

## Chapter 371. Smoking

[HISTORY: Adopted by the Town of Barnstable Board of Health as indicated in article histories. Amendments noted where applicable.]

### **GENERAL REFERENCES**

Noncriminal disposition — See Ch. 1, Art. I.

Alcoholic beverages — See Ch. 20.

Fee for tobacco sales permit — See Ch. 318.

### **ARTICLE I. Definitions.**

§ 371-1. As used in this article, the following terms shall have the meanings indicated:

#### **ADULT ONLY RETAIL TOBACCO STORE**

An establishment which is not required to possess a retail food permit whose primary purpose is to sell or offer for sale to consumers, but not for resale, tobacco products and paraphernalia in which the sale of other products is merely incidental, and in which the entry of persons under the age of 21 is prohibited at all times, and maintains a valid permit for the retail sale of tobacco products as required to be issued by the Barnstable Board of Health.

#### **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.

#### **COUPON**

Any card, paper, note, form, statement, ticket or other issue distributed for commercial or promotional purposes to be later surrendered by the bearer so as to receive an article, service or accommodation without charge or at a discount price.

#### **EDUCATIONAL INSTITUTION**

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

#### **ELECTRONIC SMOKING DEVICE**

Any product that can deliver nicotine to the user through inhalation of vapor or aerosolization. "Electronic smoking device" includes any component part of such product, including liquid for use in the device regardless of whether the liquid contains nicotine, whether sold separately. This term includes such devices whether they are manufactured as e-cigarettes, e-cigars e-pipes or under any other product name. It does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product and is being marketed and sold solely for the approved purpose.

**EMPLOYEE**

A person who performs services for wages or other consideration.

**EMPLOYER**

A person, partnership, association, corporation, trust, or other organized group, including the County of Barnstable and any department or agency thereof, and any municipal entity, which utilizes the services of one (1) or more employees.

**ENCLOSED**

A space bounded by walls, with or without windows or fenestrations, continuous from floor to ceiling and enclosed by one (1) or more doors, including but not limited to an office, function room or hallway.

**HOTELS, MOTELS, BED & BREAKFASTS AND LODGING HOMES**

A temporary dwelling as defined in G.L. chapter 64G, Section 1.

**LIQUID NICOTINE CONTAINER**

A bottle or other vessel which contains nicotine in liquid or gel form, whether combined with another substance or substances, for use in a 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 prefilled and sealed by the manufacturer and not intended to be opened by the consumer or retailer.

**LISTED OR NON-DISCOUNTED**

The higher of the price listed for a tobacco product on its package or the price listed on any related shelving, posting, advertising or display at the place where the tobacco product is sold or offered for sale plus all applicable taxes if such taxes are not included in the state price, and before the application of any discounts or coupons.

**MEMBERSHIP ASSOCIATION**

A not-for-profit entity that has been established and operates for a charitable, philanthropic, civic, social, benevolent, educational, religious, athletic, recreation or similar purpose, and is comprised of members who collectively belong to:

- i. a society, organization or association of a fraternal nature that operates under the lodge system, and having one (1) or more affiliated chapters or branches incorporated in any state; or
- ii. a corporation organized under Massachusetts General Laws Chapter 180; or
- iii. an established religious place or worship or instruction whose real or personal property is exempt from taxation;
- iv. a veterans' organization incorporated or chartered by the Congress of the United States, or otherwise, having one (1) or more affiliated chapters or branches incorporated in any state.

**MINIMUM LEGAL SALES AGE**

The age an individual must be before that individual can be sold a tobacco product in Barnstable.

#### **NON-RESIDENTIAL ROLL-YOUR-OWN (RYO) MACHINE**

A mechanical device made available for use (including to an individual who produces cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco solely for the individual's own personal consumption or use) that is capable of making cigarettes, cigars or other tobacco products. RYO machines located in private homes used for solely personal consumption are not Non-Residential RYO machines.

#### **PERMIT HOLDER**

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

#### **PERSON**

Any 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.

#### **SCHOOLS**

Public or private elementary or secondary schools.

#### **SMOKING**

The lighting of a cigar, cigarette, pipe or other tobacco product or possessing a lighted cigar, cigarette, pipe or other tobacco or non-tobacco product designed to be combusted and inhaled.

