

LEGAL ADVERTISING

TOWN OF CHATHAM ZONING BOARD OF APPEALS LEGAL NOTICE

The Chatham Zoning Board of Appeals will hold a public hearing on **Thursday, August 10, 2017**, starting at **4:00 PM** in the Town Annex Large Meeting Room, 261 George Ryder Road, on the following applications:

Application No. 17-058: William G and Mary J. Hoffman, c/o Theodore P. Streibert, 15 Linden Tree Lane, Chatham, MA 02633, owners of property located at **8 Kingsbury Way**, also shown on the Town of Chatham's Assessors' Map 14D Block 17C Lot 9C. The Applicant seeks to enlarge, extend, or change a nonconforming dwelling on a nonconforming lot via the construction of a roof deck on the rear ell of the structure within the southwesterly abutters' setback. The existing dwelling is nonconforming in that it is setback of 8.2 feet from the southwesterly abutter and 30.6 feet from the Coastal Conservancy District. The proposed roof deck will be nonconforming in that it will be 6.1 feet from the southwesterly abutters where 15 feet is required and will be 27.1 feet from the Coastal Conservancy District where 50 feet is required. The existing building coverage is 966 square feet (19.2%) and the proposed building coverage is 1,022 square feet (20.3%) where 15% is the maximum allowed. The lot is nonconforming in that it contains 5,816 square feet where 20,000 square feet is required in the R20 Zoning District. **A Special Permit is required under M.G.L. Chapter 40A Section 6 and Section V.B. of the Chatham Protective Bylaw.**

Application No. 17-059: Robert L. and Marilyn S. Zocca, c/o William G. Litchfield, Esq., 330 Orleans Road, North Chatham, MA 02650, owners of property located at **30 Old Wharf Road**, also shown on the Town of Chatham's Assessors' Map 16I Block 9 Lot 8. The Applicant seeks to enlarge, extend, or change a nonconforming dwelling on a nonconforming lot via the demolition of the existing dwelling and construction of a new dwelling. The existing dwelling is nonconforming in that it is setback of 14.1 feet from the easterly abutter. The proposed dwelling will be nonconforming in that it will be 9.6 feet from the easterly abutter where 25 feet is required. The existing building coverage is 589 square feet (5.4%) and the proposed building coverage is 1,651 square feet (15%) where 15% is the maximum allowed. The lot is nonconforming in that it contains 11,016 square feet where 40,000 square feet is required in the R40 Zoning District. **A Special Permit is required under M.G.L. Chapter 40A Section 6 and Section V.B. of the Chatham Protective Bylaw.**

Application No. 17-062: Peter Schock, owner of property located at **2570 Main Street**, also shown on the Town of Chatham's Assessors' Map 3D Block 48 Lot 19. The Applicant seeks a Special Permit to change the use of the existing structure from personal and household services to a professional office. The lot is nonconforming in that it contains 5,688 square feet where 20,000 square feet is required in an R20 Zoning District. **A Special Permit is required under M.G.L. Chapter 40A Section 6 and Sections V.B. of the Chatham Protective Bylaw.**

Application No. 17-060: Top Notch Location LLC, c/o William G. Litchfield, Esq., 330 Orleans Road, North Chatham, MA 02650, owners of property located at **409 Main Street**, also shown on the Town of Chatham's Assessors' Map 16D Block 7 Lot A33. The Applicant seeks to enlarge, extend, or change a nonconforming structure on a nonconforming lot via the construction of additions. The existing structure is nonconforming in that it is setback 2.5 feet from the road and 3.7 feet from the easterly abutter where a 5 foot setback is required. The proposed structure will be nonconforming in that it will be 1.2 feet from the easterly abutter where 5 feet is required. The existing lot coverage is 1,040 square feet (24.8%) and the proposed lot coverage is 1,316 square feet (31.3%) where 90% is the maximum allowed. The lot is nonconforming in that it contains 42 feet of frontage where 50 feet is required and contains 4,200 square feet where 5,000 square feet is required in the GB1 Zoning District. **A Special Permit is required under M.G.L. Chapter 40A Section 6 and Section V.B. of the Protective Bylaw.** In the alternative under **Application No. 17-061**, the Applicant seeks a Variance under Section VIII.D.2.c. to allow for the construction of additions as described above. **A Dimensional Variance is required under M.G.L. Chapter 40A Section 10 and Section VIII.D.2.c of the Chatham Protective Bylaw.**

