_ Codified Ordinances Chapter \_\_\_\_\_, and any other ordinance, law, or regulation adopted by any legislative body enforced by the Board pursuant to ORC 3709.281. Certificates of Compliance shall be denied if the Board determines that any part of the application is inaccurate, misleading, false, or fraudulent. Certificates shall be valid until the Board determines that the Operator is not in compliance with the \_\_\_\_\_ Codified Ordinances Chapter \_\_\_\_\_. A Certificate shall be required for each location where retail tobacco sales or retail paraphernalia sales are conducted and is non-transferable.
  - c. All Operators shall apply for a valid Certificate of Compliance (TRL) within thirty (30) days of commencement of Retail Tobacco Sales or Retail Tobacco Paraphernalia Sales. A penalty equal to twenty-five percent (25%) of the applicable Certificate of Compliance fee shall be assessed by the Board for certificate fee payments that are not received or postmarked within 30 days of invoicing by the Board.
  - d. The Certificate of Compliance (TRL) fee of \$500.00 shall be established by the City, and collected and retained by the Board.
  - e. Certificate of Compliance (TRL) fees are due at the time of application and are not refundable. The Board will keep all fees associated with the Certificate of Compliance (TRL).
- 2. Adhere to the Certificate of Compliance (TRL) Suspension, Denial and Revocation Process**
  - a. A Certificate of Compliance may be suspended, denied, or revoked for any of the following:
    - 1) The Operator is giving, selling, or offering to sell cigarettes, other tobacco products, or product paraphernalia by or from a vending machine to any person under the age of 21.
    - 2) Observation by the Board or its authorized agent that the operator or any agent, employee, or representative of said operator has violated \_\_\_\_\_ Codified Ordinances Chapter \_\_\_\_\_, or any applicable ordinance, law, or regulation adopted by any legislative body in Franklin County, Ohio and enforced by the Board pursuant to ORC 3709.281.
    - 3) Failure by the operator to post signage as required by \_\_\_\_\_ Codified Ordinances Chapter \_\_\_\_\_.

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4) An order by a court of competent jurisdiction that a retail tobacco or tobacco product paraphernalia sales location owned and/or operated by the operator constitutes a nuisance or is in violation of any part of \_\_\_\_\_ Codified Ordinances Chapter \_\_\_\_\_, or any applicable ordinance, law, or regulation adopted by any legislative body in Franklin County, Ohio and enforced by the Board pursuant to ORC 3709.281.

5) The operator has outstanding fines, pursuant to \_\_\_\_\_ Codified Ordinances Chapter \_\_\_\_\_, or any applicable ordinance, law, or regulation adopted by any legislative body in Franklin County, Ohio and enforced by the Board pursuant to ORC 3709.281.

b. Following a hearing in compliance with \_\_\_\_\_ Codified Ordinance §\_\_\_\_\_, upon determination that an Operator is not in compliance with any applicable part of \_\_\_\_\_ Codified Ordinances Chapter \_\_\_\_\_, or any applicable ordinance, law, or regulation adopted by any legislative body in Franklin County, Ohio and enforced by FCPH pursuant to ORC 3709.281, the Health Commissioner or his/her designee shall recommend the Operator's Certificate of Compliance (TRL) for revocation or suspension by the Board of Health.

c. Upon revocation of a Certificate of Compliance (TRL), the Operator shall pay all civil penalties and fees levied by the City. Once all fines and fees are paid, the Operator may apply for another Certificate of Compliance (TRL).

**3. Comply with the Signage Distribution and Posting Requirements**

a. The Board shall make signs available to all Operators.

b. The Operator shall post the signs provided by the Board at any location where tobacco products, tobacco product paraphernalia or electronic smoking devices are available for purchase that states that "This Establishment shall not sell nicotine or tobacco products, including electronic Smoking Devices to person under the age of 21," posted in a conspicuous location, including at each entrance and points of transaction, which may include, but are not limited to, cash registers, sales counters, and on any display cases of tobacco products and tobacco product paraphernalia. Signage shall be prominently displayed and not obscured.

**4. Adhere to the Illegal Distribution Mandate**

a. No Operator shall do any of the following:

1) Give, sell, or otherwise distribute cigarettes, other tobacco products, or product paraphernalia to any person under twenty-one (21) years of age.

2) Give, sell, or otherwise distribute cigarettes, other tobacco products, or product paraphernalia without viewing proof of age demonstrating that the recipient is at least twenty-one (21) years of age. "Proof of age" means a driver's certificate, a commercial driver's certificate, a military identification card, a passport, or an identification card issued under Sections 4507.50 to 4507.52 of the Ohio Revised Code demonstrating that the recipient or purchaser is at least 21 years of age.

b. No person shall give, sell or offer to sell cigarettes, other tobacco products, or tobacco product paraphernalia by or from a vending machine to a person under 21.

**5. The City Agrees to Manage the Civil Penalty Process:**

a. Should a compliance inspection or underage buy attempt reveal non-compliance, additional inspections and underage buy attempts and/or enforcement will be completed until compliance is established.

