

The City of Easthampton Board of Health Regulation
Restricting the Sale of Tobacco Products

Proposed Policy Amendments

Proposed Amendment 1 – Updating the definition of Adult-only Retail Tobacco Store will further clarify and delineate what conditions an Adult-only Retail Tobacco Store would need to meet to avail itself of advantages to policies where Adult-only Retail Tobacco Stores are exempt.

C. Definitions - Current definition reads:

Adult-only Retail Tobacco Store: An establishment that is not required to possess a retail food permit whose primary purpose is to sell or offer for sale but not for resale, Tobacco Products and Tobacco Paraphernalia, in which the sale of other products is merely incidental, and in which the entry of Persons under the Minimum Legal Sales Age is prohibited at all times, and maintains a valid permit for the retail sale of Tobacco Products as required to be issued by the Easthampton Board of Health.

C. Definitions – Proposed language reads:

Adult-only Retail Tobacco Store: A permitted establishment that does not share space with another business, that has a separate entrance, that does not sell food or alcohol, that does not have a restaurant license or lottery license, whose only purpose is to sell or offer for retail sale Tobacco Products and/or Tobacco Paraphernalia, in which the entry of Persons under the age of 21 is prohibited at all times, and which maintains a valid permit for the retail sale of Tobacco Products from the Easthampton Board of Health and applicable state licenses. Entrance to the establishment must be secure so that access to the establishment is restricted to Employees and to those 21 years or older. The establishment shall not allow anyone under the age of 21 to work at the establishment.

Proposed Amendment 2 – Updating the definition of “Characterizing Flavor” to un-exempt mint, menthol and wintergreen would determine that mint, menthol and wintergreen are flavors and subject to the policy.

C. Definitions - Current definition reads:

Characterizing Flavor: A distinguishable taste or aroma, other than the taste or aroma of tobacco, mint, menthol or wintergreen; imparted or detectable either prior to or during consumption of a Tobacco Product or Component Part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb or spice; provided, however, that no Tobacco Product shall be determined to have a Characterizing Flavor solely because of the provision of ingredient information or the use of additives or flavorings that do not contribute to the distinguishable taste or aroma of the product.

C. Definitions - Proposed language reads:

Characterizing Flavor: A Distinguishable taste or aroma, other than the taste or aroma of tobacco, imparted or detectable either prior to or during consumption of a Tobacco Product or Component Part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, mint, menthol, wintergreen, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb or spice; provided, however, that no Tobacco Product shall be determined to have a Characterizing Flavor solely because of the provision of ingredient information or the use of additives or flavorings that do not contribute to the Distinguishable taste or aroma of the product.

Proposed Amendment 3 – Defining Electronic Cigarette definition to be inclusive of all vape products

C. Definitions - Proposed definition reads:

Electronic Cigarette: Any product that can deliver nicotine to the user through inhalation of vapor or aerosolization. Electronic Cigarette devices include any Component Part of such product, including liquid for use in the device regardless of whether the liquid contains nicotine, whether or not sold separately. This term includes such devices whether they are manufactured as Electronic Cigarettes, electronic Cigars, and electronic pipes or under any other product name. It does not include any product approved by the United States Food and Drug Administration for sale as a tobacco cessation product that is being marketed and sold or prescribed solely for the approved purpose.

Proposed Amendment 4 – Age verification

D- Tobacco Sales to Persons Under the Minimum Legal Sales Age Prohibited

Proposed language reads:

Each Person selling or distributing Tobacco Products, shall verify the age of EVERY purchaser during EACH transaction by means of a valid government-issued photographic Identification containing the bearer’s date of birth that the purchaser is 21 years old or older. Verification is required for ANY Person attempted to purchase Tobacco Products. All retail sales of Tobacco Products must be face-to-face between the seller and the buyer and occur at the permitted location.

Proposed Amendment 5 – Adding a policy that will restrict the sale of all Electronic Cigarettes to Adult Only Retail Tobacco Stores, where you have to be 21 to enter the store.

I. Sale of Electronic Cigarette Products Restricted to Adult Only Retail Tobacco Stores:

No Person shall sell or distribute or cause to be sold or distributed any Electronic Cigarette except in a permitted Adult Only Retail Tobacco Store.

Proposed Amendment 6 – Update Out of package sales to mimic proposed language of the model regulation. This is to allow cities and towns, the ability to enforce the AG regulations that ban in-store vape juice mixing and requires child-resistant packaging. It is not new law, just allowing for local enforcement.

J – Out-of-Package Sale - Current regulation reads:

1. The sale or distribution of Tobacco Products, as defined herein, in any form other than an original factory-wrapped package is prohibited, including the repackaging or dispensing of any Tobacco Product, as defined herein, for retail sale. No Person may sell or cause to be sold or distribute or cause to be distributed any cigarette package that contains fewer than twenty (20) cigarettes, including single cigarettes.
2. A retailer of Liquid Nicotine Containers must comply with the provisions of 310 CMR 30.000.
3. All retailers must comply with 940 CMR 21.05 which reads: “It shall be an unfair or deceptive act or practice for any Person to sell or distribute nicotine in a liquid or gel substance in Massachusetts after March 15, 2016 unless the liquid or gel product is contained in a child-resistant package that, at a minimum, meets the standard for special packaging as set forth in 15 U.S. C. §§1471 through 1476 and 16 CFR §1700 et. Seq.”

K – Out-of-Package Sales – Proposed language reads:

1. The sale or distribution of Tobacco Products, as defined herein, in any form other than an original factory-wrapped package is prohibited, including the repackaging or dispensing of any Tobacco Product, as defined herein, for retail sale. No Person may sell or cause to be sold or distribute or cause to be distributed any cigarette package that contains fewer than twenty (20) cigarettes, including single cigarettes.
 2. Permit Holders who sell Liquid Nicotine Containers must comply with the provisions of 310 CMR 30.000, and must provide the Easthampton Board of Health with a written plan for disposal of said product, including disposal plans for breakage, spillage or expiration of the product
 3. All Permit Holders must comply with 940 CMR 21.05 which reads: “It shall be an unfair or deceptive act or practice for any Person to sell or distribute nicotine in a liquid or gel substance in Massachusetts unless the liquid or gel product is contained in a child-resistant package that, at a minimum, meets the standard for special packaging as set forth in 15 U.S.C. §§1471 through 1476 and 16 CFR §1700 et. seq.
 4. No Permit Holder shall refill a cartridge that is prefilled and sealed by the manufacturer and not intended to be opened by the consumer or retailer.
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Proposed Amendment 7 – Permit required for Adult-only Retail Tobacco Store

F– Adult-only Retail Tobacco Store Permit – Proposed language reads:

1. No Person shall operate an Adult-only Retail Tobacco Store within the City of Easthampton without first obtaining an Adult-only Retail Tobacco Store Permit issued by the Easthampton Board of Health.
2. Adult-only Retail Tobacco Store Permits expire on December 31st annually.
3. The Adult-only Retail Tobacco Store Permit required hereunder shall be a separate permit in addition to the Tobacco Product Sales Permit required, pursuant to Section E above.
4. The Adult-only Retail Tobacco Store Permit shall be displayed at the Adult-only Retail Tobacco Store in a conspicuous place.
5. An Adult-only Retail Tobacco Store Tobacconist Establishment Permit is non-transferable.