



M-15-24

REF: M-15-24

DATE: May 8, 2025

TO: President Carrie Hartman and Members of Council, City of Toledo

FROM: Toledo City Plan Commission, Thomas C. Gibbons, Secretary

SUBJECT: Study of Tobacco Shops and proposed text amendments to TMC§1104.0400 Use Table, TMC§1104.1700 adding locational criteria, and amendments to TMC§1116-Terminology.

The Toledo City Plan Commission considered the above-referenced request at its meeting on Thursday, May 8th, 2025 at 2:00 P.M.

GENERAL INFORMATION

Subject

Request	-	Study of Tobacco Shops permitting and potential locational criteria
Applicant	-	Toledo City Council One Government Center, Suite 2120 Toledo, OH 43604

STAFF ANALYSIS

Toledo City Council has requested a study to research the history and future establishment of Tobacco Shops in the City of Toledo, to examine the secondary effects that they have on city residents and city neighborhoods, to study the effects of such products on citizens, and to determine whether the adoption of regulations relating to such products are warranted by the Toledo City Plan Commission via Ordinance 410-24 on October 23, 2024. Within the Ordinance, specific concerns about the proliferation of Tobacco Shops, the public health and safety of citizens and neighborhoods, and additional standards and possible text amendments to better regulate Tobacco Shops were identified. Plan Commission Staff completed a study to address City Council concerns regarding Tobacco Shops. Staff findings and recommendations are outlined in this report.

Tobacco Shop v. Tobacco Retailer

A Tobacco Shop is defined by Toledo Municipal Code Part Eleven Planning and Zoning as “any retail establishment that devotes thirty-three percent (33%) or more of floor area or display area to the sale or exchange of retail packaged tobacco products and/or tobacco paraphernalia” (TMC§1116.0249). A Tobacco Retailer is any establishment that sells any tobacco product.

STAFF ANALYSIS (cont'd)

Tobacco Shop v. Tobacco Retailer (cont'd)

The current definition of a tobacco product is “any substance containing any tobacco leaves, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, and smokeless tobacco; including products prepared from tobacco.” (TMC§1116.0196). Examples of Tobacco Retailers that are not Tobacco Shops may include but are not limited to grocery stores, gas stations, convenience stores, pharmacies, bars, etc. Any establishment that sells tobacco product is a Tobacco Retailer, conversely, any establishment that devotes thirty-three percent (33%) or more of its floor/display area to the sale/exchange of tobacco products is a Tobacco Shop.

Data of all retailers who held a cigarette license between June - November 2024, in the City of Toledo, was obtained from the Lucas County Auditor’s office. Staff identified 345 Tobacco Retailers with a cigarette license and concluded that twenty-four (24), or seven percent (7%) of all Tobacco Retailers with a cigarette license in the City of Toledo, are classified as a Tobacco Shop by TMC§1116.0249.

Current regulations

Per TMC§1104.0100 - Use Table, all Tobacco Shops are currently required to obtain an approved Special Use Permit in the CN, CM, CS, CR, and CD zoning districts. Tobacco shops are not permitted in any other zoning district with or without a Special Use Permit. Per TMC§1104.1700, Tobacco Shops are required to be a minimum of five-hundred feet (500’) from any school, public park, public library, child day care center, or other use established specifically for the activities of minors (i.e., youth related uses). Additionally, Tobacco Shops’ hours of operations are limited from 5:30 am to 1 a.m.

The State of Ohio defines tobacco by three categories: Cigarettes, Other tobacco products, and Vapor. Staff recommends that TMC§1116- Terminology pertaining to Tobacco products and Tobacco Shops, be amended to align with and reflect the definitions that the State of Ohio has put forth. Exhibit “A” reflects the current existing zoning code regulations and definitions pertaining to Tobacco Shops and Tobacco products, while Exhibit “B” encapsulates all proposed changes and amendments to the zoning code for Tobacco Shops and tobacco products. Additionally, the State of Ohio only requires a retail license for the sale of cigarettes through each County Auditor’s office. All other tobacco products, such as paraphernalia, cigars, vaporizers, chew/snuff, and any other tobacco product that is not a cigarette, do not require retail licensing through the state. The Tobacco 21 Law, passed 10/17/2019, prohibits the sale of tobacco products to anyone under the age of twenty-one (21). The State of Ohio and local Health Departments enforce this law through compliance checks. The state and localities also provide prevention and cessation programs that follow suit to the Tobacco Free Ohio Alliance Strategic Plan for a Tobacco Free Ohio.

STAFF ANALYSIS (cont'd)

Current regulations (cont'd)

Locally, retail cigarette licenses are obtained through the Lucas County Auditor's office. Any licensing regarding the retail sale of tobacco products is limited just to the sale of cigarettes. Through extensive research of peer Ohio cities, see Exhibit "C", two (2) cities require all retailers who sell any type of tobacco product to obtain a Tobacco Retailer license. The two cities, Columbus and Lorain, regulate tobacco products and licensing through their respective local Health Departments.

An initiative led by a Council member in 2019 set forth to limit the procurement of vape products by youth. Ordinance 569-19, passed on 12/10/19, enacted Section 537.28, entitled "Restrictions on the Sale of Vapor Products and Electronic Smoking Devices" of the Toledo Municipal Code. This law prohibits the sale of flavored vapor and electronic smoking products in the City of Toledo. A "Retail Vapor Product Specialty Business" defined as "a commercial establishment in which the sale of Vapor Products and Electronic Smoking Devices accounts for more than 60% of the total gross receipts for the establishment" is the only type of establishment permitted to sell flavored vapor/electronic smoking products. This enactment was supported by the findings of the Federal Drug Administration (FDA) compliance checks of Tobacco Retailers in Toledo. Council found that the majority of violations during these compliance checks had occurred at non-specialty tobacco product stores.

Staff conducted the same research and found that between 2015 and 2025, the FDA had performed 1,252 Tobacco Retailer compliance checks in the City of Toledo. Of the 1,252 compliance checks, 372 violations had occurred. Of the 372 violations, 15 violations had occurred at a Tobacco Shop. This further supports the finding of Ord.569-19, that "the majority of incidents of minors purchasing smoking devices occur at non-specialized businesses", along with the potential role of Tobacco Shops as a model to better monitor, regulate, and prevent the sale of Tobacco to youth.

Permitting of Tobacco Shops

In June of 2004, the current Toledo Municipal Code Part Eleven –Planning and Zoning was adopted via Ordinance 170-04. Prior to the zoning code rewrite, Tobacco Shops were classified as general retail and permitted by right in commercial districts. Convenience stores were regulated through Special Use Permit approval and spacing requirements. It is believed that establishments identified themselves as a Tobacco Shop to avoid the regulations required of convenience stores. During the zoning code rewrite, a category specifically for the regulation of Tobacco Shops was created, which required Special Use Permit approval and spacing requirements that are currently still in effect.

STAFF ANALYSIS (cont'd)

Permitting of Tobacco Shops (cont'd)

In 2021, City Council approved Ordinance 545-21, adopting “Convenience Stores Licensing Requirements”, and in 2022, the requirement of Special Use Permit approval for convenience stores was removed from the zoning code via Ordinance 147-22.

Staff reviewed Plan Commissions’ case tracking history from 1977 to 2025. The first request for a Tobacco Shop Special Use Permit occurred in 2010. Since then, thirty (30) requests for a Tobacco Shop Special Use Permit have occurred. Between 2020 and 2025, nineteen (19) Tobacco Shops have requested a Special Use Permit. Staff compiled a list of Tobacco Shops in the City of Toledo through research of Plan Commissions records, Google Maps, Yellow Pages, and City Polk Directories. Additionally, Plan Commissions’ Zoning Compliance Specialists conducted field visits to numerous businesses that sell tobacco products to determine if such location(s) were classified as a Tobacco Shop. Currently, thirteen (13) active Tobacco Shops have an approved Special Use Permit, and three (3) have “grandfathered” legal nonconforming status. Additionally, Staff found twenty-one (21) illegal Tobacco Shops; nine (9) of which are “Retail Vapor Product Specialty Businesses”. It is possible that more illegal Tobacco Shops exist in the city than what could be found using Google Maps, field checks, and Yellow Pages directories. There are many Tobacco Retailers who sell a great amount of tobacco products but are not classified as a Tobacco Shop per TMC§1116.0249 definition. These shops advertise themselves as “smoke shops” but dedicate less than thirty-three (33%) of floor area to tobacco products and therefore are not subjected to Special Use Permit approval nor spacing requirements. The Special Use Permit for Tobacco Shops has lacked in its ability to properly capture and regulate the sale of tobacco. The Special Use Permit does not aid in the reduction of Tobacco Retailer density, especially so when non-specialty stores make up ninety-three percent (93%) of Tobacco Retailers.

