

Minutes

of the Town of **Provincetown Licensing Board** Meeting Tuesday, April 1, 2003 in the Caucus Hall, 260 Commercial Street.

Present: Hunter O'Hanian (Chairman), Keith Brickel (Vice Chairman), Diana Robertson (Secretary), Jean Bock, Mitchell Baker, **Excused:** John Foley (Alternate) and Elizabeth Gallerizzo (Licensing Agent), **Absent** none, **Others**

Present: none

CONVENED: 5:01 P.M.

ADJOURNED: 6:23 P.M.

Public Hearing

To hear the merit of revising the Provincetown Licensing Rules & Regulations as described below.

LICENSING RULES AND REGULATIONS

1.0 GENERAL RULES FOR ALL BUSINESSES

1.04 Availability of Rules and Regulations

- a) All licensees shall be provided with a copy of the Rules and Regulations of the Licensing Board (add)at the time of application.

1.12 Responsibilities of License Holder

- d) Applicants are responsible for providing either a Worker's Comp Certificate of Liability Insurance with the Town of Provincetown Licensing Board named as the certificate holder, or a Worker's Comp Insurance Affidavit. In addition, the applicant is responsible for completing and submitting all required forms (such as, but not limited to, application, new license or renewal affidavit, tax affidavit, business hours of operation, floor plans, fire alarm test reports) prior to being scheduled for an inspection (add)or to Licensing Board. Until the application is complete, the application shall not be advertised or presented to the Licensing Board.

(Insert a new h, as follows:)

- h) Be generally familiar with the applicable Rules and Regulations of the Licensing Board.

(Move from 3.0 to 1.12)

- i) Number approved by the Department of Regulatory Management. Every room licensed for public occupancy shall be conspicuously posted at each entrance, clearly visible to patrons as they enter, with a statement of occupancy as determined by the Department of Regulatory Management. The statement must be clearly printed on permanent stock with white letters and numbers, no less than 3 inches high, printed on dark contrasting background. Handwritten statements or statements on paper or cardboard are not permitted. The statement shall be permanently affixed and secured and maintained in a clearly visible state. The statement shall contain the language "MAXIMUM OCCUPANCY OF THIS ROOM IS _____ PERSONS" and where applicable, "SEATING CAPACITY OF THIS ROOM IS _____" and also where applicable, "THEATER CAPACITY OF THIS ROOM IS _____".
- j) No licensee may exceed the approved number of occupancy or seats posted on the license. The seating capacity and occupancy are set by the Department of Regulatory Management or Board of Health or the Licensing Board. The occupancy, and if applicable, the seating capacity and, if applicable, the theater occupancy shall be posted on the license.
- k) The occupancy and capacities set for the premises by the Department of Community Development and the Board of Health shall constitute the actual capacity of the premises and the amount approved by the Licensing Board and stated on the license shall not exceed this capacity.

(Insert a new 1.13 as follows:)

1.13 Requirement for appearance/attendance at Licensing Board hearing by applicant or legal designee

- a) **New License**
- b) **Amendment of License**

- c) **Transfer of License**
- d) **Upon specific invitation of the Licensing Board**

3.0 ALCOHOLIC BEVERAGES LICENSES

3.01 General Provisions

- r) Licensees shall not permit opened alcoholic beverages to be brought onto the licensed premises by patrons or employees (add) **nor allow any alcohol to be brought in any area that is open to the public.**

(Insert a new v and y as follows:)

- v) **All establishment that serve alcohol, it is strongly suggested that all employees that serve get "Tips" training.**
- y) **For All establishments who are required to provide food must conspicuously post a menu of items offered and their prices.**

3.05 Additional Provisions For Private or Public Club Licenses

- c) No Discrimination
No private club licensee shall make any distinction, discrimination or restriction on account of race, color, (add) **religion, national origin, sexual orientation, gender or ancestry.**

4.00 ENTERTAINMENT LICENSES

4.01 General Provisions

(Insert a new g as follows:)

- g) **An Entertainment License, which allows for 'Live Entertainment' shall be deemed to allow an auction, which will be completed, within two days, to benefit non-profit organizations.**

5.00 COMMON VICTUALERS LICENSES

5.02 Alcoholic Beverages/~~Brown Bagging~~

~~Patrons are not permitted to bring alcoholic beverages on the premise for their own consumption.~~
Licensees are not permitted to keep alcoholic beverages on the premises except for a reasonably small quantity that is used in the preparation of certain foods.

