

**HEALTH, SOCIAL, EDUCATIONAL & ENVIRONMENTAL COMMITTEE MEETING
HELD IN ROOM #318
PUTNAM COUNTY OFFICE BUILDING
CARMEL, NEW YORK 10512**

Chairwoman Sayegh, Legislators Crowley & Gouldman

Monday

6:30PM

June 10, 2024

The meeting was called to order at 6:30 by Chairwoman Sayegh who requested Legislator Crowley lead in the Pledge of Allegiance. Upon roll call Legislators Crowley and Gouldman and Chairwoman Sayegh were present.

Item #3 - Discussion/Tobacco Retailers/Community Engagement Coordinator Molly Franco, POW'R Against Tobacco

Chairwoman Sayegh introduced Community Engagement Coordinator for POW'R Against Tobacco Molly Franco and stated she is here for a discussion regarding tobacco retailers. She mentioned that last month the Legislature had a discussion with the Department of Health regarding tobacco retailers and the Adolescent Tobacco Use Prevention Act (ATUPA) funds available.

Chairwoman Sayegh made a motion to waive the rules and accept the additional; Seconded by Legislator Crowley. All in favor.

Community Engagement Coordinator for POW'R Against Tobacco Molly Franco provided the attached PowerPoint presentation. She described her organization, saying POW'R is a grant-funded program of the New York State's Department of Health's Bureau of Tobacco Control, which is a part of the Advancing Tobacco-Free Communities grant program. She stated her organization's job is to take the state's tobacco control initiatives and fit them into communities across the designated areas. She stated that they work on a range of issues including youth activism, smoke-free media, smoke-free multi-unit housing, and tobacco-free work sites. She explained that POW'R Against Tobacco also works to educate local governments on their ability to enact tobacco-free parks and municipal spaces laws and pass laws regulating the marketing and sale of tobacco products in their communities. She explained her belief that a primary goal of local government should be to advance the health of its constituents and those that work in and visit the community. She stated that commercial tobacco addicts its users and causes premature death in up to half of users who use it as directed. She stated in communities across the state, more and more smoke shops are opening on top of the already existing sellers (delis, convenience stores, gas stations, grocery stores). She stated that local governments can limit the expansion of tobacco sale through evidence-based interventions. She explained that Putnam County sticks out among other counties in the metro region as it is one of the only counties in the metro region that has a smoking rate higher than the state rate. She shared there are 92 total retailers of tobacco products in Putnam County. She stated that while this is better than a county like Westchester where there are 270 in Yonkers, alone, this is still a significant number of tobacco product retailers. She explained that the distribution is not too surprising, as most

retailers are in the more heavily populated areas of Brewster, Carmel, and Mahopac. She emphasized that the majority of tobacco product retailers are not smoke shops, but rather bodegas, grocery stores, gas stations, and convenience stores. She stated that these stores are going to have a lot more youth access than smoke and vape shops. She stated youth are being impacted by tobacco marketing when they enter a store to buy a non-tobacco related products. She showed a map (Slide 6) of where tobacco retailers are located, adding it could be beneficial to make note of where schools, parks, and playgrounds are in relation to these retailers. She stated tobacco use is a learned and socially mediated behavior. She stated ubiquitous presence of tobacco retailers gives the impression that tobacco is available, accessible, and welcomed. She noted in 2022, the tobacco industry spent \$8.3 billion to advertise and promote their products in the retail environment. She added an increased density of retailers can lead to increased smoking rate, and a reduction in quit attempts. She noted that tobacco control is also a social justice issue, saying that there is an increased density of tobacco product retailers in lower income and minority communities, fueling disparities in tobacco use. She stated increased density of tobacco retailers also increases brand recognition, especially among youth, which increases their odds of smoking. She showed a chart (Slide 8) showing five (5) options for combatting tobacco product retailer availability. She explained that the implementation of these practices is most often achieved through licensing and zoning. She stated zoning is the primary way in which the government shapes the community's land use. She stated it enables the government to establish density and/or proximity restrictions. She added zoning also allows government to set conditional use permits. She then went over two zoning policies that have recently been passed in Putnam County starting with a Zoning Amendment by the Town of Patterson, which prohibited the sale of tobacco products in the downtown area. She stated this zoning amendment does not clarify if stores would be grandfathered into this policy. She added they also do not allow stores whose sales are comprised of 50% or more tobacco products. She stated the Town of Southeast amended their zoning law to blanket prohibit smoke shops. She noted with the way it is written, this policy excludes grocery stores, convenience stores, gas stations, and any other non-smoke shop store where tobacco products may be sold. She then explained licensing, stating tobacco retail licensing requires that a city or a county issues businesses, new and existing, a license to sell tobacco and nicotine products. She stated by requiring this license, the government is better equipped to control where and to whom these products are being sold. She added it also grants the power to enforce. She provided an example of the City of Newburgh and noted that Newburgh is a city while Putnam is a county, so it may not be as easy to compare. She stated in 2015, Newburgh enacted a local licensing policy for any business that sells cigarettes, cigars, or other tobacco products. She explained why the Newburgh policy is considered to be an effective and comprehensive policy. She then provided an example of Ulster County, citing their 2015 policy. She noted that Ulster County's tobacco policy does not have a cap for the number of retailers. She stated their county website also features training materials for tobacco retailers, as well as maps locating each school, allowing tobacco retailers to establish their business without violating any laws. She explained that the Public Health Law Center has created a comprehensive tobacco retail licensing model ordinance. She stated any town, municipality, or county can pick pieces within it and construct a policy that would work best for their constituents and their capacity to enforce. She stated she could find other policies from throughout the state if the Legislature was interested in other models.