Retailers that sell tobacco products, but not cigarettes, are not required to obtain licensing, which creates difficulties in locating all Tobacco Retailers, and illegal Tobacco/Vape Shops. A tobacco license for all Tobacco Retailers is a more effective way to recognize, locate, and regulate the sale of tobacco products rather than through zoning as found similarly for convenience stores.

Literature Review

The U.S. Centers for Disease Control and Prevention, Preventing Chronic Disease, Jenkins C., & et al. (2022) studied the variations of tobacco retailer types across community characteristics in Ohio. The study aimed to examine disparities in the distribution of tobacco retailer types by census tract poverty level, racial and ethnic composition, and urban, suburban, and rural status. In 2017 the makeup of Tobacco Retailers in the state of Ohio consisted of the following:

STAFF ANALYSIS (cont'd)

Literature Review (cont'd)

56.5% convenience stores, 10.8% discount stores, 8.8% grocery stores, 5.4% Pharmacies, 5.6% Bars and restaurants, 3.2% Tobacco Shops, 3.1% Alcohol stores, 2.9% Vape shops, and 3.8% listed as “other”.

Jenkins C. & et al. examined numerous studies, concluding that a higher density of tobacco retailers is associated with a higher likelihood of tobacco use among both youth and adults and a lower likelihood of cessation success. Tobacco shops were identified more often in low-racial and ethnic minority, high-poverty urban and suburban census tracts than in high-racial and ethnic minority, high-poverty urban census tracts or low-racial and ethnic minority, low-poverty suburban and rural census tracts. Vape and hookah shops had the lowest prevalence in high-racial and ethnic minority, high-poverty urban census tracts and rural census tracts. Conversely, their data shows that both convenience stores and discount stores are more prevalent in communities experiencing tobacco-related health disparities and suggests that these retailer types should be targeted for future policies to equitably reduce tobacco retailer density. A 2009 study by McCarthy W. & et al. researched the density of tobacco retailers near schools and the effects on tobacco use among students. Their findings showed that a higher density of tobacco retailers was associated with experimental smoking by high school students in urban areas.

Numerous studies have found a correlation between tobacco retailer availability or density and the use of tobacco products by adults and youth. These studies have all concluded that a higher density of tobacco retailers is highly correlated with tobacco use. Many studies have also confirmed that retail tobacco outlets disproportionately locate in areas with social and economic disadvantages, such as minority and low-income neighborhoods (Jenkins C. & et al. 2022; Novak, S. & et al. 2005; Lee, J & et al. 2021; Kong, A. & et al. 2024). Novak, S. & et al. (2005) found that in areas with a higher density of tobacco retailers, an increased encouragement to use tobacco products through point-of-sale advertisement was prevalent.

Additionally, evidence from a 2025 report by Poole, N. & et al. suggests that seeing a place where tobacco is sold may trigger urges to impulsively buy tobacco. The study aimed to examine if seeing cigarettes in the retail environment would lead to impulse purchases. They identified six (6) sources of exposure to tobacco in the retail environment, five (5) of which were individually associated with impulse purchases. The sources of exposure included seeing cigarette packages at the counter or checkout, seeing advertisements for tobacco, seeing other people smoking at the entrance of the shop, and seeing friends or family buying cigarettes. These findings indicate that several potential sources of exposure could play a role in impulse purchasing of tobacco products. The study also found that a greater mean exposure to tobacco was reported by people who were younger in age and living in a disadvantaged neighborhood.

STAFF ANALYSIS (cont'd)

Literature Review (cont'd)

The study suggests limiting the places where tobacco can be sold to reduce the availability of tobacco and the possibility for young people to be exposed to tobacco in most retail environments.

A meta-analysis aimed to conduct a systematic review of evidence to inform policies that reduce density and proximity of tobacco retailers (Lee, J. & et al. 2021). This study included a literature review of thirty-seven (37) academic papers and defines tobacco retailers as stationary retail locations that sell tobacco products. Overall, the meta-analysis indicated there was an estimated 2.48% reduction in risk of tobacco use behaviors with reduced exposure to tobacco retailer density and proximity as defined by the average in the study. Findings confirm that the tobacco retail environment is an important correlate of behavior and is a potential target for policy change. Reducing the density and proximity of tobacco retailers is consistently associated with reductions in tobacco use.

Negative Effects of Tobacco and Statistics

While numerous studies cast a light on the negative secondary health effects of tobacco, the statistics drag breadth into the real implications of tobacco use. Numerous agencies, including the U.S. Centers for Disease Control and Prevention (CDC), U.S. Federal Drug Administration (FDA), World Health Organization (WHO), Tobacco Free Ohio Alliance (TFOA), and Healthy Lucas County Coalition, along with numerous anti-tobacco activists' groups, including Truth Initiative, American Lung Association, and the Campaign for Tobacco-Free Kids, have provided data, statistics, and clear insights into the smoky realm of tobacco use.

FDA Tobacco Products and Public Health Education researchers released an infographic regarding the health effects of tobacco use, attached as Exhibit "D", in May of 2024. The FDA, along with numerous other agencies, states that tobacco use remains the leading preventable cause of disease and death in the United States. Additionally, secondhand smoke from tobacco products causes more than 40,000 deaths a year.

CDC Smoking and Tobacco Use states that no tobacco products, including e-cigarettes/vapes, are safe. Nicotine is highly addictive and a health danger for pregnant women, and youth. Nicotine poses danger to youth brain development, increases addiction and risk for future addiction to other drugs, and greatly impacts the mental health of adolescents. The CDC has found that nearly nine (9) out of ten (10) adults who smoke daily first tried smoking by the age of 18.

STAFF ANALYSIS (cont'd)

Negative Effects of Tobacco and Statistics (cont'd)

Additionally, economic trends regarding tobacco were released by the CDC. It is stated that tobacco manufacturers spent nearly \$1 million every hour on advertisement and promotions in 2022. The CDC recommends each state spend a certain amount of money on tobacco prevention and cessation programs. However, only one (1) state in the U.S. funds these programs to the recommended level. The CDC stated, "For every \$1 states invest to reduce tobacco use, tobacco companies spend about \$12 promoting its use". In 2018, cigarette smoking cost the U.S. more than \$240 billion in health care spending, \$185 billion in lost productivity from smoking-related premature death, and about \$7 billion in lost productivity from premature death from secondhand smoke exposure. It is apparent that the efforts to prevent and reduce tobacco use need to be supported by additional regulations and restrictions.

The World Health Organization (WHO) conducted a study in 2024 entitled "Hooking the Next Generation: How the Tobacco Industry Captures Young Customers". This study discusses the predatory nature of the tobacco industry related to youth. Three (3) main points of the study discussed the tobacco industry's design of products that intentionally appeal to children and market them aggressively, the industry's use of misleading messages and messengers to influence public opinion and appeal to youth, and the industry works to influence policies that would protect youth. The study states that "internal tobacco industry documents, dating as far back as the 1970s, show that tobacco companies have long considered children and youth to be "replacement smokers," "pre-smokers," and a critical market to sustaining their business and the future of their brands," and their research confirms that flavor is a primary reason why youth try e-cigarettes and other nicotine and tobacco products. Tobacco companies rapidly launch new products that sidestep current laws and use every available means to expand their market share before regulations can catch up with them. Tactics used by tobacco companies to hook youth include the creation of new products with child-friendly flavors and designs, marketing near schools, displaying products near sweets at children's eye level, using social media to advertise and endorsements from influencers, sponsoring youth-oriented events, promotional pricing to make it easier to obtain or even free, diluting the perceptions of addictiveness and health risks, opposing regulations, and attempting to change the perception of the industry to a positive one.

The Tobacco Free Ohio Alliance (TFOA) is a cross-section of community and state organizations, groups, and individuals dedicated to protecting the health and well-being of Ohio residents from the harmful effects of commercial tobacco, tobacco smoke, and other nicotine products. State agencies participate as technical advisors. The TFOA has a vision of an Ohio where residents are free from exposure to the risks of commercial tobacco use.