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- 1) For a first violation, a fine of 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, tobacco product paraphernalia and electronic smoking devices for a minimum of 7 days;
  - 3) For a third violation within a 36-month period, a fine no less than \$1000 and the Tobacco Retailer shall be prohibited from distributing tobacco products, tobacco product paraphernalia and electronic smoking devices for a minimum of 30 days;
  - 4) For a fourth and any subsequent violation within a 36-month period, a fine no less than \$1000 and the Tobacco Retailer shall be prohibited from distributing tobacco products, tobacco product paraphernalia and electronic smoking devices for a period of three years.
  - 5) Provide the Board with twenty percent of all fines collected quarterly.
- b. Operators may appeal penalties in accordance with the appellate procedure in \_\_\_\_\_ Codified Ordinances Chapter \_\_\_\_\_.
  - c. The Prosecutors Office of \_\_\_\_\_, Ohio shall be responsible for any litigation involving enforcement of the City Ordinance within the corporate limits of the City of \_\_\_\_\_.

**6. Conduct Investigations on Behalf of the City:**

- a. The Board has the authority to conduct any inspection provided herein for the purposes of determining compliance or to conduct the investigation of a complaint which alleges non-compliance of \_\_\_\_\_ Codified Ordinances Chapter \_\_\_\_\_ and any applicable ordinance, law or regulation legally adopted by any legislative body in Franklin County, Ohio and enforced by the Board pursuant to ORC 3709.281.
- b. The Board reserves the right to determine the number of investigation necessary for determining compliance with this chapter, and any applicable ordinance, law or regulation legally adopted by any legislative body in Franklin County, Ohio and enforced by the Board pursuant to ORC 3709.281.
- c. The Board shall conduct an unannounced compliance investigation at least twice annually for each Certificate of Compliance (TRL). A compliance inspection shall investigate compliance with this contract, and any applicable ordinance, law or regulation legally adopted by any legislative body in Franklin County, Ohio and enforced by the Board pursuant to ORC 3709.281.
- d. The Board shall conduct an underage buy attempt at least twice annually for each Certificate of Compliance (TRL). An underage buy attempt shall test compliance with **EHC 1102.04** and any other ordinance, law or regulation legally adopted by any legislative body in Franklin County, Ohio and enforced by the Board pursuant to ORC 3709.281 which prohibits the sale of tobacco or tobacco product paraphernalia to persons under the age of 21.
- e. If a Compliance Check establishes probable cause for violation(s), Franklin County Public Health may take one or more of the following actions to resolve the violation: i. The Franklin County Public Health representative may speak to the Tobacco Retailer and attempt to resolve the matter through discussion and/or request that the Tobacco Retailer work with Franklin County Public Health and the City in regards to the issue. The Tobacco Retailer shall be audited for compliance again as soon as practical.

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- f. Franklin County Public Health may also send a certified letter to the Tobacco Retailer at the address listed on the TRL Certificate of Compliance. The letter shall cite the section number of the code that is being violated and what must be done to bring the establishment into compliance. The letter will be signed by the Franklin County Public Health employee who has direct knowledge of the violation(s). The Tobacco Retailer shall be audited for compliance again as soon as practical.
- g. If the Tobacco Retailer has not brought the establishment into compliance with this Chapter within a reasonable amount of time, Franklin County Public Health shall refer the violation(s) to the Law Department to issue a civil penalty.
- h. Notwithstanding the above, if a Compliance Check established probable cause for selling to an underage person, Franklin County Public Health shall refer the violation(s) to the City's Law Department to issue a civil penalty.
- i. Prior to the issuance of a Certificate of Compliance (TRL), the Board shall conduct a pre-Certificate Inspection. At a pre-Certificate Inspection, the Board shall supply information on tobacco cessation, and education and materials explaining the provisions of \_\_\_\_\_ Codified Ordinances Chapter \_\_\_\_\_ and any other applicable ordinance, law or regulation legally adopted by any legislative body in Franklin County, Ohio and enforced by the Board pursuant to ORC 3709.281.

**7. Facilitate the TRL Appeal Process:**

- a. This section prescribes the procedures for appealing the proposed denial, suspension, or revocation of a Certificate of Compliance (TRL).
- b. When the City or its licensing agent determines to deny a TRL application, or to suspend or revoke a TRL Certificate of Compliance, the city or licensing agent shall notify the applicant or licensee in writing by U.S. mail, electronic mail, by posting in a conspicuous place at the location, or other means reasonably calculated to promptly notify the applicant or licensee.
- c. Any establishment who has been denied a Tobacco Retail License (TRL) Certificate of Compliance or has had a Tobacco Retail License (TRL) Certificate of Compliance revoked may appeal that decision within five (5) days of the denial or revocation thereof by filing a written statement with Franklin County Public Health Attn: TRL Appeal. The written statement shall include the applicant's full name and contact information (including mailing address, phone number, and e-mail address), shall state the basis for the appeal, and shall include a summary of all relevant facts and circumstances.
- d. The Franklin County Public Health Commissioner or his/her designee shall review the written statement, set a time and place for an administrative hearing, provide reasonable notice prior to such hearing, and establish the reasonable procedures, therefore. The hearing shall be held within ten (10) days of submitting the written appeal. The Health Commissioner or his/her designee shall issue a decision on whether to grant or deny the TRL Certificate of Compliance and that decision shall be final.