#### **SMOKING BAR**

An establishment that primarily is engaged in the retail sale of tobacco products for consumption by customers on the premises and is required by Mass. General Law Ch. 270, §22 to maintain a valid permit to operate a smoking bar issued by the Massachusetts Department of Revenue. "Smoking bar" shall include, but not be limited to, those establishments that are commonly known as "cigar bars", "hookah bars" and "vape bars".

#### **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 other 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.

#### **TOBACCO VENDING MACHINE**

An automated or mechanical or electrical device self-service device, which upon insertion of money, tokens or any other form of payment, dispenses or makes cigarettes or, any other tobacco products, as defined herein.

#### **WORKPLACE**

An indoor. Structure or facility or a portion thereof, in which one (1) or more employees perform services for compensation for an employer, other enclosed spaces rented to or otherwise used by the public; and where the employer has the right or authority to exercise control over the space..

### **Article II. Findings and purpose.**

#### **§ 371-2 A.**

The 1986 Surgeon General's Report on "The Health Consequences of Involuntary Smoking" clearly documents that nonsmokers are placed at risk for developing disease as a result of exposure to environmental tobacco smoke or secondhand smoke. In 1993, the Environmental Protection Agency classified environmental tobacco smoke as a known human carcinogen. Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke is a cause of disease, including lung cancer, in nonsmokers.

#### **B.**

Exposure to environmental tobacco smoke presents a serious and substantial public health risk. Of particular concern is the workplace environment of nonsmokers, where they may be subjected to sustained, involuntary exposure. At special risk are children, the elderly, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease.

#### **C.**

The U.S. Department of Health and Human Services has concluded that nicotine is as addictive as cocaine or heroin and the Surgeon General found that nicotine exposure during adolescence, a critical window for brain development, may have lasting adverse consequences for brain development. In addition, the Institute of Medicine (IOM) concluded 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. Research on raising the minimum legal drinking age to 21 has reduced alcohol consumption among youth and protected drinkers from long-term negative outcomes in adulthood, including alcohol and other drug dependence

#### **D.**

Studies have shown that vending machines afford an opportunity for unauthorized sale of cigarettes to minors. Evidence further demonstrates that tobacco is extremely addictive. Approximately 80% of all smokers begin smoking before age 18 and more than 3,000 young people begin smoking every day in this nation.

E.

The Cape Cod Regional Tobacco Control Program Advisory Panel (comprised of representatives of the Boards of Health from the Towns of Barnstable, Bourne, Brewster, Chatham, Dennis, Eastham, Falmouth, Harwich, Mashpee, Nantucket, Orleans, Provincetown, Sandwich, Truro, Wareham, Wellfleet and Yarmouth) urges all public places and workplaces to become voluntarily smokefree before November 1, 1996.

F

Environmental tobacco smoke is a leading public health problem in the Town of Barnstable and throughout the United States; and

G There exists conclusive evidence that environmental tobacco smoke causes cancer, cardiovascular disease, respiratory disease, negative birth outcomes, allergies and irritations to the eyes, ears nose and throat of both smokers and nonsmokers; and

H

The Environmental Protection Agency (EPA) has designated environmental tobacco smoke to be a Class A carcinogen, similar to radon and asbestos, with no known safe level of exposure; and

I

Children, the elderly, individuals with cardiovascular disease, individuals with impaired respiratory function, and asthmatics are among those people who are particularly susceptible to the harmful effects of inhaling environmental tobacco smoke.

**§ 371-3. Authority.**

This regulation is promulgated under the authority granted to the Barnstable Board of Health pursuant to Massachusetts General Laws Chapter 111, Section 31 that “[b]oards of health may make reasonable health regulations.” It is also promulgated pursuant to Massachusetts General Laws Chapter 270, Section 22(j) which states in part that “[n]othing in this section shall permit smoking in an area in which smoking is or may hereafter be prohibited by law including, without limitation: any other law or health regulation. Nothing in this section shall preempt further limitation of smoking by the commonwealth or political subdivision of the commonwealth.”

**Article III: Smoking in Public Places**

**§ 371-4. Smoking Prohibited**

- a) It shall be the responsibility of the employer to provide a smoke-free environment for all employees working in an enclosed workplace as well as those workplaces listed in subsection (c) below.
- b) Smoking is hereby prohibited in Barnstable in accordance with M.G.L. Ch. 270, §22 (commonly known as the “Smoke-Free Workplace Law”).
- c) Pursuant to M.G.L. Ch. 270, §22(j) smoking is also hereby prohibited in:
  1. The area within ten (10) feet of any municipal building entranceway accessible to the public.