Application No. 17-063: Ernest and Deborah Walen, c/o Richard Roy, 123A Queen Anne Road, Harwich, MA 02645, owner of property located at **43 Shattuck Lane**, also shown on the Town of Chatham's Assessors' Map 15C Block 14 Lot 4. The Applicant seeks to modify Special Permit No. 16-095 granted on January 12, 2017, to allow for the construction of dormers and a portico. The Applicant now seeks to modify Special Permit No. 16-095 to allow extension of the existing deck and construction of a screened porch. The existing dwelling is nonconforming in that it is setback of 21.3 feet from the road. The proposed deck extension and screened porch will be nonconforming in that they will be setback 23 feet from the road where 40 feet is required. The lot is nonconforming in that it contains 28,800 square feet where 40,000 square feet is required and 14,451 square feet of buildable upland where 20,000 square feet is required in the R40 Zoning District. **A Special Permit is required under M.G.L. Chapter 40A Section 6 and Section V.B. of the Chatham Protective Bylaw.**

Application No. 17-064: Terry B. and Janet L. Wells, c/o William G. Litchfield, Esq., 330 Orleans Road, North Chatham, MA 02650, owner of property located at **87 Plum Daffy Lane**, also shown on the Town of Chatham's Assessors' Map 9A Block 5A Lot D15. The Applicant seeks to enlarge, extend, or change a nonconforming dwelling on a conforming lot via the construction of a garage, porches, dormer and addition. The existing dwelling is nonconforming in that it is located 26 feet from the Coastal Conservancy District where 50 feet is required. The proposed garage and porches will comply with all applicable setback requirements. The proposed addition will be nonconforming in that it will be located 38 feet from the Coastal Conservancy District where 50 feet is required. The existing building coverage is 3,153 square feet (10.8%) and the proposed building coverage is 3,966 square feet (13.6%) where 3,000 square feet is the maximum allowed. The lot is conforming in that it contains 45,100 square feet where 20,000 square feet is required in the R20 Zoning District. **A Special Permit is required under M.G.L. Chapter 40A Section 6 and Section V.B. of the Chatham Protective Bylaw.**

Other Business:
Approval of minutes
Public Comments

Plans, site plans, and all other documents related to these Applications are on file with the Department of Community Development, located at 261 George Ryder Road and may be viewed Monday through Thursday, 7:00 a.m. to 4:00 p.m.; Friday, 7:00 a.m. to 12:30 p.m.

The full agenda for this meeting will be posted at: www.mytowngovernment.org/02633 at least 48 hours prior to the meeting, excluding Saturdays, Sundays and legal holidays.

David Nixon
Chairman

The Cape Cod Chronicle
July 27 and Aug. 3, 2017

TOWN OF CHATHAM HISTORICAL COMMISSION AGENDA AUGUST 15, 2017

The Chatham Historical Commission will hold a public meeting on **Tuesday, August 15, 2017 beginning at 9:00 AM at the Town Hall Annex, Lower Level - Committee Room, 261 George Ryder Road, Chatham.**

In accordance with Town policy the public can speak to any issue/hearing or business item on the agenda during the meeting when recognized by the chair.

HEARINGS:

Application No: 17-012 To be heard in accordance with Chapter 158 (Demolition Delay Bylaw) of the Town of Chatham General Bylaws, pursuant to the Notice of Intent to Demolish or Partially Demolish a Historic Building or Structure located at **391 Stage Harbor Road**, filed by Chris Cannon, AIA, PO Box 201, Chatham, MA 02633 for Robert & Elizabeth Potter, 11 Lorena Lane, Winchester, MA 01890-3124

Application No: 17-013 To be heard in accordance with Chapter 158 (Demolition Delay Bylaw) of the Town of Chatham General Bylaws, pursuant to the Notice of Intent to Demolish or Partially Demolish a Historic Building or Structure located at **27 Little Beach Road**, filed by Sarah A. Turano-Flores, Esq., c/o Nutter McClennen & Fish, LLP, 1471 Lynnough Road, PO Box 1630, Hyannis, MA 02601 for Cynthia Pelletier, 100 Wattaquodock Hill Road, Bolton, MA 01740

The full agenda for this meeting will be posted at: www.mytowngovernment.org/02633 at least 48 hours prior to the meeting, excluding Saturdays, Sundays and legal holidays.