Chairwoman Sayegh stated she thinks zoning would not apply on the county level, but licensing is something the county could possibly implement. She stated that she is wondering if the ATUPA fines collected can be used to run a licensing program.

Community Engagement Coordinator for POW'R Against Tobacco Molly Franco explained that with a licensing program, there is a potential that ATUPA funds would not need to be used, because there would be application fees and violation fees to be collected.

Legislator Gouldman questioned if the policy applies only to tobacco, or to marijuana and e-cigarette products as well.

Community Engagement Coordinator for POW'R Against Tobacco Molly Franco stated these products would have to be defined clearly in the policy, but they can be regulated. She stated that retailers are not supposed to be selling explicit marijuana products, but with a licensing policy, the government has the authority to search those businesses. She explained that legislation was just passed in the State budget that allows padlocking and allows for the county to conduct more searches. She stated the tobacco industry is creating new products every day to avoid regulatory rules, such as nicotine pouches, therefore, the county needs to be explicit with licensing laws.

Legislator Gouldman stated that it was mentioned that the tobacco product usage rate for adults in Putnam County in 2021 was 14.7%, while in New York State it was 12%. He stated that it is good to compare different time frames. He questioned what the rate was ten years ago.

Community Engagement Coordinator for POW'R Against Tobacco Molly Franco stated that she does not know, but she can get those numbers. She stated that as she understands, the rates were significantly higher in past decades, but it is worth noting that the rates in Putnam have increased since the COVID-19 pandemic. She noted Putnam used to be on par with Westchester County but has since surpassed Westchester's rate.

Legislator Gouldman stated in addition to tobacco product consumption increasing since the COVID-19 pandemic, so did alcoholism and drug use. He explained that ten years ago, and even five years ago, tobacco was much more widely available to the public. He expressed that he thinks the county is doing a good job in the regulation of these tobacco products, and to regulate them more than they are already being regulated might not be good for retail in Putnam County or the state.

Legislator Crowley questioned if there are any statistics revealing what portion of tobacco product consumers are youths.

Community Engagement Coordinator for POW'R Against Tobacco Molly Franco stated that she does not have these numbers at the moment and that it is difficult to get localized data on what percentage of consumers are minors. She explained that they are also not quite sure how youths are obtaining tobacco products, whether it is by lying about their age to a retailer, having an older relative purchase the product for them, etc.

Legislator Sayegh explained that Prevention Council of Putnam Executive Director Kristin McConnell has been to Legislative meetings and provided local data regarding usage by minors as collected through surveys within schools. She stated that vaping became noticeably prevalent in middle schools amongst children.

Legislator Nacerino explained that years ago, Putnam County was on the cutting edge when it banned tobacco usage in public places and when it raised the minimum age to purchase tobacco products. She stated that she represents the Town of Patterson and can attest to their downtown area, stating that it is not really a downtown area, but more of a small rural hub that borders residential neighborhoods and is in close proximity to the school. She stated that she will relay the previous comments to the Town, as any zoning ordinance can always be amended and improved upon. She stated that she does not believe there are any pre-existing smoke shops in the area prior to the establishment of the zoning policy, thus likely rendering the point about grandfathered shops moot. She questioned how licensing on a county level affects home rule with municipalities and how the county would go about determining who would enforce a licensing policy and how the county would go about hiring the necessary employees and setting the proper fees.

Community Engagement Coordinator for POW'R Against Tobacco Molly Franco stated that with Ulster County's licensing policy, the process for registering for a license is very similar to registering for any other business license. She stated when it comes to home rule, the county law would supersede any municipal policy.

Legislator Nacerino expressed concern with adding layers of licensing and fees to businesses.

Community Engagement Coordinator for POW'R Against Tobacco Molly Franco stated that a consideration that Putnam County would need to take is how it would impact relationships with store owners. She reiterated that it is important to cap the number of retailers now before the number grows and it is less feasible for the county to enforce regulations on these stores.

Legislator Nacerino stated that she would like to see a stronger zoning ordinance in place where the municipalities oversee enforcement rather than enact a county-wide licensing policy.

Legislator Ellner stated that he would be curious to see if Putnam County's overall health is decreasing directly with the increased tobacco product usage.

Legislator Montgomery stated she would like to find out what added manpower Ulster County needed to enforce their licensing policy. She stated that this would send a message that Putnam knows that smoking is bad, costly and will make the population unhealthy.

Chairwoman Sayegh stated she is wondering if a tobacco licensing practice would support the towns. She stated licensing would let the towns know that the county has their back. She stated she would hate to supersede the town zoning policies.

Legislator Crowley asked if there is any permitting required for gas stations selling tobacco products.