6.00 INNHOLDER LICENSES

6.01 Definition

Innholder shall mean a building or group of buildings with a minimum of twenty separate guest units all situated upon one parcel of land and providing food and sleeping accommodations (but not individual cooking facilities) for persons lodged on a transient basis for compensation and offering as well off-street parking for the convenience of guests (add) **as described in M.G.L. Chapter 140 Section 2 (dwelling definition), and M.G.L. Chapter 138, Section 12 (alcohol service).**

8.00 TAXICAB REGULATIONS

8.01 TAXICAB OWNERS

- q) Taxicab owners shall notify the Licensing Board when drivers leave the company. (add) **Failure to do so shall incur a \$50.00 fine violation.**
- r) TAXI RATES: To/from
Herring Cove Beach or the Visitor Center, (add) **to anywhere in Provincetown,** is \$4.00 per person.
- s) To/from the Airport or Race Point Beach, (add) **to anywhere in Provincetown,** is \$5.00 per person. Children
All other fares in Provincetown are \$3.00.
(under 12 years of age) - \$1.00 off when accompanied by an adult.
\$2.00 surcharge per fare from 1:00 a.m. to 6:00 a.m.
\$5.00 surcharge per bicycle.
\$60.00 hourly rate in Provincetown
- u) The Licensing Agent or Licensing Board is authorized (add) **after approval of the applicant by the Police Department,** to issue and a temporary vehicle swap after a vehicle inspection by the designated officer. **Temporary license may be valid for not more than ten (10) days (add) for no longer than till the next regularly scheduled meeting.**

8.02 TAXICAB OPERATORS

(Insert a new g as follows:)

- g) The Licensing Agent or Licensing Board is authorized (add) **after approval of the applicant by the Police Department,** to issue and a temporary vehicle swap after a vehicle inspection by the designated officer. **Temporary license may be valid for not more than ten (10) days (add) for no longer than till the next regularly scheduled meeting.**

(Insert a new 9.00 as follows:)

9.00 PEDICAB REGULATIONS

9.01 DEFINITIONS

- a) **Pedicab: A multiwheeled, hooded or unhooded vehicle that is propelled by human power, is used in the transport of passengers and is available for hire on the public streets.**
- b) **Operator: Any person who drives a pedicab, engaged in the business of transporting persons for hire.**