The Cape Cod Chronicle
July 27 and Aug. 3, 2017

CHATHAM CONSERVATION COMMISSION PUBLIC HEARING

The Chatham Conservation Commission will hold a public hearing in accordance with the provisions of Massachusetts General Law, Ch 131, s.40, the Wetlands Protection Act, and the Town of Chatham Wetlands Protection Bylaw, Ch. 272 **on Wednesday August 9, 2017 at the Annex Meeting Room, 261 George Ryder Road, Chatham, MA 02633. The meeting starts at 4:00 PM.**

The following applicants have filed Requests for Determination of Applicability: 1047 Old Queen Anne Road, Atwood Goose Pond Real Estate Trust, Frederick Atwood-applicant: Proposed pruning of vegetation; herbicide use on invasive plant species; replanting using native plant material; tree removal and creation/maintenance at 1047 Old Queen Anne Road, Assessors Map 7H parcel ND48.

120 Cranberry Lane, William and Marie Franklin: Proposed removal of roof of dwelling; construction of new second floor addition; expansion of covered entry and installation of mechanical systems at 120 Cranberry Lane Assessors Map 7C parcel G26A.

101 Uncle Deane's Road, James Terry: Proposed installation of septic tank and pump chamber; pump and fill existing cesspool at 101 Uncle Deane's Road, Assessors Map 4D parcel A10.

180 Stage Island Road, Paul MacKoul Trust: Proposed hardscape changes to approved landscape plan at 180 Stage Island Road, Assessors Map 14A1. Parcel D23.

The following applicants have filed Notices of Intent: 200-202 Cackle Cove Road, Joseph F & Denise M Bourassa, SE 10-: Proposed demolition of existing dwelling; construction of new dwelling including deck, driveway, walkways, patio, retaining walls and mitigation plantings at 200-202 Cackle Cove Road, Assessors Map 5C parcel T11.

23 Rover Run, The Mark William Johnson 2010 Revocable Trust & The Jane Clayton Johnson 2010 Revocable Trust, SE 10-: Proposed demolition of existing dwelling; construction of new dwelling at 23 Rover Run, Assessors Map 12J parcel G6.

110 & 0 Old Salt Works Road, Goodrich Chatham Realty Trust, Joseph Marzilli & Stanley I Clark, Trustees (110 Old Salt Works Rd) & Pcl C24 Old Salt Works Road, Eastward Point Property Owners Association, Inc, SE 10-: Proposed consolidation of existing coastal permits; removal of 3 dead trees, small dead cedars and 3 dead tree trunks; a quarterly monitoring & maintenance program at 110 & Pcl C24 (aka 0) Old Salt Works Rd, Assessors Map 13M parcels C25 & C24.

66 Ridgevale Road South, John Wisentaner, Trustee, Jarido Nominee Trust, SE 10-: Proposed 12 ft x 25.5 ft deck at rear of dwelling at 66 Ridgevale Road South, Assessors Map 7B parcel G61.

576 Stage Harbor Road, Faith & Lewis Horton-applicants, Michael L, Sean A and Gwendolyn A Horton, owners, SE 10-: Proposed removal of invasive plant species; installation of restoration plantings at 576 Stage Harbor Road, Assessors Map 13A parcel 9.

Files are available for review at the
Town Annex, 261 George Ryder Road.
Conservation office hours are 7AM-4PM, Monday through Thursday
and 7AM-12:30PM, Friday.

The Cape Cod Chronicle
Aug. 3, 2017

TOWN OF HARWICH PUBLIC MEETING NOTICE

NON-RESIDENT TAXPAYERS MEETING AUGUST 7, 2017

The Harwich Board of Selectmen will hold the **Annual Non-Resident Taxpayers Meeting on Monday, August 7, 2017**, no earlier than 6:30 P.M., during their regular meeting in the Donn B. Griffin Meeting Room, located at 732 Main Street in Harwich. All Harwich non-resident taxpayers are encouraged to attend this informational meeting, which will provide an overview of town government and provide non-resident taxpayers an opportunity to raise and discuss issues and concerns.