Community Engagement Coordinator for POW'R Against Tobacco Molly Franco stated that they have to apply for licensing to sell cigarettes and vapor products through the tax and finance department.

Legislator Crowley stated that as an owner of any kind of business, you will be monitored by the government to some degree, so you are taking on that liability as a business owner. She stated that protecting the youth and the county population's health should be of the utmost importance on top of operating a good, fair, and equitable business.

Community Engagement Coordinator for POW'R Against Tobacco Molly Franco stated that ATUPA is already doing these inspections. She stated they monitor the youth sales and the sale of flavored products. She stated that these inspections and registration to sell tobacco products are the bare minimum.

Legislator Nacerino questioned if there is a policy now mandating cigarettes must be placed behind the register as well as a limit on blatant advertisements of tobacco products.

Community Engagement Coordinator for POW'R Against Tobacco Molly Franco stated that this policy was enacted. She explained any chain gas station with a promotional program for a tobacco company must have a sign that lists different facts about the product. She stated this policy was passed in the early 2000's and hasn't been implemented until very recently. These don't exist for e-cigarettes, because the law was passed before e-cigarettes existed. It takes a long time to put these laws into practice. She noted that advertising is very tricky to go after, because it becomes a free speech issue. She stated there have been policies passed in New York before trying to limit tobacco advertising, and these policies have faced backlash for being labeled a free speech issue.

Legislator Gouldman stated that he does not think licensing is the right thing for Putnam County at the moment. He stated that the Sherriff's Department could inspect each of the 92 smoke shops in the county.

Community Engagement Coordinator for POW'R Against Tobacco Molly Franco posed the hypothetical that in five years, the number of smoke shops could increase to 202 and the Sheriff's Department may not be able to feasibly search every one of those shops.

Legislator Gouldman stated the County could address the problem then. He stated that licensing can be a burden to small businesses. He provided an example of proper enforcement in which a tobacco retailer in Yorktown that lost their license temporarily after the retailer sold a tobacco product to a minor. He stated that the laws are being enforced, and to put too much of a burden on small businesses would be wrong.

Community Engagement Coordinator for POW'R Against Tobacco Molly Franco stated she appreciates that perspective.

Item #4 - Approval/Establish a Mental Health Petty Cash Fund/Department of Social Services

Commissioner of Social Services Sara Servadio explained they spend a lot of their own money for simple expenditures like McDonald's or a new shirt to make someone feel safe or comfortable. She explained that they are asking for \$100 for this petty cash fund to start.

Chairwoman Sayegh stated she spoke with County Auditor Michele Sharkey and found that the process of turning in receipts and getting reimbursed is straightforward.

Legislator Ellner questioned if \$100 is a sufficient amount.

Commissioner Servadio stated it is not, but it is a start and they have other funds in DSS they can use.

Legislator Montgomery suggested Commissioner Servadio establish a higher amount during budget season.

Chairwoman Sayegh motion to Approve Establishing a Mental Health Petty Cash Fund/Department of Social Services; Seconded by Legislator Crowley. All in favor.

Item #5 - Other Business – None

Item #6 – Adjournment

There is no further business at 7:13 pm, Chairwoman Sayegh made a motion to adjourn; Seconded by Legislator Crowley. All in favor

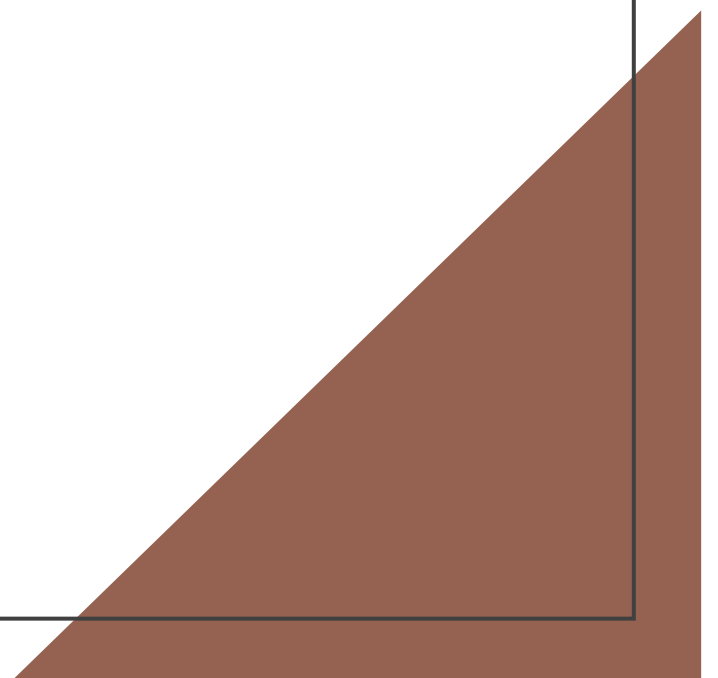
Respectfully submitted by PILOT Intern Owen Lennon.