9.02 PEDICAB OWNERS

- a) **No person or corporation shall engage in the business of transporting persons for hire in a vehicle without first having obtained a license from the Provincetown Licensing Board authorizing him/her to engage in such business.**
- b) **Pedicab owner must reside in the town of Provincetown and pedicabs must be registered to a residential address in the Town of Provincetown.**
- c) **The applicant must already have had the pedicab "Vehicle for Hire Inspection and Inspection Checklist" completed by the Police Department in advance of receiving a license each year, and submit a Vehicle Condition Check-Off Form completed and supplied by the Police Department to the Licensing Agent upon filing an application.**
- d) **All licensed pedicabs must pass all items on the "Vehicle for Hire" inspection checklist. There shall be periodic inspections and spot checks will occur during the license year.**
- e) **No pedicab license shall be issued by the Licensing Board until the applicant has presented proof of the vehicle's insurance, that the insurance policy covers no more than three passengers, plus one operator, or weight limit set by manufacturer, riding in the vehicle, and the applicant provides a Certificate of Vehicle Insurance, meeting minimum state taxicab policy requirements, naming the Provincetown Licensing Board as the certificate holder.**
- f) **When a pedicab owner changes his/her address or the place at which a pedicab owned by him/her is kept, the owner shall notify the Licensing Board within three days of such change.**
- g) **All pedicabs shall have the business name and the business telephone number posted on rear of the cab in letters no less than three (3) inches high and one-half inch wide. All lettering must be in the form of painted or self-adhesive contrasting lettering (magnetic or other removable signs are not permitted).**
- H) **Hours of operation shall not exceed the hours of 6AM to 1AM daily.**
- l) **Pedicab licenses shall be valid only during the calendar year for which they are issued.**
- j) **A license issued for any pedicab is not transferable without Licensing Board approval.**
- k) **No placards, banners, or advertisements of any description will be permitted upon the outside of any pedicab without the approval of the Licensing Board and/or special permit from the Zoning Board of Appeals.**
- l) **All pedicab drivers shall maintain a neat and clean pedicab while on duty.**
- m) **The total Pedicab License fee is \$40.00 plus the application fee of \$30.00.**
- n) **The Pedicab shall be operated in a safe manner at all times. The Provincetown Police Department under supervision of the Chief of Police is hereby designated as the enforcement agency of the Rules & Regulations and shall file with the Licensing Board any alleged violation thereof. Pedicab owners/operators shall comply with Rules & Regulations. Any violation of the Licensing Board's Rules & Regulations, State and local laws may result in a suspension or revocation of license.**
- o) **Pedicab owners shall notify the Licensing Board when drivers leave the company.**
- p) **A fare shall be a person or persons picked up and dropped off together.**

Q) PEDICAB RATES:

\$1.00 per minute, \$5.00 minimum

Small Baggage, Parcel or Object with Passenger Charge

For each purse, briefcase, airline handbag, camera, grocery bag (less than 25-pound size) parcel less than four cubic feet in size or collapsible wheelchair – No Charge

Regular Baggage, Parcel or Object with Passenger Charge

For each piece of baggage, parcel or object except those enumerated in subparagraph - \$1.00

Extra Large or Heavy Baggage, Parcel or Object with Passenger Charge

For each piece of baggage, parcel or object, greater than 10 cubic feet in size, exceeding 80 pounds, or exceeding four feet in length, and for each surfboard or bicycle. - \$3.00

The Licensing Agent or Licensing Board is authorized after approval of the applicant by the Police Department, to issue a temporary vehicle swap after a vehicle inspection by the designated officer. Temporary license may be valid for no longer than till the next regularly scheduled meeting.

- s) **No smoking is allowed in pedicabs at any time.**

9.03 PEDICAB OPERATORS

- a) **The applicant must be 18 years of age or older.**
- b) **The applicant must have a valid state driver's license and present a copy to the Licensing Agent upon filing application.**
- c) **A certificate of physical fitness issued by a practicing physician shall accompany any application for a taxi operator's license.**
- d) **Pedicab operator's license shall be valid only during the calendar year for which it is issued.**
- e) **When a pedicab operator changes his/her address, the operator shall notify the Licensing Board within three days of such change.**
- f) **A neat and clean appearance is expected of all pedicab drivers while on duty.**
- g) **The total Pedicab Operator fee is \$30.00 plus the application fee of \$30.00.**
- h) **The Licensing Agent or Licensing Board is authorized after approval of the applicant by the Police Department, to issue a temporary operator's license. Temporary license may be valid for no longer than till the next regularly scheduled meeting.**
- i) **Shall not, when otherwise available for hire, refuse to transport anyone requesting a ride except under the following circumstances:**
 - 1. **The transportation requested is such that the driver may not legally accept such passenger;**
 - 2. **The driver has reasonable cause to believe that the proposed passenger will refuse to pay or cannot pay the fare; or**
 - 3. **The proposed passenger is disorderly, engaged in the commission of any crime, or is otherwise unfit to be transported as a passenger.**

