

Adult-only Retail Tobacco Store Guidance

October 28, 2019

The current Board of Health tobacco regulation, titled “Regulation of the Framingham Board of Health Restricting the Sale of Tobacco Products,” restricts the sale of flavored tobacco products to Adult-only Retail Tobacco Stores, but exempts menthol, mint, and wintergreen flavored tobacco products. The regulation also requires that anyone who wishes to sell or otherwise distribute tobacco products in Framingham must obtain a Tobacco Product Sales Permit issued by the Framingham Board of Health.

A current Tobacco Product Sales Permit Holder may operate his or her establishment in one of two different manners:

1. Operate as an Adult-only Retail Tobacco Store - An Adult-only Retail Tobacco Store is 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 or offer of services is merely incidental, and in which the entry of persons under the minimum legal sales age is prohibited at all times, and which maintains a valid permit for the retail sale of tobacco products as required by the Framingham Board of Health. An Adult-only Retail Tobacco Store may sell non-flavored tobacco products, flavored tobacco products, and smoke accessories.
2. Does not operate as an Adult-only Retail Tobacco Store – The Permit Holder may operate an establishment as a retail store that does not meet the definition of an Adult-only Retail Tobacco Store. Such establishment may sell non-tobacco related products or services, including products in accordance with a retail food permit. These establishments are prohibited from selling flavored tobacco products (excluding menthol, mint, and wintergreen flavored tobacco products). **Starting on January 1, 2020, all flavored tobacco products, including menthol, mint, and wintergreen flavored tobacco products, and smoke accessories may only be sold in Adult-only Retail Tobacco Stores.**

This is the definition of Adult-only Retail Tobacco Store set forth within Framingham’s current regulation:

“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 or offer of services is merely incidental, and in which the entry of persons under the Minimum Legal Sales Age is prohibited at all times, and which maintains a valid Tobacco Product Sales Permit for the retail sale of Tobacco Products as required by the Framingham Board of Health.”



While there is presently a thirty (30) permit limit (cap) on the total number of available Tobacco Product Sales Permits that may be issued by the Framingham Board of Health, there is no current limit on the number of Tobacco Product Sales Permit Holders that may operate their establishments as Adult-only Retail Tobacco Stores. Starting on January 1, 2020, when the newest regulation becomes effective, the number of Tobacco Product Sales Permit Holders that may operate their establishments as Adult-only Retail Tobacco Stores will be limited to four (4). If the number of Adult-only Retail Tobacco Stores is more than four (4) on January 1, 2020, all such establishments will be “grandfathered” and allowed to operate as Adult-only Retail Tobacco Stores, so long as Permit Holders renew their permits within thirty (30) days of expiration.

Converting to Adult-only Retail Tobacco Store

A current Tobacco Product Sales Permit Holder who does not presently operate his or her establishment as an Adult-only Retail Tobacco Store may convert their establishment to one by any of the following options. Keep in mind that the regulation requires the **entire establishment** to meet the definition of an Adult-only Retail Tobacco Store. As indicated above, there is no limit on the number of Adult-only Retail Tobacco Stores until January 1, 2020. Current Permit Holders who wish to convert their establishments to Adult-only Retail Tobacco Stores must contact the Framingham Public Health Department and submit a completed “Adult-only Retail Tobacco Store Plan Review Application” for review prior to that date.

1. Convert the **Entire** Existing Establishment to Adult-only Retail Tobacco Store. A Permit Holder that chooses this option must remove all non-tobacco related products from the establishment, and cease offering products or services that are not tobacco-related, such as selling of food, gasoline, alcohol, lottery, etc.
2. Move the Tobacco Product Sales Permit to a New Location. The new location must operate so as to meet the definition of an Adult-only Retail Tobacco Store. The new location must also be located at least 500 feet from an existing establishment that holds a valid Tobacco Product Sales Permit, or an elementary or secondary school. The old location will need to cease the sale of any tobacco product once the new location begins operation.
3. Subdivide the Existing Store into Two or More Separate Store Fronts and Move the Tobacco Product Sales Permit to One of the Newly Created Store Fronts. This is a viable option provided the Permit Holder is able to obtain an Occupancy Permit from the Framingham Building Department for the new store front which will house the Adult-only Retail Tobacco Store. Keep in mind that you will be required to create a new and separate establishment (both in legal and physical aspects) from the existing establishment where you hold the Tobacco Product Sales



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Permit. This will allow one of the two or more store fronts to operate as an Adult-only Retail Tobacco Store. A Permit Holder who wishes to choose this option should contact the Framingham Public Health Department first before contacting the Framingham Building Department for building code compliance.

This memorandum is provided for explanatory purposes only and shall not be interpreted as contravening or superseding any regulation of the City of Framingham. You are directed to review the *Regulation of the Framingham Board of Health Restricting the Sale of Tobacco Products and Smoke Accessories* and/or contact the Framingham Board of Health for additional information.