Addressing Tobacco Retailers in Putnam County

Molly Franco, MSW

POW'R Against Tobacco

Community Engagement Coordinator



About POW'R Against Tobacco

Program of the American Lung Association
serving Putnam, Orange, Rockland, and
Westchester Counties

Funded by the NYS Department of Health's
Advancing Tobacco Free Communities Grant

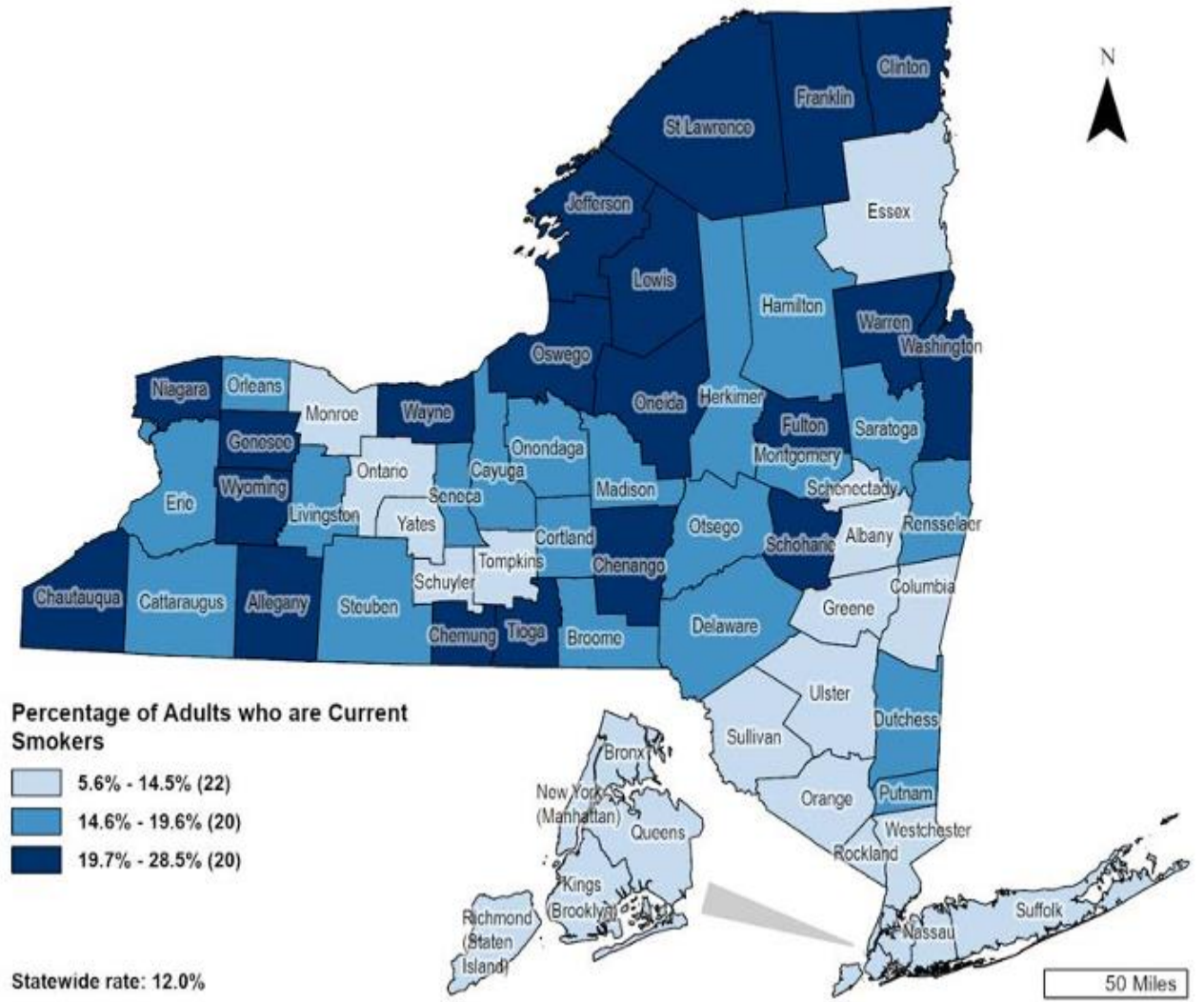
Our broader mission is to work to protect the
health of all people through tobacco control
policy, advocacy, and education

Our Bottom Line is: We believe everyone has
the right to breathe clean, smoke-free air where
they live, work, and play

Smoking Rates in Putnam

- According to data collected in 2021, **14.7%** of Putnam County adults are current smokers
- This is **higher** than the statewide rate: **12%**