STAFF ANALYSIS (cont'd)

Negative Effects of Tobacco and Statistics (cont'd)

TFOA has written a strategic plan for a tobacco free Ohio for 2020-2025, supported by the State of Ohio Department of Health. TFOA stated that Ohio has the ninth- highest adult smoking rate in the U.S., and youth tobacco use in Ohio had increased 88% from 2016 to 2019. E-cigarettes/vapor products are the most commonly used tobacco products by youth in Ohio. This statistic was also found and supported by the Lucas County 2022/2023 Health Assessment.

The Strategic Plan states that each year 20,200 Ohioans die from smoking-related illness, and 259,000 kids under nineteen (19) in Ohio will prematurely die from smoking-related causes. The plan also states that the annual health care costs directly caused by smoking are \$5.64 billion, Medicaid costs caused by smoking are \$1.72 billion, and residents' state and federal tax burden from smoking-caused government expenditures is \$793 per household. The priority goals of the strategic plan are to prevent youth tobacco use, promote tobacco cessation, eliminate exposure to secondhand smoke, develop and maintain sustainable infrastructure, and to investigate, monitor and evaluate issues associated with tobacco use. TFOA also found that tobacco impacts health, finances, the environment, and overall quality of life.

The Ohio Department of Mental Health and Addiction Services reports that young people who consistently smoke throughout adolescence are at significantly greater risk for use of alcohol, marijuana, and abuse or dependence on other drugs. Research links smoking in adolescence to earlier onset and more episodes of major depressive disorder, anxiety disorders, and other mental health challenges.

The Lucas County 2022/2023 Health Assessment, conducted every three (3) years by the Healthy Lucas County Coalition, found that

- 12% of adults are current cigarette smokers; 9% are e-cigarette/vapor users.
- 2% of youth are current cigarette smokers; 9% have tried a cigarette before age 13.
- 14% of youth are current e-cigarette/vapor users.

Of the youth who have used electronic vapor products, they typically had obtained them through the following ways:

- Got or bought them from a friend, family member, or someone else (55%)
- Bought them in a convenience store, supermarket, discount store, or gas station (8%)
- Bought them in a vape shop or tobacco shop (3%)
- Bought them at a mall or shopping center kiosk or stand (3%)
- Bought them on the internet, such as a product website like eBay, Amazon, Facebook Marketplace, or Craigslist (3%)
- Took them from a store or another person (2%)
- Got them in some other way (26%)

STAFF ANALYSIS (cont'd)

Negative Effects of Tobacco and Statistics (cont'd)

Overall, in the State of Ohio (2021), 3% of youth currently smoked cigarettes, 6% had tried a cigarette before age 13, and 20% of youth currently used electronic vapor products.

Negative health effects of tobacco use and secondhand smoke are well documented in numerous studies, government agency reports, and tobacco-free initiatives. Health effects of tobacco include but are not limited to; cancer, premature death, lung injury/irreversible lung damage/other respiratory issues, cardiovascular effects (impaired blood vessel functions, increased blood pressure and heart rate, increased risk of heart diseases, heart attacks, and strokes), type 2 diabetes, and is harmful to brain development, leading to mental health issues and future addictions. The risk of seizures leading to death caused by an overdose of nicotine is also a possibility.

There is a misconception that e-cigarettes and vapor products are a “healthier” alternative than traditional tobacco products; however, this is untrue. The amount of nicotine in a single puff of an electronic cigarette can be more than a whole pack of cigarettes. Regardless of the type of tobacco product, none is better than the other; all tobacco products cause negative health, social, and economic impacts to people and communities.

Geographical Location of Tobacco Shops

Plan Commission Staff has created maps as an aid to visualize and analyze the geographical locations of Tobacco Shops and Tobacco Retailers in respect to youth related uses, median income levels, and population density. Exhibit “E” reflects the location of the thirty-seven (37) identified Tobacco Shops and their current status. From observation it can be concluded that Tobacco Shops typically locate along major roads and in general commercial areas. There appears to be some clustering of Tobacco Shops near Franklin Park Mall in West Toledo and along E. Alexis Road. Exhibit “F” identifies all Tobacco Retailers in the city. From this map, clustering in the inner city by Tobacco Retailers with a lack of Tobacco Shops is apparent. Analysis of exhibit “G” and Exhibit “H” show that Tobacco Retailers that are not Tobacco Shops are more concentrated in areas with higher population density and lower median income. Tobacco Shops appear to locate in areas with lower population density and higher median income levels.

Staff mapped 113 schools in Toledo and overlaid a 1,000-foot buffer on each school to determine the number of Tobacco Shops and Tobacco Retailers that are currently within 1,000 feet of a school. Exhibit “I” shows that two (2) schools have a Tobacco Shop within 1,000 feet, whereas thirty-seven (37) schools have a Tobacco Retailer within 1,000 feet.

STAFF ANALYSIS (cont'd)

Geographical Location of Tobacco Shops (cont'd)

Schools with a Tobacco Retailer within the 1,000-foot buffer are located in predominately low median income and high population density areas. One (1) of the Tobacco Shops located within the buffer has “grandfathered” status; the second Tobacco Shop within the buffer has an approved Special Use Permit as current spacing requires Tobacco Shops to be five-hundred feet (500’) from youth related uses. If amendments are made to increase spacing, this one (1) Tobacco Shop would become legal non-conforming with “grandfathered” status. Additional Tobacco Shops may become non-conforming in relation to their proximity to other youth related uses. Exhibit “J” reflects the location of Tobacco Shops in proximity to all youth related uses.

Peer Ohio Cities

Staff reviewed an extensive number of Ohio peer cities in regard to regulations surrounding Tobacco Shops and tobacco products. We found that the City of Toledo has the most restrictive zoning regulations for Tobacco Shops compared to the other Ohio cities reviewed. Exhibit “C” identifies each city’s Municipal Code section that regulates tobacco products and categorizes whether a city has Special Permits/Conditional Zoning, spacing requirements, and licensing pertaining to tobacco sales. Toledo is the only city that requires a special use permit/conditional zoning for Tobacco Shops. The city of Akron requires special permitting/conditional zoning and spacing requirements for Vape Shops, but not for Tobacco Shops. Akron also requires Vape Shops to be spaced a minimum of 2,500 feet from any other Vape Shop.

The City of Toledo and the City of Maumee are the only two (2) municipalities that require spacing regulations through Zoning for Tobacco shops. Currently, Toledo requires Tobacco Shops to be a minimum of five-hundred feet (500’) away from youth related uses, whereas Maumee requires Tobacco Shops to be 1,000 feet from any youth related use, religious assembly, and hospital. Maumee also requires Tobacco Shops to be 10,560 feet (two (2) miles) from any other Tobacco Shop. The city of Lorain requires spacing of 2,000 feet from any other Tobacco Shop, and 1,500 feet from any youth related uses, regulated through their Business Department. The City of Lorain also restricts tobacco retailer density through a Tobacco Retailer License, issued by their Health Department, by limiting the number of Tobacco Retailer Licenses to one (1) per (813) residents. The City of Parma restricts the number of Vape Shops to one (1) per (10,000) persons in the city.

STAFF ANALYSIS (cont'd)

Peer Ohio Cities (cont'd)

Cleveland, Cincinnati, and Parma regulate outdoor tobacco advertisements through their respective Business regulations. Typically, advertisements of tobacco products are prohibited within 1,000 feet of youth related uses. The majority of the peer cities reviewed did not have any zoning regulations and mostly regulated tobacco through the Offenses, Health, and Business regulations of their Municipal Code of Ordinances. It appears that majority of cities classify Tobacco Shops as general or specialty retail establishments and are permitted by right in most commercial districts.

Forward Toledo Comprehensive Land Use Plan

The Forward Toledo Comprehensive Land Use Plan recognizes that children are a significant part of Toledo's population and supports land use changes that indirectly impact childhood development in a positive manner. Through increased spacing of Tobacco Shops, and potentially all Tobacco Retailers, from youth related uses, tobacco retailer density and proximity to youth related uses can be reduced. Increased spacing for Tobacco Shops is supported by the Forward Toledo Land Use Plan goal of Supporting Childhood Development.

