

CAPPING AND DENSITY OPTIONS

Maximum Number of Tobacco Product Sales Permits.

[Basic Cap]

- a. At any given time, there shall be no more than **[number (XX)]** Tobacco Product Sales Permits issued in **[city/town]**. Any permit holder who has failed to renew their permit within thirty (30) days of expiration will be treated as a first-time permit applicant.
- b. New applicants for permits who are applying at a time when the maximum number of permits have been issued will be placed on a waiting list and will be eligible to apply for a permit on a “first-come, first-served” basis.
- c. Applicants on the waiting list shall be responsible for ensuring up to date contact information has been provided to the [city/town] Board of Health. **[NOTE: This is the “basic” cap. When a town has the maximum number of permittees allowed, a waiting list should be started with the name and contact information of prospective tobacco retailers who are waiting to be contacted when a permit becomes available.]**

[Advance Cap]

- d. As of the effective date of this regulation, any permit surrendered, revoked or not renewed either because a retailer no longer sells tobacco products, as defined herein, or because a retailer closes the retail business, shall be returned to the **[city/town]** Board of Health and shall be permanently retired by the Board of Health and the total allowable number of Tobacco Product Sales Permits under paragraph (a) shall be reduced by the number of the retired permits.

[Dual Cap]

- e. At any given time, there shall be no more than **[number (XX)]** Tobacco Sales Permits issued to Adult-Only Retail Tobacco Stores, per the definition, in **[city/town]**. No permit renewal by an Adult-Only Retail Tobacco Store will be denied based on the requirements of this subsection except any permit holder who has failed to renew his or her permit within thirty (30) days of expiration will be treated as a first-time permit applicant. New Adult-Only Retail Tobacco Store applicants for permits who are applying at a time when the maximum number of permits dedicated for Adult Only Retail Tobacco Stores have been issued will be placed on a waiting list and will be eligible to apply for a permit on a “first-come, first-served” basis as issued permits to Retail Tobacco Stores are either not renewed, revoked, or are returned to the Board of Health. Applicants who purchase or acquire an existing Adult-Only Retail Tobacco Store that holds a valid Tobacco Product Sales Permit at the time of the sale or acquisition of said business must apply within sixty (30) days of such sale or acquisition for the permit held by the Current Permit Holder if the Applicant intends to operate as an Adult-Only Retail Tobacco Store, as defined herein.

Sale of Business.

- a. Notwithstanding a cap on the total number of permits holders, the seller of a business holding a valid tobacco sales permit may transfer said permit to a bona fide purchaser for value of the business, subject to approval by the Board of Health, as required herein.
- b. The purchaser shall apply for the transfer of the permit no later than (30) calendar days after said purchase. The purchaser shall not sell tobacco product until the transfer of the permit is approved by the Board of Health; and
- c. All fines and suspensions of the previous owner must be satisfied prior to the sale.

Retail Density.

- a. A new Tobacco Product Sales Permit shall not be issued to any new applicant for a retail location within five hundred (500) feet of a public or private elementary or secondary school as measured by a straight line from the nearest point of the property line of the school to the nearest point of the property line of the site of the applicant's business premises. **[If municipality adopts the Advanced Cap this section (a) can be deleted].**
- b. A new Tobacco Product Sales Permit shall not be issued to any new applicant for a retail location within _____ feet **[For example Five Hundred (500), One Thousand (1,000), Two Thousand (2,000)]** of an existing retailer with a valid Tobacco Product Sales Permit as measured by a straight line from the nearest point of the property line of the retailer with a valid Tobacco Product Sales Permit to the nearest point of the property line of the site of the applicant's business premises. **[If municipality adopts the Advanced Cap this section (b) can be deleted].**
- c. If the purchaser of a business with a valid tobacco sales permit pursuant to Section E. 9 changes the location of the business, the new location shall be subject to the retail density requirements of Section E.10. **[If the advanced cap is adopted add the following language to section (c):**
 - i. **The new location shall not be within five hundred (500) feet of a public or private elementary or secondary school as measured by a straight line from the nearest point of the property line of the school to the nearest point of the property line of the site of the new location.'**
 - ii. **The new location shall not be within _____ feet [Five Hundred (500) feet, One Thousand (1000) feet, Two Thousand (2000) feet] of an existing retailer with a valid Tobacco Product Sales Permit as measured by a straight line from the nearest point of the property line of the retailer with a valid Tobacco Product Sales Permit to the nearest point of the property line of the site of the new location.]**