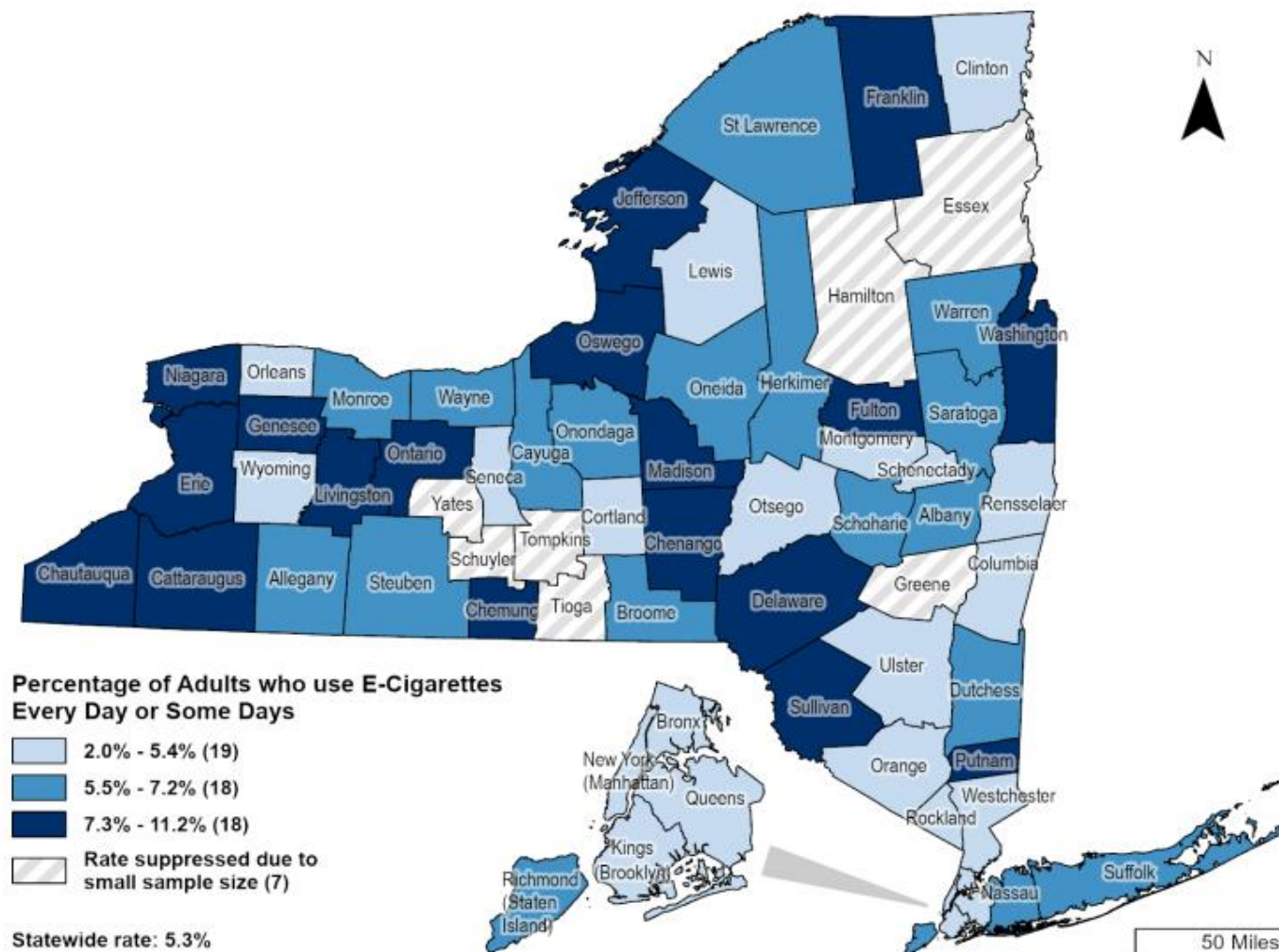
Prevalence of Current Smoking Among Adults in New York State by County, NYS BRFSS 2021



E-Cigarette Use Rates in Putnam

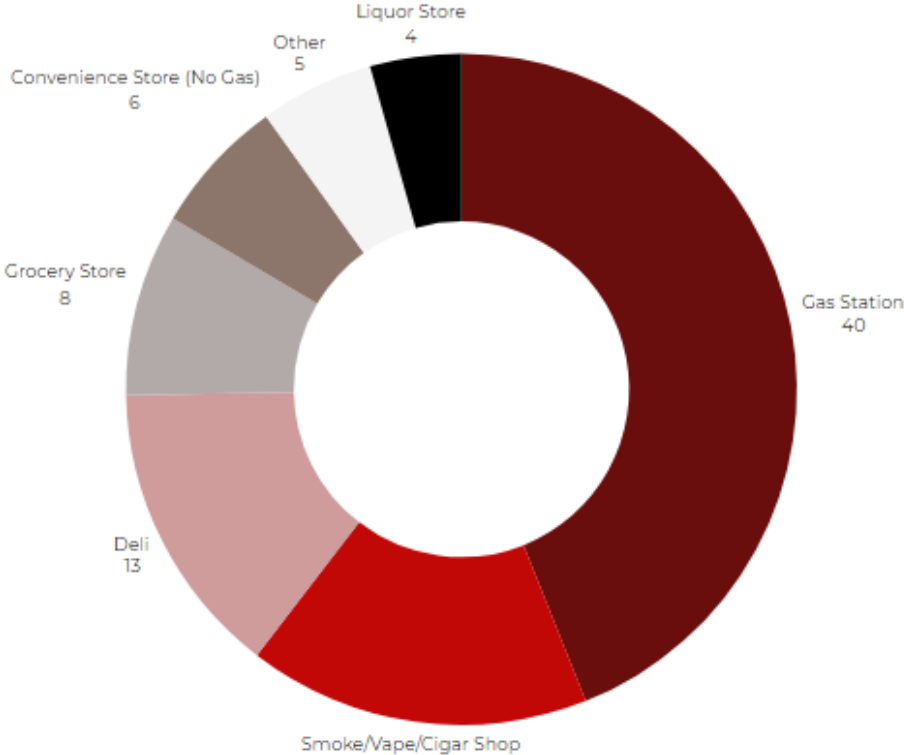
- According to data collected in 2021, **7.4** of Putnam County adults are current smokers
- This is **higher** than the statewide rate: **5.3%**