2. Municipal-owned parks and playgrounds.
  3. Municipal-owned athletic fields.
  4. Municipal-owned beaches and other swimming areas.
  5. Public transportation, including bus and taxi waiting areas.
- d) The use of e-cigarettes is prohibited wherever smoking is prohibited per Massachusetts law and Section 4(c) of this regulation.

**§ 371-5 Posting Notice of Smoking Prohibition:**

An owner, Employer, or person having control of a premises where Smoking is prohibited shall conspicuously display upon the premises “No Smoking” signs or the international No Smoking symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it). These signs shall be comparable in size to the sign provided by the Massachusetts Department of Public Health, which are available from the Barnstable Board of Health.

**§371-6 Exceptions:**

Notwithstanding the provisions of this regulation, the Smoking of tobacco products may be permitted in the following places and/or circumstances:

- A. Private residences, except those portions used as a childcare or health care office when operating as such.
- B. A guest room in a hotel, motel, inn, bed and breakfast or lodging home rented to guests that are designated as “smoking rooms”.
- C. An outdoor location where the public may gather that is under Federal or State jurisdiction, which has a policy on smoking accepted by the Board of Health.
- D. An outdoor location where the public may gather that is owned and under the control of a Membership Association, which has a policy on smoking accepted by the Board of Health.
- E. Any smoking bar in existence as of February 4, 2000 which obtained a variance from the Board of Health. No pre-existing smoking bar shall be permitted to either sell tobacco products to minors or to allow minors to use tobacco products on the premises.

**§371.7 Penalties**

A. Violations of this smoking regulation may be enforced by the provisions of MGL Chapter **40**, § 21D et seq. noncriminal disposition and by Chapter **1**, General Provisions, Article **1**, regarding noncriminal dispositions.

B. Any person who knowingly violates any provision of this, shall be punished by a fine of up to \$50 for each offense.

C. Any proprietor(s), employer or other person(s) in charge of a public place, who fail(s) to comply with these regulations shall be subject to the following actions for each

1. A warning shall be issued for a first offense.
2. A fine of up to \$100 may be issued for the second offense, up to \$200 for a third offense, up to \$300 for a fourth offense, and up to \$300 for any subsequent offense;
3. No provision, clause or sentence of this paragraph of this Regulation shall be interpreted as prohibiting any Town of Barnstable Department or Board from suspending

or revoking licenses or permits issued by and within the jurisdiction of such Departments for repeated violations of this regulation.

D. In addition to the remedies provided by Subsections **B** and **C** above, the Board of Health or any person aggrieved by the failure of the proprietor or other person in charge of a public place or workplace to comply with any provision of this article may apply for injunctive relief to enforce the provisions of this article in any court of competent jurisdiction.

E. The Board of Health or its designee(s) shall enforce this regulation.

**§ 371-8. 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.

**ARTICLE IV.SALE OF TOBACCO PRODUCTS**

**§ 371-9. Sale and distribution of tobacco products.**

1. No person shall sell or provide a tobacco product, as defined herein, to a person under the minimum legal sales age. The minimum legal sales age in Barnstable is 21.

2. Identification: Each person selling or distributing tobacco products, as defined herein, shall verify the age of the purchaser by means of a valid 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.

3. All retail sales of tobacco products, as defined herein, must be face-to-face between the seller and the buyer and occur at the permitted location.

**E. Tobacco Product Sales Permit:**

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

2. As part of the Tobacco Product Sales Permit application process, the applicant will be provided with the Barnstable 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 federal, state and local laws about the sale of tobacco and this regulation.

3. Each applicant who sells tobacco products is required to provide proof of a current Tobacco Retailer License issued by the Massachusetts Department of Revenue, when required by state law, before a Tobacco Product Sales Permit can be issued. Applicant may be asked to provide evidence that a legitimate business transfer or business purchase has taken place.

4. A separate permit, displayed conspicuously, is required for each retail establishment selling tobacco products, as defined herein. The fee shall be determined by the Barnstable Board of Health annually.