Topics include:

1. Fire Station 2
2. Wastewater Issues
3. Report from the Police Chief
4. Report from the Harbormaster
5. Report from the Recreation Director
6. Report from Water Superintendent
7. Report from the DPW Director
8. Wastewater Issues
9. Public Beach 22
10. Overall Financial Position of the Town
11. Questions and Comments

Harwich Board of Selectmen

The Cape Cod Chronicle
July 27 and Aug. 3, 2017

LEGAL NOTICE TOWN OF HARWICH COMMUNITY PRESERVATION COMMITTEE NOTICE OF PUBLIC INFORMATION HEARING

Town of Harwich Community Preservation Committee (CPC) will hold a Public Information Hearing on **THURSDAY, AUGUST 10, 2017**, beginning at 6:00 PM, held in the Donn B. Griffin Room of the Harwich Town Hall, 732 Main Street Harwich Center pursuant to Massachusetts General Laws Ch.44B, Community Preservation Act (CPA) from Section 5(b)(1): "As part of its study, the committee shall hold one or more public informational hearings on the needs, possibilities and resources of the city or town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the city or town."

Attend to learn more about the Community Preservation Act and discuss possible projects that meet the state's Act and Town of Harwich guidelines, falling under one or more of the categories of open space, community housing, historic preservation, or recreation. Application packets are available online www.harwich-ma.gov/community-preservation-committee or from the Town Administrator's office.

The Cape Cod Chronicle
July 27 and Aug. 3, 2017

HARWICH PLANNING BOARD PUBLIC HEARING NOTICE

The Harwich Planning Board will hold a public hearing beginning no earlier than 6:30 PM on Tuesday, August 22, 2017 in the Griffin Room, 732 Main St., Harwich, MA to consider the following application(s). Any member of the public having an interest in this application is invited to attend and provide comment or may submit comments in writing.

PB2017-20 Karen Jennings-Flynn, Manager for Golden Years Deerfield Rd. LLC, as owner, Alan Mesquita, dba Alan's Landscaping, as applicant, c/o Rick Hamlin, as representative seeks approval of a Site Plan Review Special Permit with waivers (relative to driveway access and parking) for new construction. The property is located at 6 Deerfield Road, Map 55, Parcel T1-8, in the IL Zoning District. The application is pursuant to the Code of the Town Harwich §§325-55, and -18.P as set forth in M.G.L. c. 40A §9.

PB2017-21 Brian T. Stevens, as owner, Jay Horowitz, A.I.A., as representative, seeks approval of a Use Special Permit for a detached Accessory Apartment. Via demolition of the existing shed, the proposal seeks to construct a single story, one bedroom residential unit. The property is located at 12 Olde Homestead Way, Map 112, Parcel A4-10, in the RR and W-R Zoning Districts. The application is pursuant to the Code of the Town Harwich §325-51.H and Article V as set forth in M.G.L. c. 40A §9.

All documents related to the above case(s) are on file with the Planning Department and the Town Clerk located at 732 Main Street and may be viewed during regular department business hours.

Lawrence E. Brophy,
Chairman

The Cape Cod Chronicle
Aug. 3 and 10, 2017

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HARWICH BOARD OF HEALTH

In accordance with the regulation "Harwich Board of Health Restrictions for the Sale of Tobacco Products," the Harwich Board of Health voted at a meeting on July 11, 2017 to enact the following regulation, effective September 1, 2017

Regulation of the Harwich Board of Health Restricting the Sale of Tobacco Products

A. Statement of Purpose:

Whereas there exists conclusive evidence that tobacco smoke causes cancer, respiratory and cardiac diseases, negative birth outcomes, irritations to the eyes, nose and throat (Center for Disease Control and Prevention, 2012); and whereas more than eighty percent of all adult smokers begin smoking before the age of eighteen years, more than 90 percent do so before leaving their teens, and more than 3.5 million middle and high school students smoke (SAMHSA, 2011 National Survey on Drug use and Health and U.S. Department of Health and Human Services); and whereas nationally in 2000, sixty nine percent of middle school age children who smoke at least once a month were not asked to show proof of age when purchasing cigarettes (Id.).

Whereas the U.S Centers for Disease Control and Prevention has reported that the current use of electronic cigarettes among middle and high school students tripled from 2013 to 2014 (Center for Disease Control and Prevention, 2015); and whereas the Department of Environmental Protection has classified liquid nicotine in any amount as an "acutely hazardous waste".