9.04 OPERATING REGULATIONS

- a) **It shall be unlawful for any person to operate a pedicab while under the influence of alcoholic beverages or controlled substances other than medication prescribed by a physician.**
- b) **To operate a pedicab in any manner which impedes or blocks the normal or reasonable movement of pedestrian or vehicular traffic unless such operation is necessary for safe operation or in compliance with law.**
- c) **To operate, or cause to be operated, any pedicab upon or along any route unless the Chief of Police first approves such route.**
- d) **To operate, or cause to be operated at night a pedicab without using headlights and taillights.**
- e) **There shall be no more than three passengers, plus one operator, to a pedicab at any one time. All passengers must remain seated in appropriate seats and cannot exceed weight limit set by manufacture of vehicle.**
- f) **Operator must abide by all Massachusetts Motor Vehicle Laws.**

(Rename 9.0 to 10.0 and add as follows)

10.0 MISCELLANEOUS LICENSES

10.02 Outdoor Artist or Sidewalk Artist

~~The Provincetown Board of Selectmen voted to establish a license category for outdoor artist.~~

~~(7/24/86)~~

10.04 Retail Sales Licenses

(Insert b1-2 as follows:)

- b) Types of Retail Sales Licenses

1. **Corporate Retail Certificate of Inspection**
2. **Yearround Retail Certificate of Inspection**
3. Transient Vendor License, (add) **a retail business that is neither a corporation nor open yearround**
4. Art Gallery License, (add) **a transient vendor that only sells the owners original art work.**
5. Class 1 and II Automobile Sales, (add) **The retail purchase or sales of used automobiles.**
6. Junk Yard License, (add) **a commercial Junk Yard for receiving and re-selling junk.**

10.05 Other Licenses Issued by the Licensing Board

- a) Common Carrier License, (add) **mass transit vehicles carrying more than eight passengers (e.g. the Provincetown Trolley)**
- b) Float Space License, (add) **to attach their Float to MacMillan Pier.**
- c) Fortune Teller License, (add) **to tell fortunes for entertainment purposes only.**
- d) Parking Lot License, (add) **for private parking lots.**
- e) Seafood Off-Loading License, (add) **to provide offloading services to any fishing boat and assist getting the catch to market.**
- f) Stable License, (add) **for both riding and boarding of horses.**

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No one spoke or wrote against. No one spoke against. Peter Ciluzzi, Randy McDonald, Bruce Van Allen, Jeremy Lignori and Robana Malicot all spoke in favor of adopting section 9 as written.

Motion to approve Section 9 as written by Mitchell Baker seconded by Jean Bock Passed 5-0

Motion to table all other adoptions till April 22, 2003 Licensing Board meeting by Diana Robertson seconded Mitchell Baker Tabled 5-0

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Public Statements

New Licenses

Common Victualer and Entertainment License

1. WayDownTown, Inc, Geraldine Boccio, Manager *d.b.a. WayDownTown* at 265 Commercial Street Represented by Geraldine Boccio. Peter Ciluzzi spoke in favor. No one wrote in favor or against. No one spoke against.

Motion to approve Common Victualler license as is and Entertainment license with conditions set to no more than 4 persons on stage by Mitchell Baker Seconded by Diana Robertson Passed 5-0

Pedicab

- ~~1. Randy McDonald and Bruce Van Allen d.b.a. P-town Pedicab, vehicle #101~~
- ~~2. Randy McDonald and Bruce Van Allen d.b.a. P-town Pedicab, vehicle #102~~
- ~~3. Randy McDonald and Bruce van Allen d.b.a. P-town Pedicab, vehicle #103~~

Pedicab Operator

1. Randy McDonald, P-town Pedicab, Eastham
2. Bruce Van Allen, P-town Pedicab, Provincetown

Motion to approve both by Jean Bock Seconded by Diana Robertson Passed 5-0

Keith Brickel stepped down

Amend License

Lodging House

1. Birchwood Holdings, Inc. Howard Burchman mgr, d.b.a. ***The Ranch Guestlodge***, 198 Commercial St to Ranchwood Inc. Howard Burchman mgr, d.b.a. ***The Ranch Guestlodge***, 198 Commercial St.