5. A Tobacco Product Sales Permit is non-transferable. A new owner of an establishment that sells tobacco products, as defined herein, must apply for a new permit. No new permit will be issued unless and until all outstanding penalties incurred by the previous permit holder are satisfied in full.

6. 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.

7. 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 and/or the permit holder has not satisfied any outstanding permit suspensions.

8. A Tobacco Product Sales Permit will not be renewed if the permit holder has sold a tobacco product to a person under the MLSA (§D.1) three times within the previous permit year and the time period to appeal has expired. The violator may request a hearing in accordance with subsection 4 of the Violations section.

9. A Tobacco Product Sales Permit will 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.

#### **§ 371-10. Inspection procedures.**

##### A.

Refusal, notification of right to access, and final request for access. If a person denies access to the Board of Health or its agent, the Board of Health or its agent shall:

##### (1)

Inform the person that:

##### (a)

The permit holder is required to allow access to the Board of Health or its agent;

##### (b)

Access is a condition of the acceptance and retention of a tobacco sales permit; and

##### (c)

If access is denied, an order issued by the appropriate authority allowing access, hereinafter referred to as an inspection order, will be obtained according to law; and

##### (2)

Make a final request for access.

##### B.

Refusal, reporting. If, after the Board of Health or its agent presents credentials and provides notice, explains the authority upon which access is requested, and makes a final request for access, the permit holder continues to refuse access, the Board of Health or its agent shall provide details of the denial of access on an inspection report form.

##### C.



Tobacco sales compliance checks, inspections and investigations.

(1)

All permitted premises shall be subject to an inspection or to a tobacco sales compliance check by the Board of Health or its agent.

(2)

Any person who hinders or delays the Board of Health or its agent in the performance of the his/her duties or who refuses to admit to, or locks out any such agent from any place which such agent is authorized to conduct a compliance check or inspection or who refuses to give to such agent such information as may be required to give to proper enforcement of the General Laws, shall be punished by a fine of not less than \$50 and not more than \$200.

D.

Inspection order to gain access. If denied access to an establishment which sells tobacco products for an authorized purpose, and after complying with Subsection A, the Board of Health or its agent may issue, or apply for the issuance of, an inspection order to gain access as provided by law.

E.

Responsibilities of tobacco sales permit holder. The tobacco sales permit holder is responsible for the proper management of the premises so that unlawful acts do not occur on the premises and so that the premises does not become a threat to the public welfare or public safety. When violations of the permit or of the law are brought to the attention of the Board of Health, a disciplinary hearing will be held and, as a result of evidence brought to the attention of the Board of Health at the hearing, the Board of Health may modify, suspend, or revoke the permit.

F.

Issuing noncriminal ticket citation or inspection report and obtaining acknowledgement of receipt. At the conclusion of the tobacco sales compliance check or tobacco sales establishment inspection and according to law, the Board of Health or its agent shall provide a copy of the completed noncriminal ticket citation or notice of the violations to the permit holder or the person in charge, and request a signed acknowledgement of receipt.

G.

Refusal to sign acknowledgement. The Board of Health or its agent shall:

(1)

Inform a person who declines to sign an acknowledgement of receipt of a noncriminal ticket citation or inspectional findings as specified in Subsection F that:

(a)

An acknowledgement of receipt is not an agreement with findings;

(b)

Refusal to sign an acknowledgement of receipt will not affect the permit holder's obligation to correct the violations noted in the inspection report within the time frames specified; and

(c)

A refusal to sign an acknowledgement of receipt is noted in the inspection report and conveyed to the Board of Health's historical record for the establishment; and

(2)

Make a final request that the person in charge sign an acknowledgement receipt of a noncriminal ticket citation or inspectional findings.

### **§371-11 Other Provisions**

**A**

**Free Distribution and Coupon Redemption:** No person shall:

1. Distribute or cause to be distributed, any free samples of tobacco products, as defined herein;

2. Accept or redeem, offer to accept or redeem, or cause or hire any person to accept or redeem or offer to accept or redeem any coupon that provides any tobacco product, as defined herein, without charge or for less than the listed or non-discounted price; or
3. Sell a tobacco product, as defined herein, to consumers through any multi-pack discounts (e.g., "buy-two-get-one-free") or otherwise provide or distribute to consumers any tobacco product, as defined herein, without charge or for less than the listed or non-discounted price in exchange for the purchase of any other tobacco product.