Whereas the U.S. Department of Health and Human Services has concluded that nicotine is as addictive as cocaine or heroin; and whereas despite state laws prohibiting the sale of tobacco products to minors, access by minors to tobacco products is a major problem; and whereas the Institute of Medicine concludes that raising the minimum age of legal access to tobacco products to 21 will likely reduce tobacco initiation, particularly among adolescents 15-17, which would improve health across the lifespan and save lives (Institute of Medicine, 2015), and whereas the sale of tobacco products is incompatible with the mission of health care institutions because it is detrimental to the public health and undermines efforts to educate patients on the safe and effective use of medication; now, therefore it is the intention of the Harwich Board of Health to regulate the access of tobacco products.

B. Authority:

This regulation is promulgated pursuant to the authority granted to the Harwich Board of Health by Massachusetts General Laws Chapter 111, Section 31 that "Boards of Health may make reasonable health regulations".

C. Definitions:

For the purpose of this regulation, the following words shall have the following meanings:

Business Agent: An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.

Cigar: Any roll of tobacco that is wrapped in leaf tobacco or in any substance containing tobacco with or without a tip or mouthpiece not otherwise defined as a cigarette under Massachusetts General Law, Chapter 64C, Section 1, Paragraph 1.

Component part: Any element or a tobacco product, including, but not limited to, the tobacco filter and paper, but not including any constituent.

Constituent: Any ingredient, substance, chemical or compound, other than tobacco, water or reconstituted tobacco sheet, that is added by the manufacturer to a tobacco product during the processing, manufacturing or packaging of the tobacco product. Such term shall include a smoke constituent.

Educational Institution: Any public or private college, school, professional school, scientific or technical institution, university or other institution furnishing a program of higher education.

Employee: Any individual who performs services for an employer.

Employer: Any individual, partnership, association, corporation, trust or other organized group of individuals, including Harwich or any agency thereof, which uses the services of one (1) or more employees.

Health Care Institution: An individual, partnership, association, corporation or trust or any person or group of persons that provides health care services and employs health care providers licensed, or subject to licensing, by the Massachusetts Department of Public Health under M.G.L. Ch. 112 or a retail establishment that provides pharmaceutical goods and services and subject to the provisions of 247 CMR 6.00. Health care institution includes, but is not limited to, hospitals, clinics, health centers, pharmacies, drug stores, doctor offices and dentist offices.

Liquid Nicotine Container: A bottle or other vessel which contains nicotine in liquid or gel form, whether or not combined with another substance or substances, for use in tobacco product, as defined herein. The term does not include a container containing nicotine in a cartridge that is sold, marketed, or intended for use in a tobacco product, as defined herein, if the cartridge is pre-filled and sealed by the manufacturer and not intended to be open by the consumer or retailer.

Minimum Legal Sales Age (MLSA): The age an individual must be before that individual can be sold a tobacco product in the municipality.

Permit Holder: Any person engaged in the sale or distribution of tobacco products that applies for and receives a tobacco sales permit or any person who is required to apply for a tobacco sales permit pursuant to these regulations, or his or her business agent.

Person: An individual, firm, partnership, association, corporation, company or organization of any kind, including but not limited to, an owner, operator, manager, proprietor or person in charge of any establishment, business or retail store.

Self Service Display: Any display from which customers may select a tobacco product, as defined herein, without assistance from an employee or store personnel, excluding vending machines.

Tobacco Product: Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, 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; or electronic cigarettes, electronic cigars, electronic pipes, electronic hookah, or similar products, regardless of nicotine content, that rely on vaporization or aerosolization. "Tobacco product" includes any component or part of a tobacco product. "Tobacco product" does not include any product that has been approved by the United States Food and Drug Administration either as a tobacco use cessation product or for other medical purposes and which is being marketed and sold or prescribed solely for the approved purpose.

Vending Machine: Any automated or mechanical self-service device, which upon insertion of money, tokens or any other form of payment dispenses cigarettes, any other tobacco product, as defined herein.

D. Tobacco Product Sales to Persons Under the Minimum Legal Sales Age Prohibited:

1. No person shall sell tobacco products or permit tobacco products, as defined herein, to be sold to a person under the minimum legal sales age; or not being the individual's parent or legal guardian, give tobacco products, as defined herein, to a person under the minimum legal sales age. The minimum legal sales age in the Town of Harwich is 21.