Figure 3. Prevalence of E-Cigarette Use Among Adults in New York State by County, NYS BRFS 2021

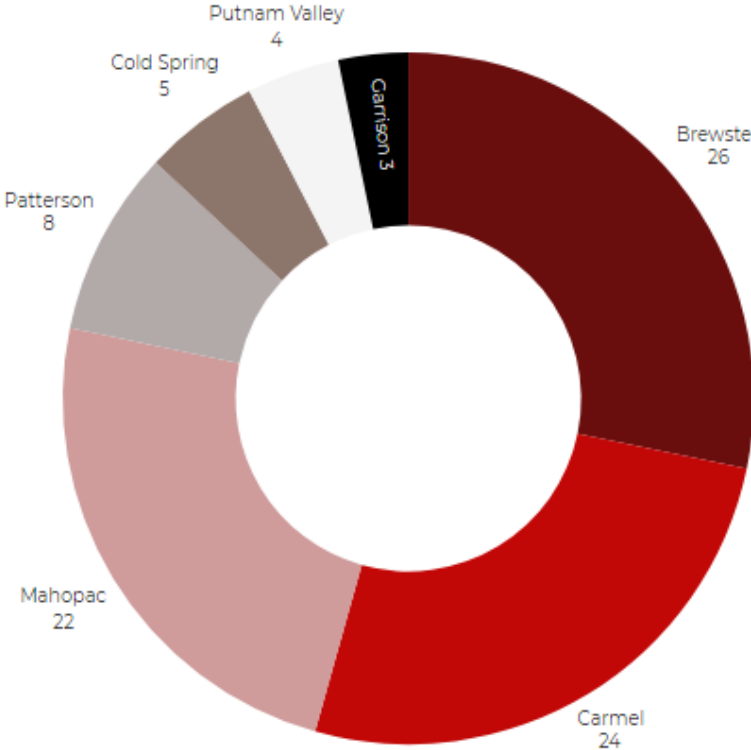


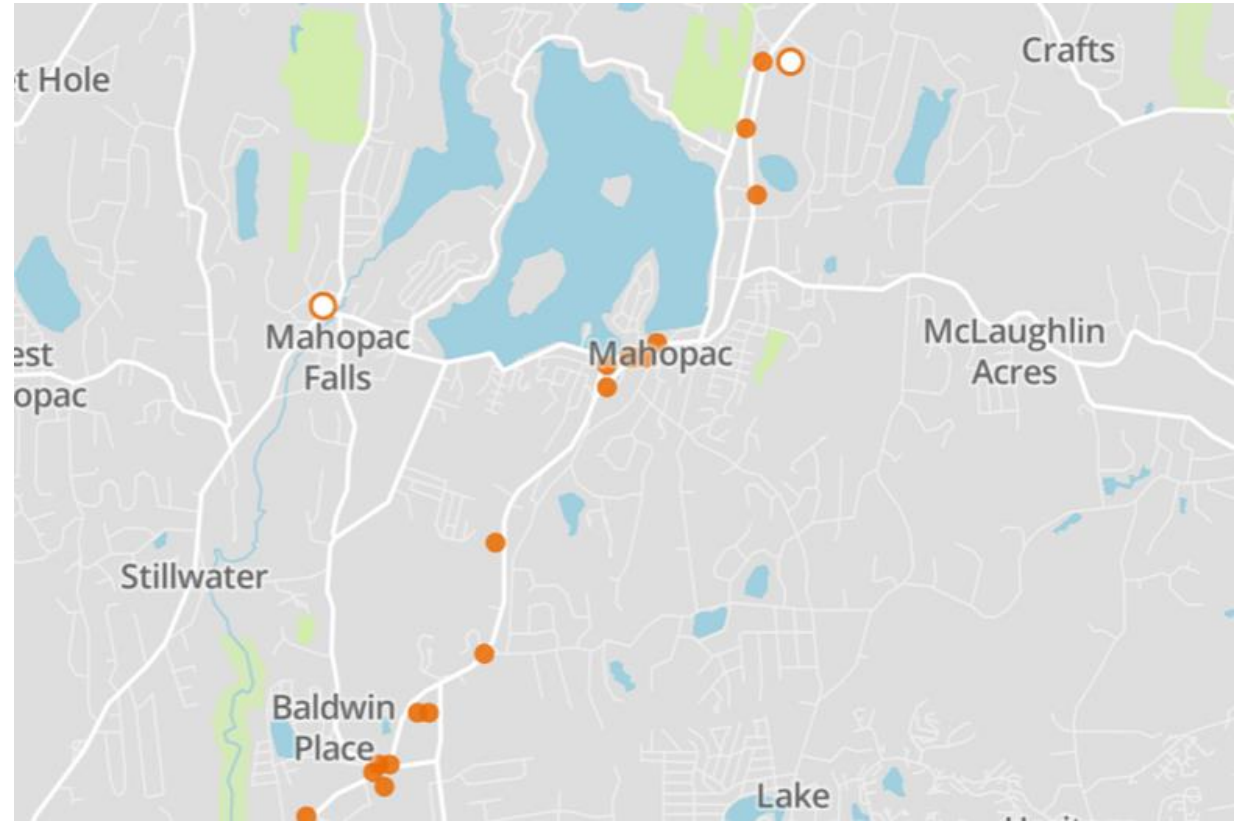
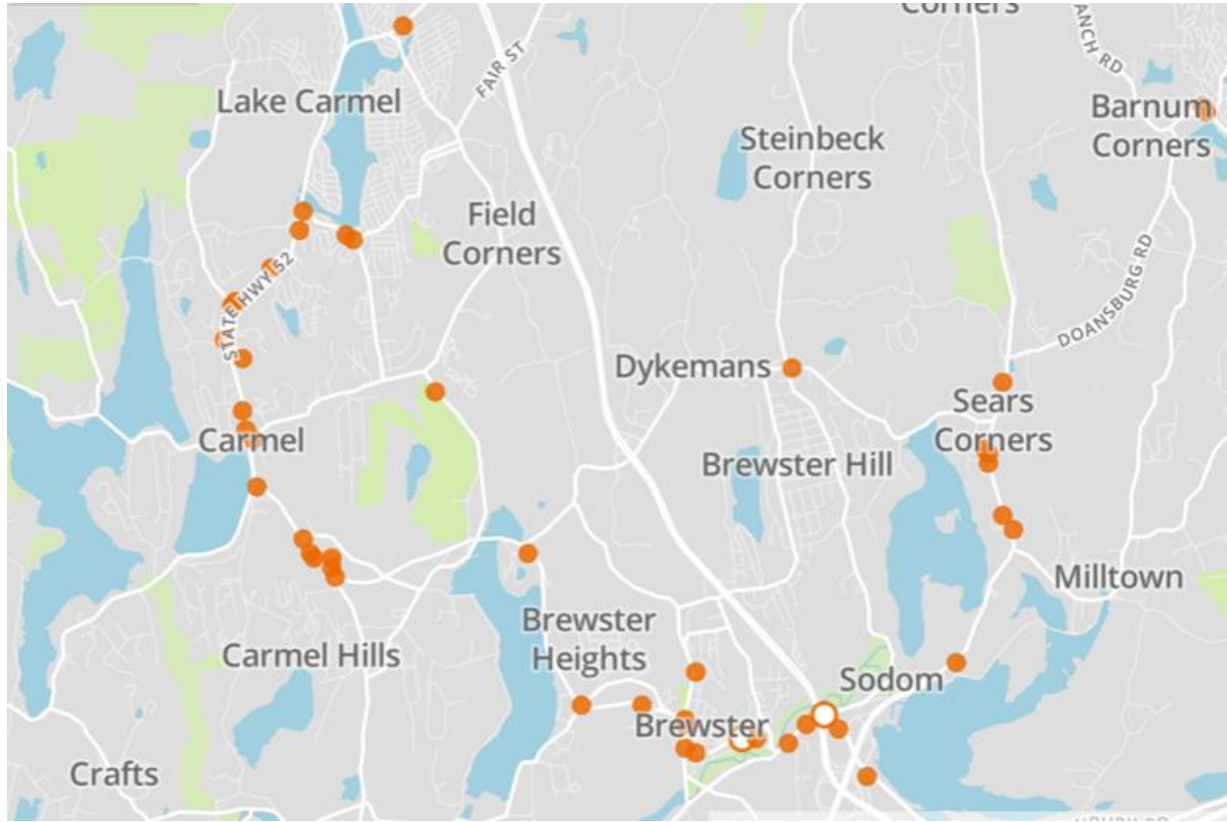
Tobacco Retailers in Putnam County

Tobacco Retailers in Putnam County by Type (92 Total)



Tobacco Retailers in Putnam County by Town (92 Total)





Retail Availability of Tobacco...

Perpetuates social norms about tobacco use

Increases exposure to industry point of sale (POS) advertising, marketing and promotions

Reduces search costs for tobacco products (higher smoking rates/reduced quit attempts)

Contributes to social and environmental inequities

Increases brand recognition

Encourages impulse purchases of tobacco products, cues cravings, and undermines quit attempts.



How to reduce tobacco retailer density and why

These policy solutions can be implemented in most communities through local regulation, such as tobacco retailer licensing or changes to zoning restrictions.

Local Tobacco Retailers



Cap the number of retailers in a geographic area

Example: There can be no more than 15 stores* per district.



Cap the number of retailers relative to population size

Example: There can be no more than 1 store* per 1,000 residents.



Require a minimum distance between retailers

Example: Stores cannot locate within 1,000 ft of an existing store.



Prohibit retailers from locating near schools and other youth-sensitive areas

Example: Stores cannot locate within 1,000 ft



Prohibit sales of tobacco products at pharmacies or other types of retailers



HEALTH: When more tobacco retailers are located in a given area, residents' health suffers. Youth are more likely to start smoking. People who smoke consume more cigarettes per day and have a harder time quitting.