Represented by Howard Burchman

Motion to approve by Jean Bock Seconded by Mitchell Baker Passed 4-0

Keith Brickel returned

Renewal License

Transient Vendor

1. Stephen Carey d.b.a. ***Lady'z***, 389 Commercial St.
2. Marsha L. Joseph d.b.a. ***New England Art***, 309 Commercial St.
3. Linda Unish & Tom Barnes d.b.a. ***INDO***, 291 Commercial St.
4. Carolyn Miller d.b.a., ***The Third Eye at Phoenix Rising***, 192-194 Commercial St.

5. Frank S Muldoon d.b.a. **Shell Designs**, 307 Commercial St.
Motion to approve all by Mitchell Baker Seconded by Diana Robertson Passed 5-0

Common Victualer with Entertainment

1. Terri Vorelli d.b.a. **Vorelli's Restaurant**, 226 Commercial St.
Motion to approve by Jean Bock Seconded by Mitchell Baker Passed 5-0

Common Victualer

1. The Mayflower Café, Inc, Michael Janoplis mgr, d.b.a. **The Mayflower Café**, 300 Commercial St.
2. Antonio A Ferreira d.b.a. **Provincetown Portuguese Bakery**, 299 Commercial St.
3. Sal's Place, Inc. Lora Papetsas mgr d.b.a. **Sal's Place**, 99 Commercial St.
4. Clem & Joe, Inc. Clem Silva mgr d.b.a. **Clem & Ursie's**, 89 Shank Painter Rd
5. MARIA'S CAFÉ, INC. Maria Silva mgr d.b.a. **Café Maria**, 277A Commercial St.
6. George Murphy d.b.a. **Georgie Porgie's Bagel Factory**, 100 Shank Painter Rd
7. Babysam, Inc. Alice M. Foley mgr d.b.a. **Little Fluke Cafe**, 401 Commercial St.
8. C&J at the Surf, Inc, David C Condon mgr d.b.a. **C&J at the Surf II**, 315A Commercial St.
Motion to approve all by Mitchell Baker Seconded by Jean Bock Passed 5-0

Fortune Teller

1. Carolyn Miller d.b.a., **The Third Eye at Phoenix Rising**, 192-194 Commercial St.
Motion to approve by Diana Robertson Seconded by Jean Bock Passed 5-0

Parking Lot

1. L.P. Express, Inc. Timothy McNulty mgr d.b.a. **McNulty's Parking Lot**, 150 Bradford St
Motion to approve by Jean Bock Seconded by Keith Brickel Passed 5-0

Innholder with Entertainment

1. The Boatslip, LLC, Richard F.Ferrell mgr d.b.a. **Boatslip Beach Club**, 161 Commercial St.
Motion to approve by Mitchell Baker Seconded by Keith Brickel Passed 5-0

Keith Brickel stepped down

Lodging

1. George and Wincie Terrat d.b.a. **The Garden at 6 Atwood Ave**, 6 Atwood Ave.
2. Thomas Michael Realty Trust, Edward C Getty Jr mgr d.b.a. **Thomas Michael Realty Trust**, 89 Bradford St.
3. Michael P. Clifford d.b.a. **The Drake Inn**, 11 Pearl St.
Motion to approve all by Diana Robertson Seconded by Mitchell Baker Passed 4-0

Keith Brickel returned

Discussion

1. Fee Increases
Jon Gilmore spoke with Board. A General agreement that a work session with members of community and representatives from the PBG and Chamber should take place in September to get input from the community about raising fees.

2. Article 18 - Special Town Meeting April 7, 2003

Licensing Board took no action

3. Articles 12 and 14 -Town meeting April 7, 2003

Motion to endorse Article 12 by Mitchell Baker seconded by Jean Bock 4-0-1

Licensing Board took no action on Article 14

Correspondence

1. Public Safety Meeting – 3/28/03

Minutes – March 25, 2003

Minutes approval moved to next meeting

Licensing Board Statements

Licensing Agent Statements

Other Business – any other business, which shall properly come before the board.

Other Business – any other business, which shall properly come before the board.

Motion to adjourn 06:23 P.M.

Licensing Board Approval:

Hunter O'Hanian, Chairman

Keith Brickel (Vice-Chair)

Diana Robertson (Clerk)

John Foley

Mitchell Baker

Jean Bock