## **B**

### **Out-of-Package Sales:**

1. 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, as defined herein, 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.
2. Permit holders who sell Liquid Nicotine Containers must comply with the provisions of 310 CMR 30.000, and must provide the Barnstable Board of Health with a written plan for disposal of said product, including disposal plans for any breakage, spillage or expiration of the product.
3. All permit holders 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."
4. No permit holder shall refill a cartridge that is prefilled and sealed by the manufacturer and not intended to be opened by the consumer or retailer.

## **C**

### **Self-Service Displays:**

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

## **D**

### **Vending Machines:**

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

**E.**

**Prohibition of the Sale of Tobacco Products by Educational Institutions:**

No educational institution located within the Town of Barnstable 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.

**F.**

**Incorporation of State Laws and State Regulations:**

1. The sale or distribution of tobacco products, as defined herein, must comply with those provisions found at M.G.L. Ch. 270, §§6, 6A, 7 and M.G.L. Ch. 112, §61A.
2. 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") and 940 CMR 22.00 ("Sale and Distribution of Cigars in Massachusetts").

**§ 371-11 Violations and penalties.**

**A.**

Violations of this smoking regulation will be subjected to the provisions of the regulation of the Town of Barnstable regarding noncriminal disposition.<sup>11</sup>

**B.**

Any person who knowingly violates any provision of this regulation, or who smokes in a municipal area subject to regulation, in which a "Smoking Prohibited by Law" sign or its equivalent is conspicuously displayed, shall be punished by a fine of \$50 for each offense.

**C.**

Any proprietor(s) or other person(s) in charge of a public place or workplace, including municipal entities, who fail(s) to comply with these regulations shall be subject to the following actions for each offense:

**(1)**

A warning shall be issued for a first offense. A fine of \$100 may be issued for the second offense, \$200 for a third offense, \$300 for a fourth offense, and \$300 for any subsequent offense; and

**(2)**

Following the second offense the Board of Health may, after a public hearing, suspend any license for that public place for a period of up to two days for each day of noncompliance or withhold renewal of license. Following a third offense, the Board of Health may suspend an existing permit/license for a period of time determined by the Board of Health until compliance is achieved.

**D.**

Persons, firms, corporations, or agencies selling tobacco products to minors or selling tobacco products without a tobacco sales permit shall be punished as follows:

- 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 shall 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 Tobacco Product Sales Permit shall be suspended for up to thirty (30) consecutive business days.
- d. In the case of four violations or repeated, egregious violations of this regulation, as determined by the Board of Health, within a 24-month period, the Board of Health shall hold a hearing in accordance with subsection 4 of this section and may permanently revoke a Tobacco Product Sales Permit.

2. Failure to cooperate with inspections pursuant to this regulation shall result in the suspension of the Tobacco Product Sales Permit for up to 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 while his or her permit is suspended shall be subject to the suspension of all Board of Health issued permits for up to thirty (30) consecutive business days. Multiple tobacco product sales permit suspensions shall not be served concurrently.

4. The Barnstable Board of Health shall provide notice of the intent to suspend or revoke a Tobacco Product Sales Permit, which notice shall contain the reasons therefor 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 therefor in writing. After a hearing, the Barnstable Board of Health shall suspend or revoke the Tobacco Product Sales Permit if the Board of Health finds that a violation of this regulation occurred. All tobacco products, as defined herein, shall be removed from the retail establishment upon suspension or revocation of the Tobacco Product Sales Permit. Failure to remove all tobacco products, as defined herein, shall constitute a separate violation of this regulation.

E.

In addition to the remedies provided above, the Board of Health may apply for injunctive relief to enforce the provisions of this article in any court of competent jurisdiction.

**§ 371-12. 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.

**§ 371-13. Other applicable laws.**

A.

The Board of Health or its agent shall enforce this regulation. Any violation of these regulations may be enforced and punished by the provisions of Chapter **1**, General Provisions, Article **1**, Noncriminal Enforcement of Violations, as adopted by the Town of Barnstable.

B.

Any citizen who desires to register a complaint of noncompliance under this regulation may do so by contacting the Public Health Division.

**§ 371-14. Effective date.**

These amended regulations shall be effective as of December 30, 2018