Business Creation was a consistently supported goal recognized by public input surveys and from a community workshop survey within the Forward Toledo Plan. Most Tobacco Shops locate within a vacant tenant space of a commercial shopping center. Tobacco Shops fill in vacant storefronts and can influence future investment and demand of commercial spaces by upkeeping the buildings they occupy and reducing the amount of vacant commercial spaces. Permitting Tobacco Shops by right as specialty or general retail is supported by the Forward Toledo goal of Business Creation.

Through the removal of Special Use Permits for Tobacco Shops and the implementation of licenses for all Tobacco Retailers, the sale of tobacco products in the city of Toledo can be better regulated. Not all Tobacco Retailers are required to obtain a Special Use Permit. Licensing of all Tobacco Retailers is supported by Forward Toledo's goal of Improved Decision Making. The proposed text amendment is supported by the Forward Toledo Comprehensive Land Use Plan goals of Supporting Childhood Development, Business Creation, and Improved Decision Making.

STAFF ANALYSIS (cont'd)

Conclusion and Recommendation

In 1964, the then U.S. Surgeon General Luther Terry first reported the dangerous health effects of smoking cigarettes. This has led to the decades- long cultural shift of tobacco use and the realization of tobacco's health and economic implications. In 2003, the City of Toledo banned smoking indoors. At that time restrictions on Tobacco Shops were also implicated in the Toledo Zoning Code as a means to fight back against the tobacco industry. However, as discussed in this report, Tobacco Shops make-up a major minority of Tobacco Retailers in Toledo. Tobacco Shops have been proven less likely to sell to minors, and the geographical locations of Tobacco Shops do not appear to be predatory. The tobacco industry as a whole has been proven to be predatory towards minorities, low-income populations, and youth populations. Tobacco use does have numerous negative health, social, and economic impacts. However, tobacco sales are not limited just to Tobacco Shops, and the majority of tobacco products are purchased from non-specialty tobacco retailers.

Staff recommends to the Toledo City Council that Tobacco Shops be permitted by right in the CN, CM, CS, CR, and CD zoning districts without a Special Use Permit and be subjected to spacing. Staff recommends amendments to the definitions of tobacco products and Tobacco Shops to align with state regulations. Spacing for Tobacco Shops from any youth related use should be increased from five-hundred feet (500') to 1,000 feet, and spacing of 2,000 feet from any other Tobacco Shop as proposed in Exhibit "B" should be included as an amendment. Increased spacing regulations will help to decrease the density of and youth proximity to Tobacco Shops. Furthermore, Staff recommends to the Toledo City Council that regulation of all Tobacco Retailers is warranted. Licensing for all Tobacco Retailers, selling any tobacco product would create stricter regulations of tobacco sales near youth related uses, decreasing the procurement of and addiction to tobacco products, and provide a means to decrease the density of all Tobacco Retailers in the City of Toledo.

TO: President Hartman and Members of Council
December 6, 2024
Page 13

REF: M-15-24

PLAN COMMISSION RECOMMENDATION

The Toledo City Plan Commission recommends approval of M-15-24, a text amendment to TMC§1104.0400 Use Table to remove Special Use Permits, TMC§1104.1700 adding locational criteria, and amendments to TMC§1116- Terminology, to Toledo City Council for the following two (2) reasons:

1. The text amendment addresses the concerns of the Toledo City Council in its passage of Ordinance 410-24, a request to study Tobacco Shops permitting and potential locational criteria in the City of Toledo; and
2. The text amendment is consistent with the Comprehensive Plan and the stated purpose of the Zoning Code (**TMC§1111.0506(B)**).

Respectfully Submitted,



Thomas C. Gibbons
Secretary

AV
Ten (10) exhibits follow.

Exhibit “A” (cont’d)
Existing Zoning Code

Chapter 1104
Use Regulations

1104.0107 Use Categories.

<i>Use Category</i>	<i>RS12</i>	<i>RS9</i>	<i>RS6</i>	<i>RD6</i>	<i>RM (all)</i>	<i>R MH</i>	<i>CN</i>	<i>CO</i>	<i>CM</i>	<i>CS</i>	<i>CR</i>	<i>CD</i>	<i>IL</i>	<i>IG</i>	<i>IP</i>	<i>POS</i>	<i>IC</i>
Tobacco Shop	-	-	-	-	-	-	S [13,21]	-	S [21]	S [21]	S [21]	S [21]	-	-	-	-	-

[21] Subject to standards of Sec. 1104.1700 | Tobacco Shops

1104.1700 | Tobacco Shops

The following standards apply to tobacco shops.

1104.1701 Location

A tobacco shop shall not be located within 500 feet of any of the following uses: school, public park, public library, child day care center, or other use established specifically for the activities of minors.

1104.1702 Hours of Operation

The hours of operation of a tobacco shop may be limited to 5:30 a.m. to 1 a.m., or other hours consistent with a liquor permit issued by the State of Ohio, as a condition of development approval. Particular attention will be given to tobacco shops located adjacent to any residential district.

Exhibit “A” (cont’d)
Existing Zoning Code

CHAPTER 1107
Parking, Loading and Access

1107.0304 Schedule A.

Use Category	Minimum Number of Off-Street Parking Spaces Required	Minimum Number of Bicycle Parking Slots Required
Commercial Use Types		
Tobacco Shop	Per Schedule B (§1107.0400)	1 per 10 parking spaces

Exhibit “A” (cont’d)
Existing Zoning Code

CHAPTER 1116
Terminology

1116.0195 Tobacco paraphernalia Cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette-rolling machines, and any other item designed for the smoking, use or ingestion of tobacco products.

1116.0196 Tobacco products Any substance containing any tobacco leaves, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing.

1116.0249 Tobacco Shop Any retail establishment that devotes 33 percent or more of floor area or display area to the sale or exchange of retail packaged tobacco products and/or tobacco paraphernalia. The use of the remaining floor area will be subject to Section 1104.0105 Developments with Multiple Principle Uses. (Ord. 154-15. Passed 03-31-15.)

Exhibit “B”
Proposed zoning code changes

Verbiage in blue italic font are additions, strikeout text are deletions.

Chapter 1104
Use Regulations

1104.0107 Use Categories.

<i>Use Category</i>	<i>RS12</i>	<i>RS9</i>	<i>RS6</i>	<i>RD6</i>	<i>RM (all)</i>	<i>R MH</i>	<i>CN</i>	<i>CO</i>	<i>CM</i>	<i>CS</i>	<i>CR</i>	<i>CD</i>	<i>IL</i>	<i>IG</i>	<i>IP</i>	<i>POS</i>	<i>IC</i>
Tobacco Shop	-	-	-	-	-	-	<i>§ P</i> [13,21]	-	<i>§ P</i> [21]	<i>§ P</i> [21]	<i>§ P</i> [21]	<i>§ P</i> [21]	-	-	-	-	-

[21] Subject to standards of Sec. 1104.1700 | Tobacco Shops

1104.1700 | Tobacco Shops

The following standards apply to tobacco shops.

1104.1701 Location

A. A Tobacco shop shall not be located within 500-feet *1,000 feet* of any of the following uses: school, public park, public library, child day care center, or other use established specifically for the activities of minors.

B. A Tobacco shop shall not locate within 2,000 feet of any other existing tobacco shop.

1104.1702 Hours of Operation

The hours of operation of a tobacco shop may be limited to 5:30 a.m. to 1 a.m., or other hours consistent with a liquor permit issued by the State of Ohio, as a condition of development approval. Particular attention will be given to tobacco shops located adjacent to any residential district.

1104.1704 Exceptions

Section 1104.1700 through 1104.1701 shall not apply to the locations of current legal tobacco shops operating prior to the passage of this section, but no tobacco shop may move to a different location except as provided in Sections 1104.1700 through 1104.1701.

Exhibit “B” (cont’d)
Proposed zoning code changes

CHAPTER 1107
Parking, Loading and Access

1107.0304 Schedule A.

Use Category	Minimum Number of Off-Street Parking Spaces Required	Minimum Number of Bicycle Parking Slots Required
Commercial Use Types		
Tobacco Shop	Per Schedule B (§1107.0400)	1 per 10 parking spaces

Exhibit “B” (cont’d)
Proposed zoning code changes

CHAPTER 1116
Terminology

Chapter 1116 | Terminology Sec. 1116.0100 | General Terms

1116.0115.1 Cigarettes: includes any roll for smoking made wholly or in part of tobacco, irrespective of size or shape, and whether or not such tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper, reconstituted cigarette tobacco, homogenized cigarette tobacco, cigarette tobacco sheet, or any similar materials other than cigar tobacco.

