



Ordinance 8340

Ordinance 8340 raises the age to purchase tobacco products to 21 years of age, requires age verification, prohibits the sale of flavored tobacco products and limiting the number of electronic smoking devices and related products that can be sold to an individual in a 24-hour period.

FREQUENTLY ASKED QUESTIONS

Boulder is among the first Colorado Cities to enact a flavor sales ban on electronic cigarettes and associated products. We're following closely in the steps of Aspen, Basalt and Edgewater locally and national examples including San Francisco. City staff will monitor the administration and communication of Ordinance 8340 with support from Boulder County Public Health, and consider future revisions, if significant issues arise.

Please keep checking the following webpage for updates, additional content, meeting and conference call notices, and for registration and compliance information.

bouldercolorado.gov/vaping-and-tobacco-regulations or bit.ly/Vaping-Tobacco-Regs

What is Ordinance 8340?

On Sept. 17, 2019, Boulder City Council voted to approve Ordinance 8340 which adopts a new chapter of the Boulder Revised Code – Chapter 6-4.5 “Sale of Tobacco Products.” The new chapter impacts residents in multiple ways including:

- Raising the age to purchase to 21 for tobacco products
- Limiting any one retailer from selling more than two electronic cigarettes or four Associated Products including refills to any one person in any 24-hour period
- Banning the sale of flavored tobacco products to be used in an electronic smoking device (temporary menthol flavored products exception, see bullet below) in Boulder
- Restricting the ability to sell menthol flavored electronic cigarette products to only 21 and over age restricted businesses until December 31, 2019. After January 1, 2020 the sale of menthol flavored electronic cigarettes in the city of Boulder is completely prohibited.

When will the ordinance take effect?

Ordinance 8340 codified as Boulder Revised Code (BRC) Chapter 6-4.5 “Sale of Tobacco Products” goes into effect on October 17, 2019. The Ordinance 8340 can be found here:

<http://bit.ly/Ord-8340>



What is considered a flavored tobacco product?

All definitions below are from Chapter 6-4.5-1 “Definitions”:

A ***tobacco product*** is a product which contains, is made or derived from tobacco or used to deliver nicotine, synthetic nicotine or other substances intended for human consumption. This includes products whether heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, bidis, snus, nicotine product, mints or hand gels.

A flavored product is any tobacco product that contains a ***constituent*** (any ingredient, substance, chemical or compound other than tobacco, water or a reconstituted tobacco sheet that is added by the manufacturer to a ***tobacco product*** during the processing, manufacturer or packaging of a Tobacco Product) that imparts a characterizing flavor. A ***characterizing flavor*** is a ***distinguishable*** (perceivable by taste or smell) taste or aroma or both other than the taste or aroma of tobacco, imparted either prior to or during consumption of a Tobacco Product or any byproduct produced by the ***tobacco product***. ***Characterizing flavors*** include, but are not limited to, tastes or aromas relating to any menthol, mint, wintergreen, fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, spice; provided however, that a tobacco product shall not be determined to have a ***characterizing flavor*** solely because of the use of additives or flavorings or the provision of ingredient information. Rather, it is the presence of a ***distinguishable*** taste or aroma or both, as described in the first sentence of this definition that constitutes a characterizing flavor.

Does this make it illegal to own flavored tobacco products as an individual?

No, it is not illegal for an individual to own flavored tobacco products under the City Code. State or federal law may limit possession for minors.

How does this impact adults that are 21 and above?

- Consumers may see price increases
- Starting Oct. 17th, consumers will no longer be able to purchase flavored products except menthol in the City of Boulder. Menthol flavored products designed for or capable of being used in an Electronic Smoking Device will only be available until January 1, 2020, in stores that limit entry to those 21 years of age or older. (BRC 6-4.5-2(c))
- Individuals selling or distributing flavored tobacco products free of charge to those under the age of 21, or in possession of four or more flavored tobacco products are in violation of the local law and could be charged with civil penalties up to \$5,000 per occurrence (BRC 6-4.5-3) and/or criminal penalties (BRC 6-4.5-2)



Are retailers still allowed to employ individuals below 21?

Yes.

How should retailers properly dispose of remaining inventory classified as hazardous material?

The ordinance does not address this.

How will the ordinance impact other related businesses (hookah bars/lounges, marijuana dispensaries, etc.)?

The ordinance excludes marijuana from the definition of tobacco product.

Can my business be exempted from the age restriction because it was operating before the changes took effect (can I be grandfathered)?

No. The only exception to the ordinance is that those establishments that were selling or offering for sale on the effective date of the ordinance, can continue to sell only menthol-flavored tobacco products designed for or capable of being used in an electronic smoking device until December 31, 2019, so long as they limit entry to those 21 years of age or older. After January 1, 2020 the sale of menthol- flavored tobacco products designed for or capable of being used in an electronic smoking device in the city of Boulder is completely prohibited.

Who can I contact for more information on Ordinance 8340?

To report a violation of this ordinance or to ask additional questions, visit the following page and submit your inquiry or report using the corresponding form.

bouldercolorado.gov/vaping-and-tobacco-regulations or bit.ly/Vaping-Tobacco-Regs

How will the ordinance affect stores that do not limit entry to people under 21 years of age?

The ordinance affects all businesses the same except those establishments that were selling or offering for sale on the effective date of the ordinance, can continue to sell only menthol-flavored tobacco products designed for or capable of being used in an electronic smoking device until December 31, 2019, so long as they limit entry to those 21 years of age or older. After January 1, 2020 the sale of menthol- flavored tobacco products designed for or capable of being used in an electronic smoking device in the city of Boulder is completely prohibited.