2. In conformance with and in addition to Massachusetts General Law, Chapter 270, Section 7, a copy of Massachusetts General Laws, Chapter 270, Section 6, shall be posted conspicuously by the owner or other person in charge thereof in the shop or other place used to sell tobacco products at retail. The notice shall be provided by the Massachusetts Department of Public Health and made available from the Harwich Board of Health. The notice shall be at least 48 square inches and shall be posted conspicuously by the permit holder in the retail establishment or other place in such a manner so that it may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four (4) feet or greater than nine (9) feet from the floor. The owner or other person in charge of a shop or other place used to sell tobacco products at retail shall conspicuously post any additional signs required by the Massachusetts Department of Public Health.

3. The owner or other person in charge of a shop or other place used to sell tobacco products, as defined herein, at retail shall conspicuously post signage provided by the Town of Harwich Board of Health that disclosed current referral information about smoking cessation.

4. The owner or other person in charge of a shop or other place used to sell Tobacco Products that rely on vaporization or aerosolization, as defined herein as tobacco products, at retail shall conspicuously post a sign stating that "The sale of Tobacco Products, including e-cigarettes, to someone under the minimum legal sales age of 21 is prohibited." The notice shall be no smaller than 8.5" by 11" and shall be posted conspicuously in the retail establishment or other place in such a manner so that they may be readily seen by a person standing at or approaching the cash register. These notices shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four (4) feet or greater than nine (9) feet from the floor.

5. Identification: Each person selling or distributing tobacco products shall verify the age of the purchaser by means of 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 under the age of 27.

6. All retail sales of tobacco products must be face-to-face between the seller and the buyer and occur at the permitted location.

E. Tobacco and Nicotine Delivery Product Sales Permit:

1. No person shall sell or otherwise distribute tobacco products at retail within Harwich without first obtaining a Tobacco Product Sales Permit issued annually by the Harwich Board of Health. Only owners of establishments with a permanent, non-mobile location in Harwich are eligible to apply for a permit and sell tobacco products at the specified location in Harwich.

2. As part of the Tobacco Product Sales Permit application process, the applicant will be provided with the Harwich Board of Health regulation. Each applicant is required to sign a statement declaring that the applicant has read said regulation and that the applicant is responsible for instructing any and all employees who will be responsible for tobacco product sales regarding both state laws regarding the sale of tobacco and this regulation.

3. Each applicant who sells tobacco is required to provide proof of a current tobacco sales license issued by the Massachusetts Department of Revenue before a Tobacco Product Sales Permit can be issued.

4. A separate permit, displayed conspicuously, is required for each retail establishment selling tobacco products, as defined herein. The fee for a Tobacco Product Sales Permit shall be set by the Board of Health. All such permits shall be renewed annually by December 31st.

5. No Tobacco Product Sales Permit holder shall allow any employee to sell cigarettes, other tobacco products until such employee reads this regulation and state laws regarding the sale of tobacco and signs a statement, a copy of which will be placed on file in the office of the employer, that he/she has read the regulation and applicable state laws.

6. A Tobacco Product Sales Permit is non-transferable. A new owner of an establishment that sells tobacco products must apply for a new permit.

7. Issuance of a Tobacco Product Sales Permit shall be conditioned on an applicant's consent to unannounced, periodic inspections of his/her retail establishment to ensure compliance with this regulation.

8. A Tobacco Product Sales Permit will not be renewed if the permit holder has failed to pay all fines issued and the time period to appeal the fines has expired.

F. Free Distribution:

No person shall distribute, or cause to be distributed, any free samples of tobacco products.

G. Out-of-Package Sales:

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 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.

H. Liquid Nicotine:

A retailer of Liquid Nicotine Containers must comply with the provisions of 310 CMR 30.000, and must provide the Harwich Board of Health with a written plan for disposal of said product, including disposal plans for any breakage, spillage or expiration of the product.

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."

I. Self Service Displays:

All self-service displays of tobacco products are prohibited. All humidors including, but not limited to, walk-in humidors must be locked.

J. Vending Machines:

All vending machines containing tobacco products, as defined herein, are prohibited.