1116.0132.5 Electronic smoking product: Any noncombustible product, other than a cigarette or tobacco product, that (1) contains or is designed to use vapor products and (2) employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from the vapor product. "Electronic smoking product" includes, but is not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, electronic hookah, vape pen, vaporizer, or similar product or device, but does not include any product regulated as a drug, device, or combination product under Chapter V of the "Federal Food, Drug, and Cosmetic Act," 21 U.S.C. 301, et seq.

1116.0195 Tobacco paraphernalia Cigarette Papers or wrappers, pipes, holders of smoking materials of all types, cigarette-rolling machines, *electronic cigarettes, vaporizers*, and any other item designed for the smoking, use or ingestion of tobacco *and/or vapor* products.

1116.0196 Other tobacco products: ~~Any substance containing any tobacco leaves, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, and smokeless tobacco; including products prepared from tobacco.~~ *any product made from tobacco, other than cigarettes, that is made for smoking or chewing, or both, and snuff.*

1116.0199.1 Vapor product: Any liquid solution or other substance that (1) contains nicotine and/or (2) is depleted as it is used in an electronic smoking product. "Vapor product" does not include any solution or substance regulated as a drug, device, or combination product under Chapter V of the "Federal Food, Drug, and Cosmetic Act," 21 U.S.C. 301, et seq.

1116.0199.2 Vegetated Swale

Chapter 1116 | Terminology Sec. 1116.0200 | Use Categories

1116.0249 Tobacco Shop Any retail establishment that devotes 33 percent or more of floor area or display area to the sale or exchange of retail packaged tobacco products, *vapor products, electronic smoking products*, and/or tobacco paraphernalia. The use of the remaining floor area will be subject to Section 1104.0105 Developments with Multiple Principle Uses. (Ord. 154-15. Passed 03-31-15.)

Exhibit “C”

Peer Ohio Cities

City	Code Section	SUP/Conditional zoning	Spacing	Licensing	Comment
Toledo	Zoning Auditor Health Offenses	Yes	Yes	Cigarette (auditor)	Ord.569-19 limits the sale of flavored products to “retail vapor specialty stores”. Special use permit, spacing from youth uses 500’.
Columbus	Health	No	No	All tobacco (health)	Health code bans flavored products, no zoning regs.
Cleveland	Zoning Health Business Fiscal	No	*No	Cigarette (fiscal)	Zoning classification “general retail business district”, outdoor advertisement restrictions. *Hookah & Vapor “lounges” prohibited within 1,000 ft of youth related uses; and 500 ft from any residential district or religious assembly.
Cincinnati	Health Business	No	No	All tobacco (health)	Business regs., restrict outdoor advertisement (1,000 ft from youth uses & 500 from religious assembly or hospital). Zoning classification “retail sales”.
Akron	Health Fiscal Offenses	No/*Yes	*No	Cigarette (fiscal)	Tobacco shops general retail no regulations, *Vape shops are conditional uses; spacing of 2500’ from another vape shop.
Dayton	Auditor	No	No	Cigarette	No regulations, cigarette licensed obtained through county auditor.
Youngstown	Offenses Auditor	No	No	Cigarette (auditor)	No zoning regs.
Defiance	Offenses Auditor	No	No	Cigarette (auditor)	No zoning regs.
Sandusky	Offenses Zoning Auditor	No	No	Cigarette (auditor)	Permitted in local business district “general retail sales”.
Miamisburg	Offenses	No	No	Cigarette (auditor)	No zoning regs.
Maumee	Zoning Offenses	No	Yes	Cigarette (auditor)	Spacing 10,560 ft (2 miles) from each other, 1,000 ft spacing from youth uses, religious assembly, and hospitals.
Oregon	Offenses	No	No	Cigarette (auditor)	No zoning regs.
Sylvania	Offenses	No	No	Cigarette (auditor)	No zoning regs.
Perrysburg	Offenses	No	No	Cigarette (auditor)	No zoning regs.

Exhibit “C” (cont’d)

Peer Ohio Cities

City	Code Section	SUP/Conditional zoning	Spacing	Licensing	Comment
Dublin	Health Offenses	No	No	Cigarette (auditor)	No zoning regs.
Euclid	Health Offenses	No	No	Cigarette (fiscal)	No zoning regs.
Parma	Offenses Zoning	No	No	Cigarette (fiscal)	Tobacco shops permitted as general retail no use regs., Outdoor advertisement restrictions. Vape shops permitted in Commercial manufacturing districts, the number of vape shops shall not exceed 1 per 10,000 persons of the city.
Lorain	Business Health	No	Yes (Not by Zoning)	All tobacco (health) Cigarette (auditor)	Restrictions of tobacco retailer density: total number of licenses is limited to 1 per 813 residents. 2,000’ spacing from other tobacco retailers, 1,500’ spacing from youth uses.

Health Effects of Smoking



Smoking harms nearly every organ in the body and leads to premature death.



In the United States, 1 of every 3 cancer deaths is linked to smoking.

Smoking is a major cause of cardiovascular disease, which is the single leading cause of death in the U.S.

Smoking causes 1 of every 5 deaths from cardiovascular disease.



Smoking increases the risk for stroke.

Deaths from stroke are more likely among smokers than among former smokers or people who have never smoked.



Nearly 8 in 10 cases of chronic obstructive pulmonary disease (COPD) are caused by smoking.



Smoking before, during, and after pregnancy can harm a baby's health.

Smoking is a cause of type 2 diabetes.



More than 38 million adults in the United States suffer from diabetes.



Secondhand smoke causes more than

40,000 deaths a year.

Exhibit "E"