EQUITY: Tobacco retailers cluster in neighborhoods with a high percentage of low-income residents or residents of color. These communities are targeted by tobacco companies, and they disproportionately suffer the health harms caused by tobacco use.

Broad Policy Options to Address Retailer Density



Licensing

Licensing is typically a way to **regulate businesses and professionals** working in certain fields. A license usually grants rights to the **person** who holds it.

Zoning

Zoning is a way to **regulate the use of property**. Zoning laws grant rights attached to the **land**.



Zoning

- Zoning laws may govern both the physical nature of buildings (size, height, location on a lot) and the way buildings may be used in a particular area.
- Zoning laws often divide cities into different areas (residential, commercial, and industrial) and limit the kinds of uses (housing, shops, factories) that are allowed in each zone.
- “Conditional use permits” give lawmakers the ability to decide what is permitted and what is prohibited in a zone.
- Zoning ordinances are generally used to keep incompatible uses of land apart from one another. And when used in conjunction with conditional use permits, zoning can accomplish results like licensing.



Patterson Zoning Amendment

This policy is not ideal because it does not clarify whether businesses will be grandfathered into this policy

SECTION TWO: § 154-30.A “Permitted principal uses” is hereby AMENDED as follows:

A. Individual retail stores and personal service establishments not exceeding 20,000 square feet or, buildings or sites which may contain two or more retail or service operations not exceeding 50,000 square feet in total, but excluding the dispensing or sales of tobacco or vape products within the area defined as the Patteson Hamlet. [Amended 8-11-2021 by L.L. No. 2-2021; __-__-__ by L.L. No. 1-2024]

A. Individual retail stores and personal service establishments not exceeding 20,000 square feet or, buildings or sites which may contain two or more retail or service operations not exceeding 50,000 square feet in total, but excluding the dispensing or sales of tobacco or vape products along Front Street, or along Route 311 for a distance of 2500 feet from the intersection of Front Street. [Amended 8-11-2021 by L.L. No. 2-2021; __-__-__ by L.L. No. 1-2024]

A. Individual retail stores and personal service establishments not exceeding 20,000 square feet or, buildings or sites which may contain two or more retail or service operations not exceeding 50,000 square feet in total excepting that: [Amended 8-11-2021 by L.L. No. 2-2021]

- 1) Stores where 50% or more of their sales are tobacco or vape products or both shall not be permitted in the GB Zoning District. [Added __-__-__ by L.L. No. __-2024]

Town of Southeast Zoning Amendment

- Amended their local laws to prohibit “smoke shops”
- Smoke shops are defined as “premises exclusively or primarily dedicated to the sale, distribution, display... of smoke shop products”
- This policy excludes grocery stores, supermarkets, convenience stores, or any store that sells these products
- While this policy is not illegal, it is not ideal. It fails to establish why smoke shops are more of a threat to public health versus other tobacco retailers. Smoke shops could argue that they are being unfairly targeted since other businesses that sell tobacco products are not being regulated by this law.

Licensing

- State and many local governments have the authority to require tobacco retailers to obtain a license from the government.
- Governments can put conditions on the sale of tobacco setting limits on the location, number of store, and products sold
- Retailers who do not comply can face fines and other consequences, including having their “privilege” to sell tobacco suspended or revoked.
- Through a local license, a local government may set consequences for violations of federal, state, or local law by stores in their community
- Licensing fees may be used to fund the implementation and enforcement of a tobacco retail licensing system

Example: City of Newburgh

- In 2015, the city imposed a local licensing requirement for retailers selling cigarettes, cigars, e-cigarettes, and other tobacco-related products.
- Eligibility is determined by City Clerk and violations are enforced by Police Department; Fire Department is permitted to inspect.
- If owners refuse an inspection, the city can get a search warrant.
- It bans tobacco sales within 1,000 feet of a school's property line
- Reduces overall number of outlets by issuing only ONE new license for every two non-renewed or revoked

Example: Ulster County

- In 2015, Ulster County adopted a Local Law that requires all businesses who sell, or who wish to sell, any form of tobacco products to obtain a County license
- No new licenses may be granted to a tobacco retailer located within 1000' of any K-12 school in Ulster County
- In addition to the local law, the county provided training materials to retailers to ensure the local, state, and federal laws are being adhered to

Comprehensive Tobacco Retailer Licensing: Model Policy

Developed by the Public Health Law Center. It contains:

- Definitions
- Sample language
- Public Health Justifications
- Procedure, enforcement, and violation guidance



POINT-OF-SALE

April 2023



COMPREHENSIVE TOBACCO RETAILER LICENSING

Model Ordinance



This Comprehensive Tobacco Retailer Licensing Ordinance was prepared to assist New York municipalities and counties interested in establishing or strengthening a local commercial tobacco¹ retailer licensing (“TRL”) program and further regulating the tobacco retail environment.

Communities adopt TRL laws to ensure compliance with local business standards, reduce youth access to tobacco products, limit the negative public health and equity impacts associated with tobacco use, and enforce local, state, and federal tobacco control laws.

How POW'R Can Assist

- Model Policies
- Sample Policies from towns with similar demographics and goals
- Technical assistance
- Connect you with the Public Health Law Center

Email: Molly.Franco@lung.org

Phone: 914-407-2317