K. Prohibition of the Sale of Tobacco Products by Health Care Institutions:

No health care institution located in Harwich shall sell or cause to be sold tobacco products, as defined herein. No retail establishment that operates or has a health care institution within it, such as a pharmacy or drug store, shall sell or cause to be sold tobacco products.

L. Prohibition of the Sale of Tobacco Products by Educational Institutions:

No educational institution located in Harwich shall sell or cause to be sold tobacco products, as defined herein. This includes all educational institutions as well as any retail establishments that operate on the property of an educational institution.

M. Incorporation of Attorney General Regulation 940 CMR 21.00:

The sale or distribution of tobacco products, as defined herein, must comply with those provisions found at 940 CMR 21.00 ("Sale and Distribution of Cigarettes, Smokeless Tobacco Products, and Electronic Smoking Devices in Massachusetts").

N. Violations:

1. It shall be the responsibility of the establishment, permit holder and/or his or her business agent to ensure compliance with all sections of this regulation. The violator shall receive:

a. In the case of a first violation, a fine of one hundred dollars (\$100.00).
b. In the case of a second violation within 24 months of the date of the current violation, a fine of two hundred dollars (\$200.00) and the Tobacco Product Sales Permit may be suspended for up to seven (7) consecutive business days.

c. In the case of three or more violations within a 24 month period, a fine of three hundred dollars (\$300.00) and the Board of Health shall hold a hearing in accordance with subsection 4 of this section and the Tobacco Product Sales Permit may be suspended for up to thirty (30) consecutive business days.

d. In the case of four violations or repeated, egregious violations of this regulation within a 36 month period, the Board of Health shall hold a hearing in accordance with subsection 4 of this section and may permanently revoke a Tobacco Sales Permit.

2. Refusal to cooperate with inspections pursuant to this regulation shall result in the suspension of the Tobacco Product Sales Permit for thirty (30) consecutive business days.

3. In addition to the monetary fines set above, any permit holder who engages in the sale or distribution of tobacco products directly to a consumer while his or her permit is suspended shall be subject to permanent revocation of the Tobacco Sales Permit.

4. The Harwich Board of Health shall provide notice of the intent to suspend a Tobacco Sales Permit, which notice shall contain the reasons therefore and establish a time and date for a hearing which date shall be no earlier than seven (7) days after the date of said notice. The permit holder or its business agent shall have an opportunity to be heard at such hearing and shall be notified of the Board of Health's decision, and the reasons therefore in writing. After a hearing, the Harwich Board of Health may suspend the Tobacco Product Sales Permit if the Board finds that a violation of this regulation occurred. For purposes of such suspensions or revocations, the Board shall make the determination notwithstanding any separate criminal or non-criminal proceedings brought in court hereunder or under the Massachusetts General Laws for the same offense. All tobacco products, as defined herein, shall be removed from the retail establishment upon suspension of the Tobacco Product Sales Permit. Failure to remove all tobacco products shall constitute a separate violation of this regulation.

O. Non-Criminal Disposition:

Whoever violates any provision of this regulation may be penalized by the non-criminal method of disposition as provided in General Laws, Chapter 40, Section 21 D or by filing a criminal complaint at the appropriate venue.

Each day any violation exists shall be deemed to be a separate offense.

P. Enforcement:

Enforcement of this regulation shall be by the Harwich Board of Health or its designated agent(s).

Any person who desires to register a complaint pursuant to the regulation may do so by contacting the Harwich Board of Health or its designated agent(s) and the Board shall investigate.

Q. Severability:

If any provision of these regulations is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

R. Variances:

Variances from this Regulation may be granted by the Board of Health after a hearing at which the applicant establishes the following: The enforcement thereof would do manifest injustice, and; A variance contemplated from these Regulations will not in the opinion of the Board of Health adversely affect the purpose or intent of this Regulation.

S. Effective Date:

This regulation shall take effect on September 1, 2017

HARWICH BOARD OF HEALTH
Robert Insley, MD
Frank Boyle
Pamela Howell, RN
Cynthia Taft Bayerl
Matthew Cushing, MD
Legal Hearing: July 11, 2017
Adopted: July 11, 2017
Effective: September 1, 2017

In accordance with state law, this legal notice will also be available electronically at www.masspublicnotices.org. The city/town is not responsible for any errors in the electronic posting of this legal notice."

The Cape Cod Chronicle
Aug. 3, 2017