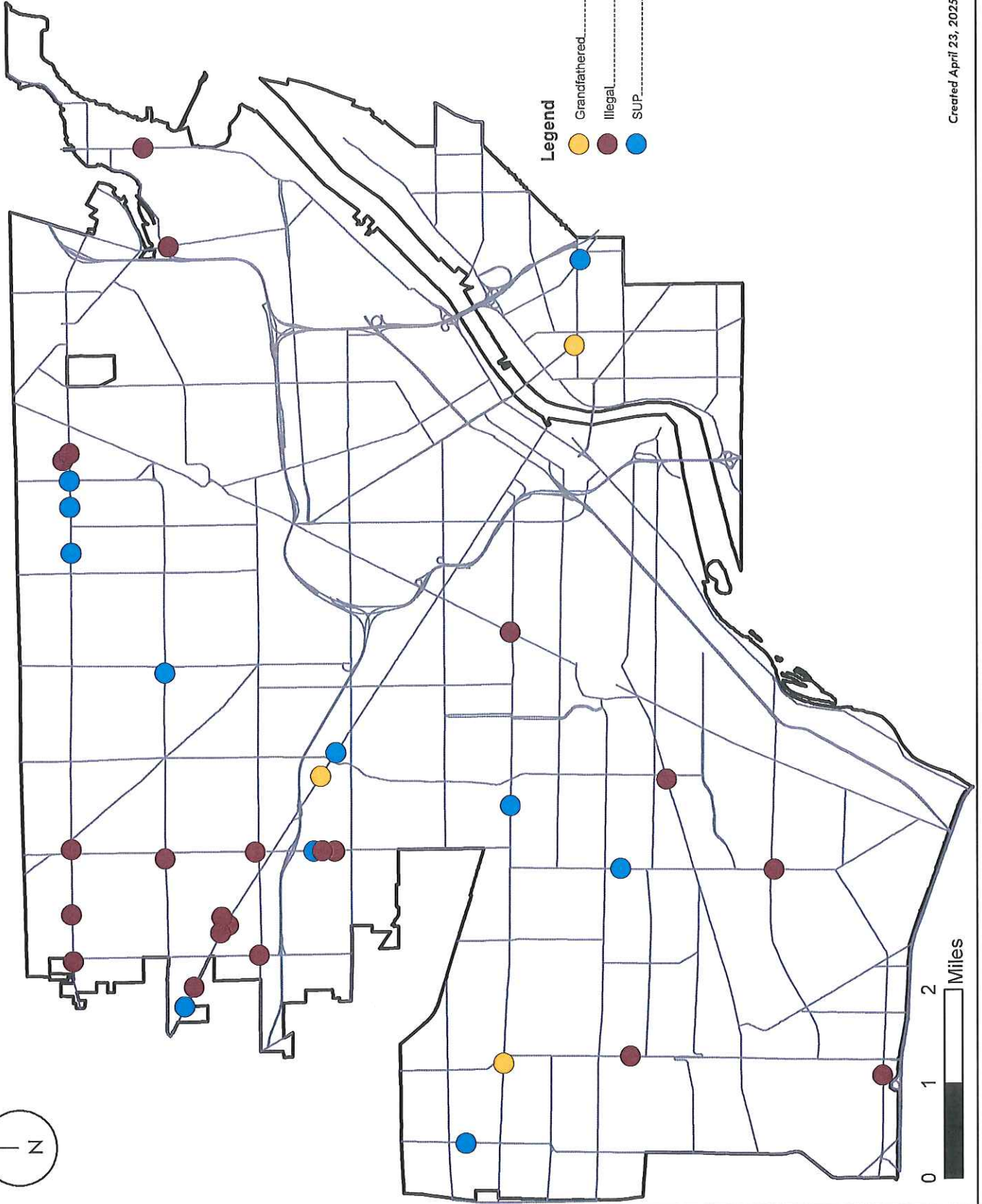
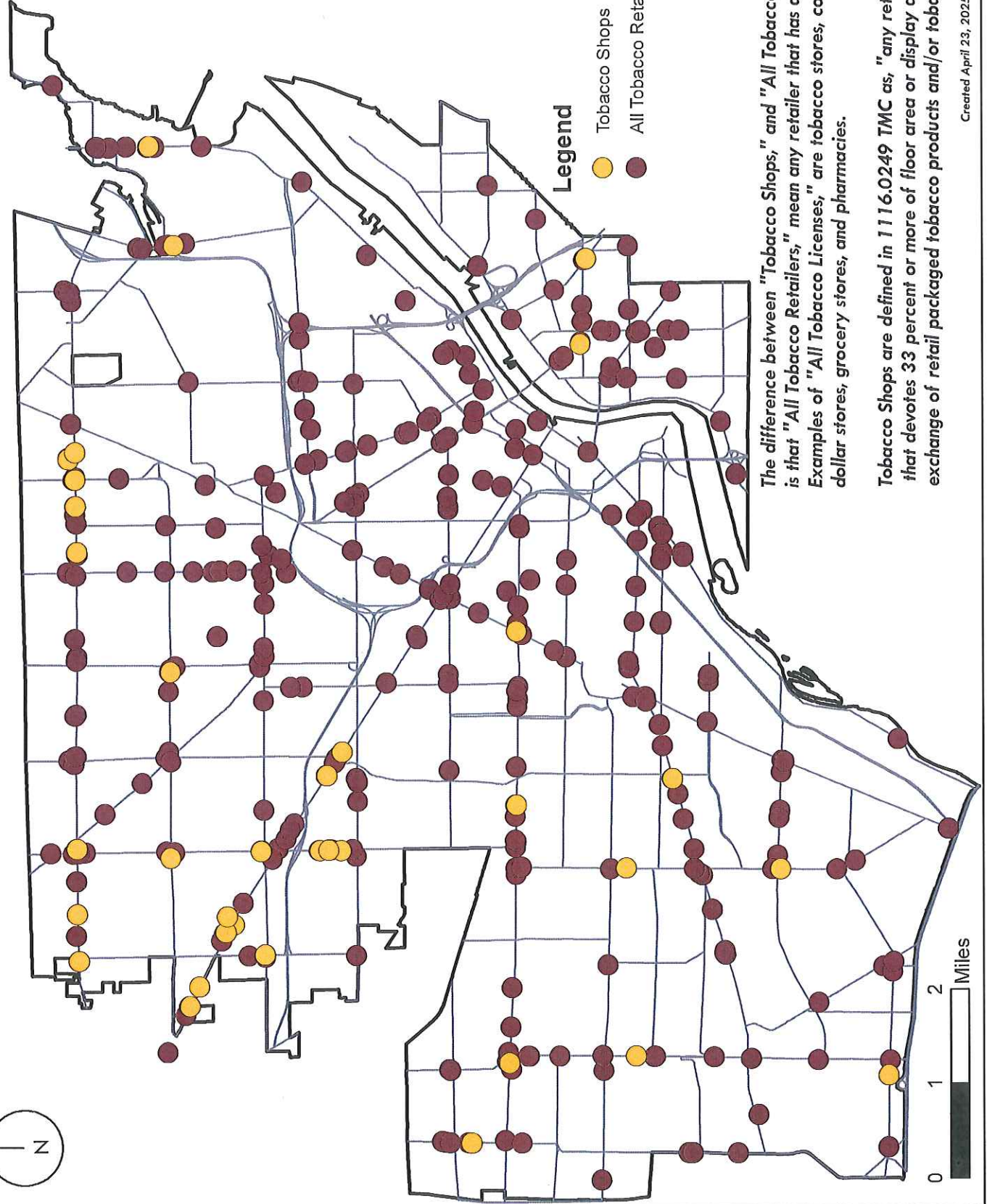


Exhibit "F"



The difference between "Tobacco Shops," and "All Tobacco Retailers" is that "All Tobacco Retailers," mean any retailer that has a cigarette license. Examples of "All Tobacco Licenses," are tobacco stores, convenience stores, dollar stores, grocery stores, and pharmacies.

Tobacco Shops are defined in 1116.0249 TMC as, "any retail establishment that devotes 33 percent or more of floor area or display area to the sale or exchange of retail packaged tobacco products and/or tobacco paraphernalia."

Tobacco Shops, Tobacco Retailers, & People per Square Mile per Census Tract

City of Toledo

Exhibit "G"

