

Lowell Tobacco Control Report

March, April and May of 2020

Prepared by: Cesar Pungirum, M.M., J.D.
Program Director

Lowell

Inspections

Due to the measures put into place to help reduce the spreading of the coronavirus, most inspections conducted have been drive-by inspections to ensure Adult-Only Retail Tobacco Stores remained closed, as they are deemed nonessential businesses.

Some of these resulted in actual inspections conducted at Yaya Cigars and Vapes, 309 Chelmsford Street, as the establishment was found to be open on an intermittent basis. On May 12th, I had to return to the establishment with a police officer to compel the owner to close the store.

Pricing Surveys

No pricing surveys were conducted during this period and the Massachusetts Tobacco Cessation and Prevention Program (MTCP) has suspended the requirements until further notice.

Implementation of the new state law: An Act Modernizing Tobacco Control

As of June 1st, no establishment in Lowell will be allowed to sell any traditional flavored tobacco products, including menthol (cigarettes, cigars, chewing tobacco, pipe tobacco, etc). Regular establishments will be allowed to sell non-flavored e-products with a nicotine content of 35mg or less. Adult-Only Retail Tobacco Stores will have no restriction on the nicotine content of non-flavored e-products. All retailers have been reminded of that by a letter that was mailed out earlier this month.

No Menthol, Know Why Campaign

This is a new state campaign aiming to raise awareness in Black, Latin and LGBTQ+ communities about *why* this law matters for racial and health equity and provide information about the resources available to help people quit smoking.

Curbside Guidelines for Adult-Only Retail Tobacco Stores

Adult-Only Retail Tobacco Stores are now allowed to provide curbside service for tobacco products. In order to assist these retailers to implement procedures to prevent the spreading of the coronavirus, as well as, comply with existing local, state, and federal tobacco laws, I mailed them a set of recommended procedures. These procedures were adapted from the guidelines issued by the Cannabis Control Commission. *See attachment.*

Tobacco Control Grant Renewal and Supplemental Funding

We're currently in the process of renewing our tobacco control grant for FY 2021. In addition, we're receiving an extra \$30,000 for FY2020 to support the implementation of the new tobacco law.

CURBSIDE GUIDELINES FOR ADULT-ONLY RETAIL TOBACCO STORES

1. “Curbside Operations” is defined as the transfer or dispensing of Tobacco Products by a current Tobacco Product Sales Permit holder who is an Adult-Only Retail Tobacco Store to a vehicle located in the parking area of the Adult-Only Retail Tobacco Store or to an individual at the entrance to the establishment. “Entrance” shall include an access control vestibule or air-lock entrance that is enclosed and physically separated from the retail or other functional areas of the establishment.
2. As of May 26, 2020, Adult-Only Retail Tobacco Stores may conduct pre-orders by phone or electronic means with a customer, who is at least 21 years of age, prior to the purchase and transfer of Tobacco Products curbside.
3. If an Adult-Only Retail Tobacco Store completes a pre-order by phone or electronic means, the retailer may transfer Tobacco Products at a curbside operation subject to the following conditions:
 - a. Curbside Operations shall occur outdoors and shall be located so as to minimize compromises to security, taking into consideration camera locations, foliage or other obstructions, proximity to the establishment’s entrance and similar considerations;
 - b. All sales must occur at the Adult-Only Retail Tobacco Store. This requirement is satisfied if one of the following has occurred:
 - i. Sales occur in compliance with the state guidance, including the Reopening Requirements.
 - ii. Payment is made through one of the following means:
 1. by an electronic Internet-based payment platform;
 2. by phone in a call-ahead manner;
 3. by a mobile payment point-of-sale (POS) system; or
 4. by cash within the brick-and-mortar premises entrance. Such transactions would be strictly limited to allow for the pre-arranged cash payment of the Tobacco Product and should require exact change so as to minimize contact and expedite transactions to avoid lines.
 - c. Scheduled appointments and social-distancing practices consistent with state and federal guidance are encouraged.
 - d. Adult-Only Retail Tobacco Store agents shall identify the purchasing individuals and any accompanying individuals arriving curbside.
4. Agents shall verify the purchasing customer’s age is 21 years of age or older by examining a government-issued photographic identification;
5. To the extent that curbside transfer involves a vehicle, all other individuals in the vehicle must be 21 years of age or older;

6. Adult-Only Retail Tobacco Store agents are not required to physically handle an identification card if verification can be performed by visual inspection or scanning device.
7. Adult-Only Retail Tobacco Stores newly conducting Curbside Operations shall have standard operating procedures that include the following:
 - a. Identify designated curbside sales area(s), traffic queuing plans, and signage to direct Customers;
 - b. Ensure traffic does not overflow onto public or private property unless permission has been obtained by the municipality and/or owner.
8. To the extent feasible, Adult-Only Retail Tobacco Stores shall minimize the impact of Curbside Operations on municipalities.
9. Curbside Operations shall not block traffic, sidewalks, or increase lines or crowds; and
10. Adult-Only Retail Tobacco Stores must remain in compliance with the terms of all local rules, regulations, ordinances, and by-laws, including any municipal public health order.
11. Tobacco Product Sales Permit holders shall comply with any applicable orders issued by state or local authorities, including all executive orders and guidance issued by the Governor pursuant to Chapter 639 of the Acts of 1950.
12. Adult-Only Retail Tobacco Stores shall monitor and comply with all state and local guidelines and bulletins, including those establishing social distancing measures.
13. Failure to comply with the above conditions may result in disciplinary action against the Adult-Only Retail Tobacco Stores and their agents up to and including suspension and/or revocation of licensure or registration and any additional civil and criminal penalties established under the Essential Services Order.