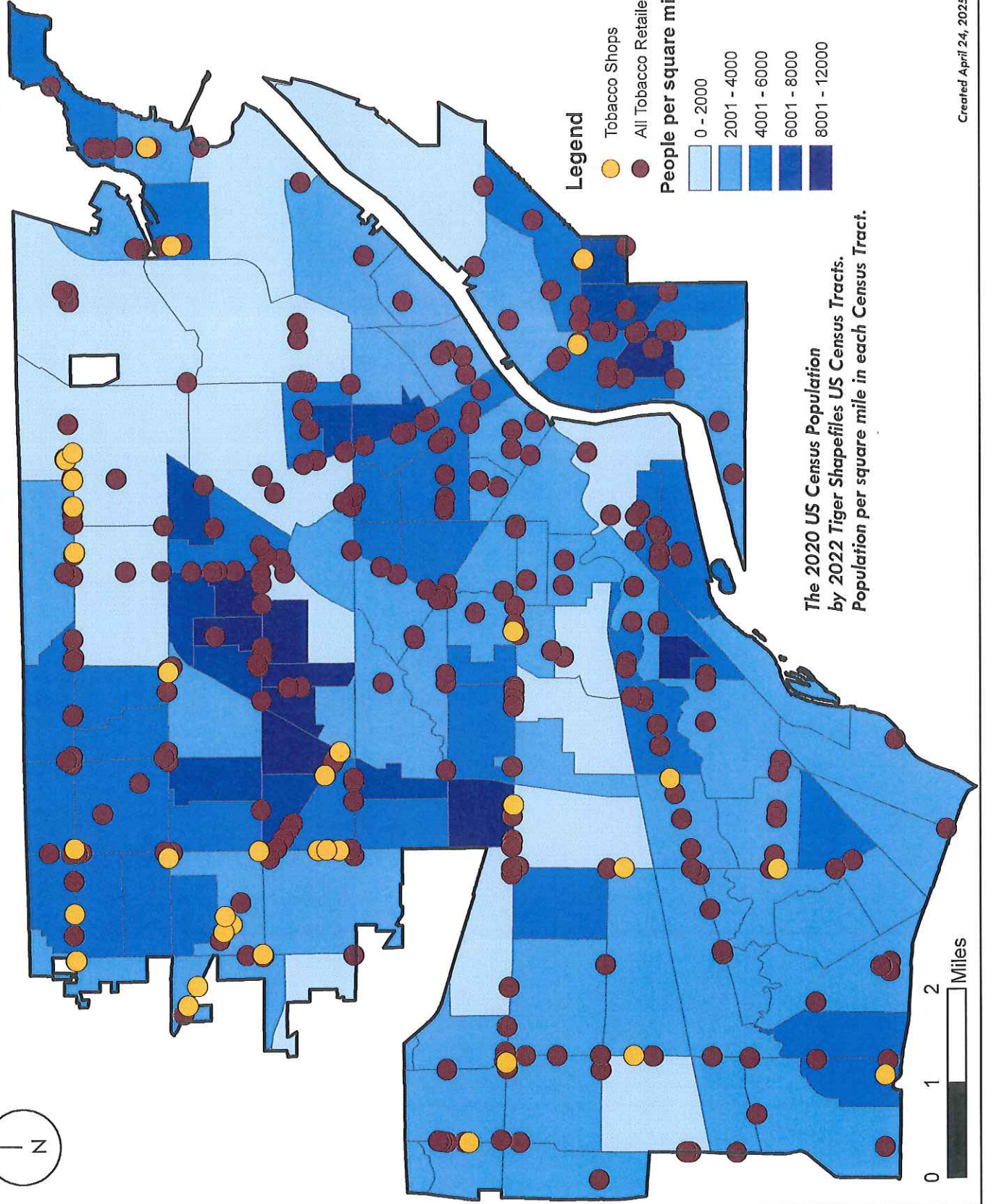
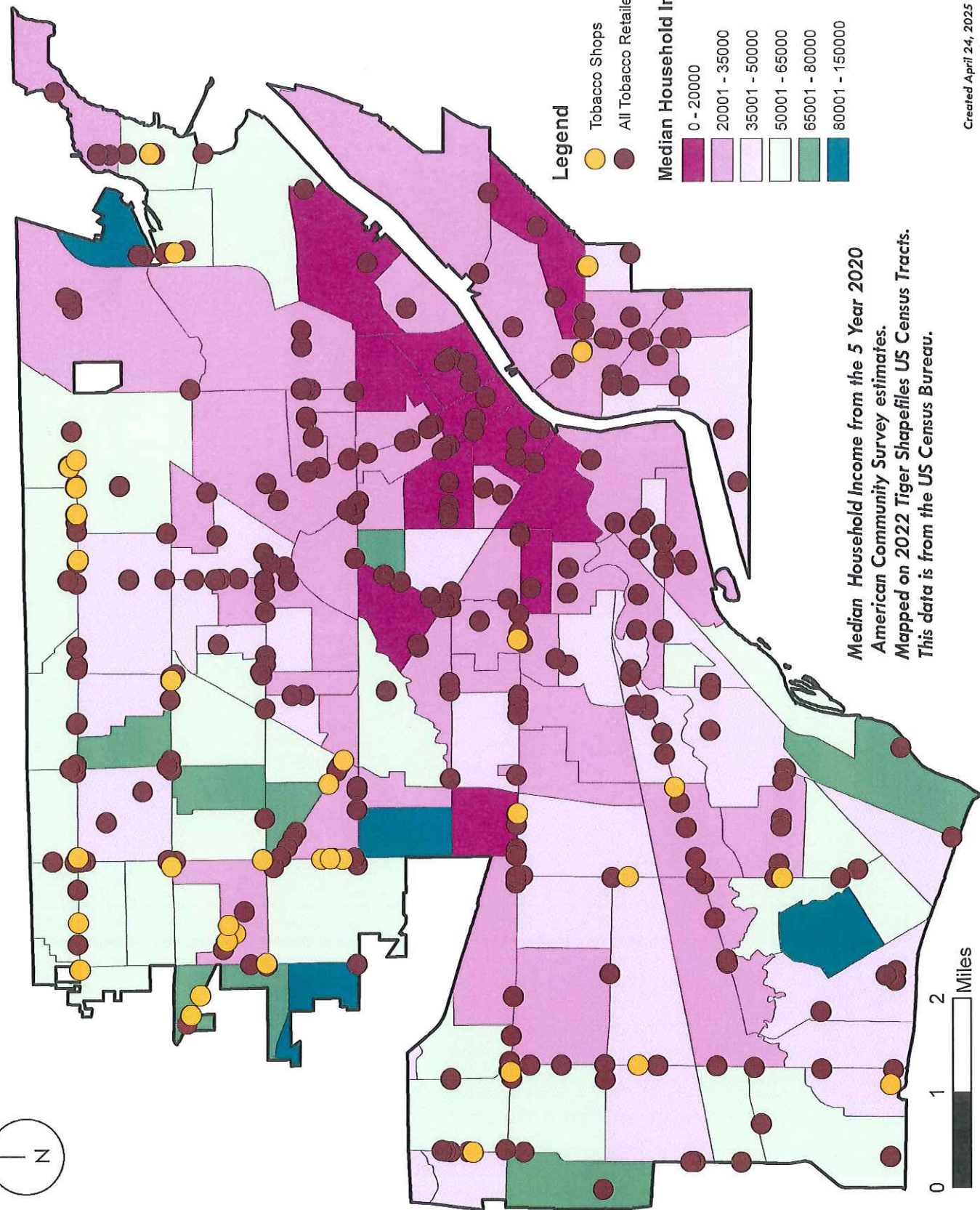


Exhibit "H"



Tobacco Retailers & Shops with a 1000ft School Buffer

City of Toledo

Exhibit "1"

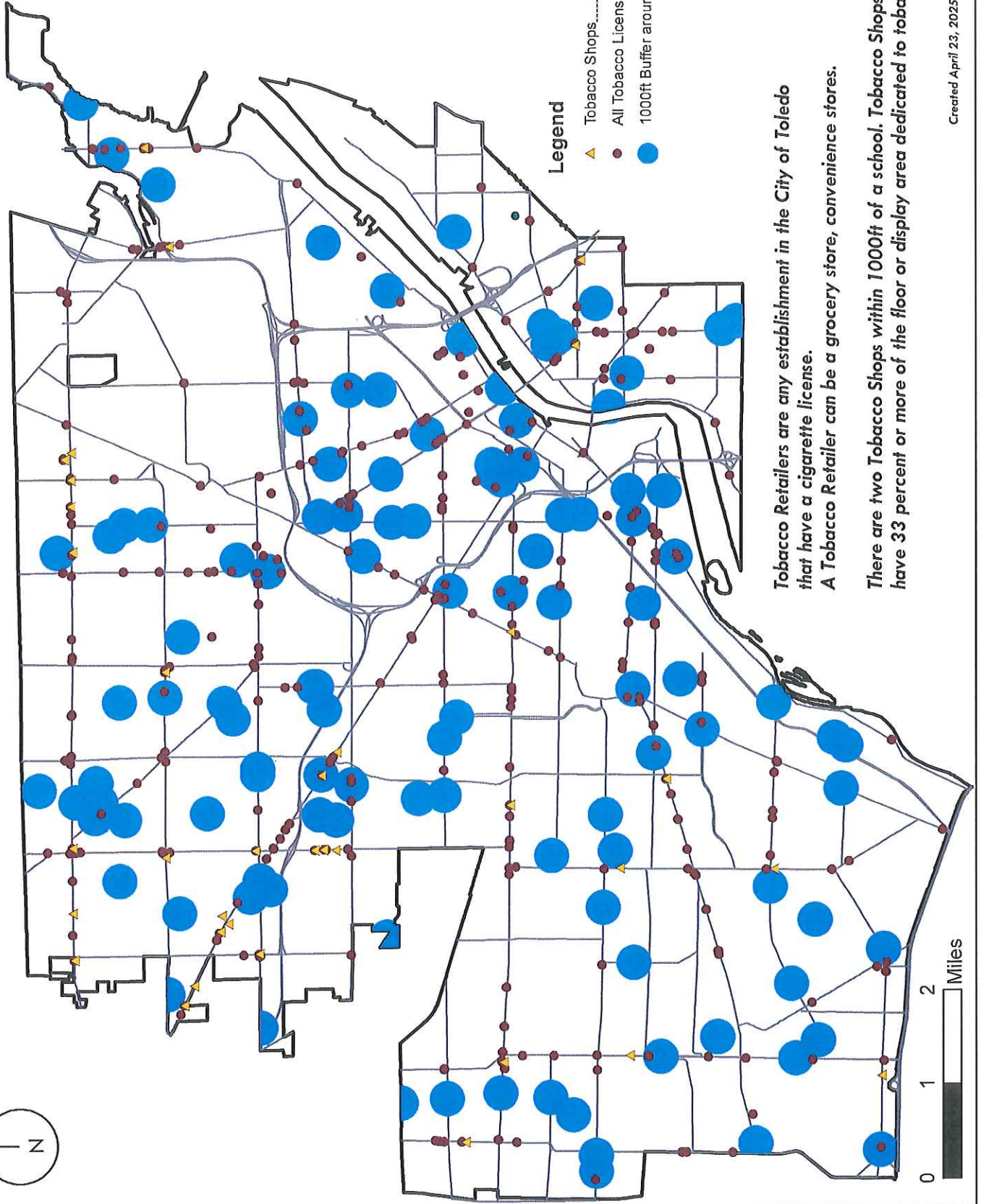
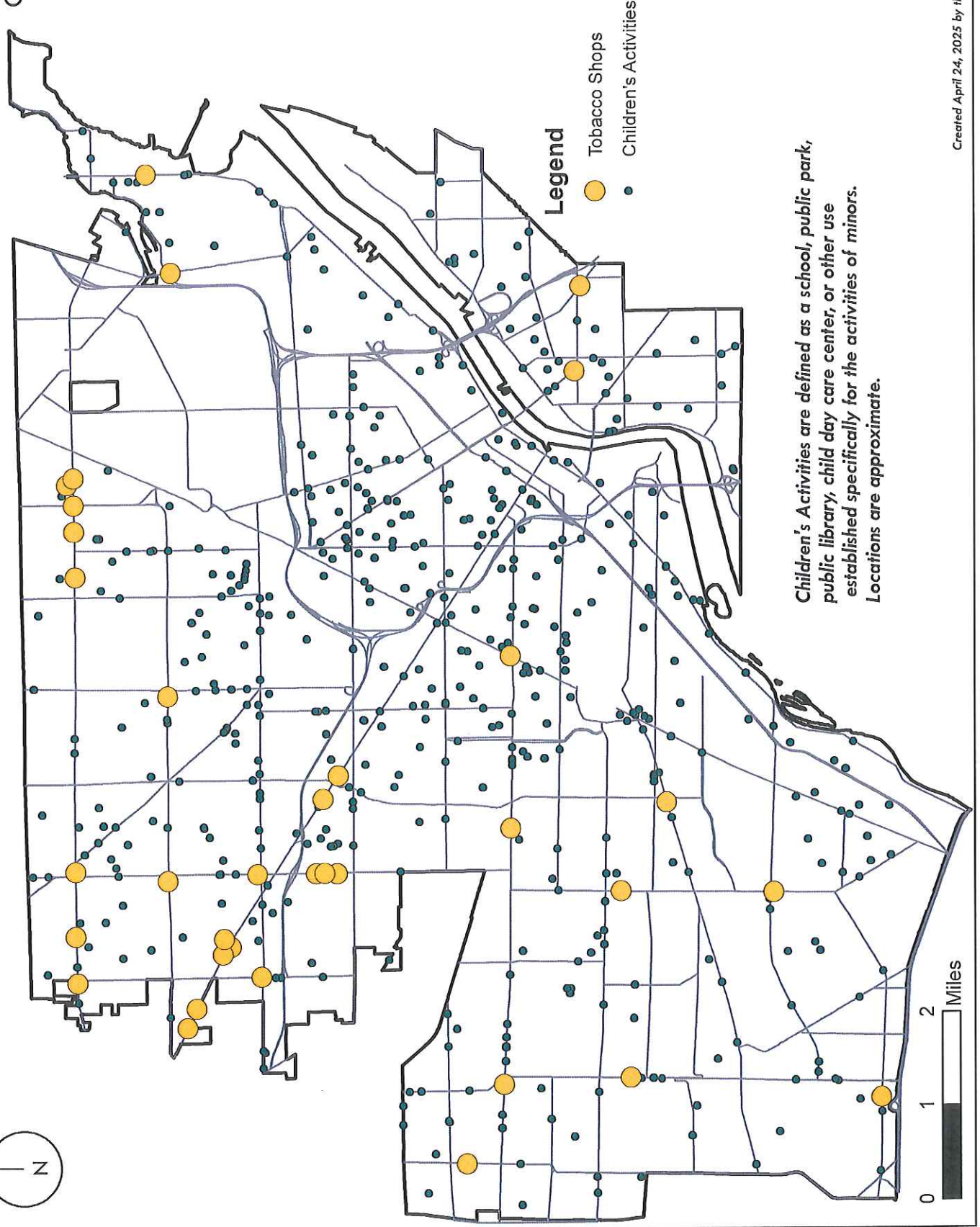
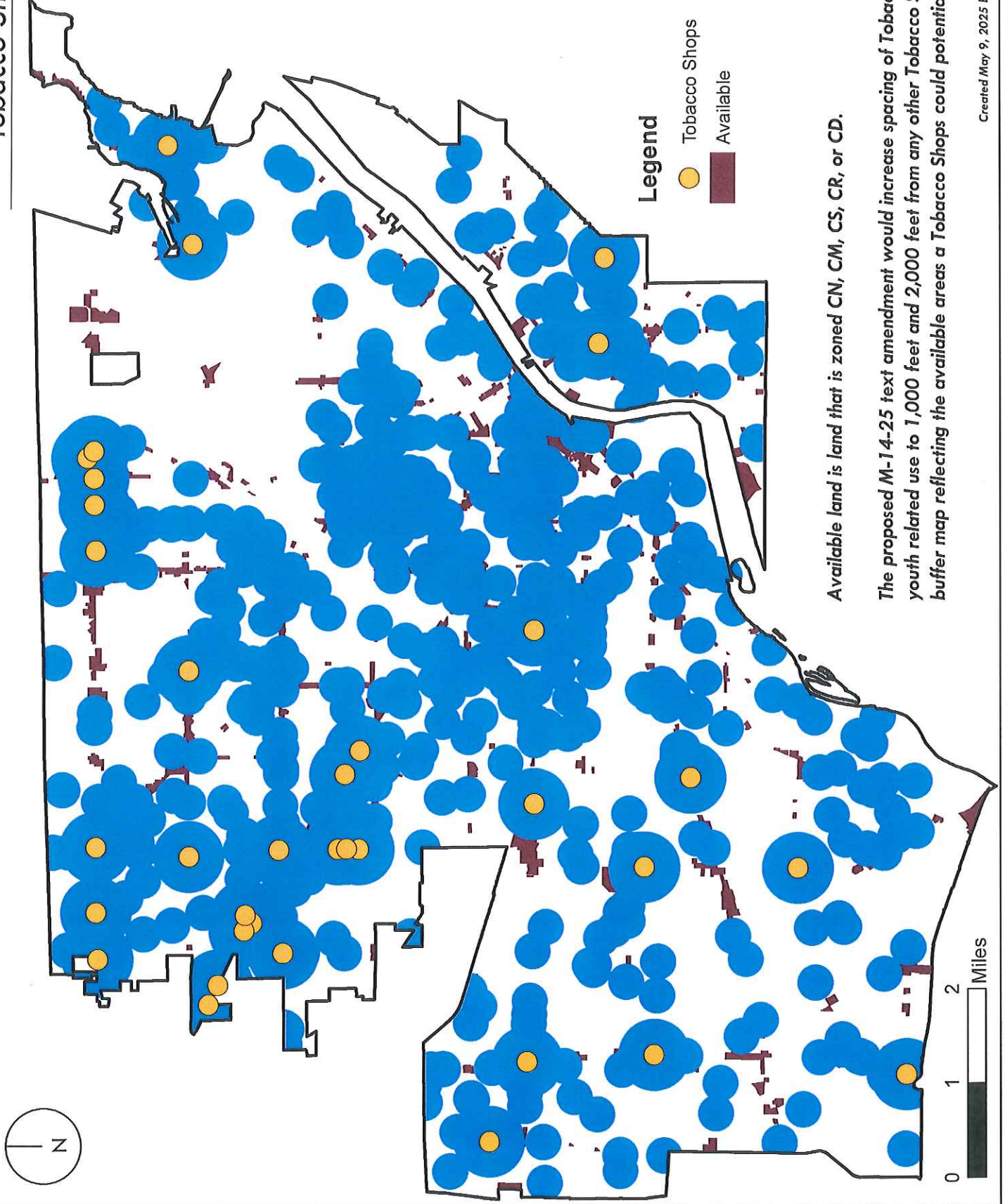


Exhibit "J"



Tobacco Shops Buffer

City of Toledo



Available land is land that is zoned CN, CM, CS, CR, or CD.

The proposed M-14-25 text amendment would increase spacing of Tobacco Shops from any youth related use to 1,000 feet and 2,000 feet from any other Tobacco Shop. Provided is a buffer map reflecting the available areas a Tobacco Shops could potentially locate.