



ANNUAL TOWN MEETING

WEDNESDAY, APRIL 7, 2004 AT 6:00
P.M.

[Return to *Town Meeting Resources*](#)

(1) Mary-Jo Avellar moved that the Town vote to waive the reading of the warrant.

Motion Passed.

(2) Mary-Jo Avellar moved that the Town vote to grant permission to speak at the April 7, 2004 Annual Town Meeting to the following persons who are not registered voters of the Town of Provincetown:

Dennis Anderson, *Cape End Manor CEO*; Edward Boxer, *PHS Principal*; Dennis Clark, *Recreation Director*; Patricia Fitzpatrick, *Tourism Director*; Christopher Flavell, *Marine Superintendent*; Elizabeth Hartsgrove, *Licensing Agent*; Jon Gilmore, *Director of Community Development*; John W. Giorgio, Esq., and other attorneys of the firm of Kopelman & Paige, P.C., *Town Counsel*; Michelle Jarusiewicz, *Acting Assistant Town Manager*; Bruce T. Miller, *Director of Municipal Finance and Town Accountant*; Maxine Notaro, *Permit Coordinator*; Patricia Pajaron, *Health Inspector*; Wayne Perry and Mark White, *engineers, Environmental Partners Group*; Jane Raasch, *Health Agent*; Albert Robinson, *Deputy Water Superintendent*; Anthony Teso, *Principal, Veterans Memorial Elementary School*; Eileen Thomas, *Cape End Manor Administrator*; Dr. Colette Traylor, *Superintendent of Schools*.

Motion Passed.

(3) Mary-Jo Avellar moved that on all matters to come before the April 7, 2004 Annual Town Meeting, requiring a two-thirds vote by statute, that a count need not be taken unless the vote so declared is immediately questioned by seven or more registered voters.

Motion Passed.

Article 1. *To Hear Town Reports.* To see if the Town will vote to hear the reports of the Town Officials and Committees and to act thereon.

[Requested by the Board of Selectmen]

Mary-Jo Avellar moved that the Town vote to hear the reports of the Town Officials and Committees and to act thereon.

Motion Passed.

Article 2. FY 2005 Operating Budget. To see to if the Town will vote to raise and appropriate or transfer from available funds the sum of \$20,434,458 to fund [operating budgets for the several Town departments for Fiscal Year 2005](#) in accordance with Chapter 9, section 1 of the Provincetown Charter, as follows:

<i>Division</i>	<i>FY 2004</i>	<i>FY 2005</i>	<i>%</i>
I. General Government	\$ 1,037,620	\$1,014,426	-2.2%
II. Finance	5,984,665	6,783,980	13.4%
III. Public Safety	2,970,918	2,882,611	-3.0%
IV. Public Works	1,880,827	1,853,324	-1.5%
V. Public Services	4,053,800	3,633,935	-10.4%
VI. Public Schools	4,176,760	4,266,181	2.1%
<i>Total Divisions I-VI</i>	\$20,104,589	\$20,434,458	1.6%

or to take any other action relative thereto.

[Requested by the Town Manager, the Board of Selectmen, and the School Committee]

**FINANCE COMMITTEE RECOMMENDS
BOARD OF SELECTMEN RECOMMENDS**

*Article 2. FY 2005 Operating Budget.
Division I. General Government.*

**FINANCE COMMITTEE RECOMMENDS
BOARD OF SELECTMEN RECOMMENDS**

Mary-Jo Avellar moved that the Town vote to raise and appropriate the sum of \$677,481, and transfer from the Land Bank fund the sum of \$336,945, for a total of \$1,014,426, to fund operating budgets for the several Town departments for Fiscal Year 2005 under budget Division I, General Government, as requested by the Board of Selectmen.

Motion Passed.

*Article 2. FY 2005 Operating Budget.
Division II. Finance*

**FINANCE COMMITTEE RECOMMENDS
BOARD OF SELECTMEN RECOMMENDS**

Sarah Peake moved that the Town vote to raise and appropriate the sum of \$6,626,039 to fund operating budgets for the several Town departments for Fiscal Year 2005 under budget Division II, Finance, as requested by the Board of Selectmen.

Motion Passed.

*Article 2. FY 2005 Operating Budget.
Division III. Public Safety*

**FINANCE COMMITTEE RECOMMENDS
BOARD OF SELECTMEN RECOMMENDS AS AMENDED**

Sarah Peake moved that the Town vote to raise and appropriate the sum of \$2,514,355, transfer from the Parking Fund the sum of \$359,256; and transfer from the Municipal Waterways Fund the sum of \$9,000, for a total of \$2,882,611, to fund operating budgets for the several Town departments for Fiscal Year 2005 under budget Division III, Public Safety, as requested by the Board of Selectmen.

Finance Committee Chair Ruth Gilbert moved to amend the 210-A Police-personal services line to read "\$1,377,493." **Amendment Does Not Pass. (For 51 Against 81)**

Austin Knight moved to eliminate budget 241 Community Development in Division III Public Safety. **Amendment Does Not Pass.**

David Nicoleau moved to adjourn meeting.
Motion Does Not Pass.

Motion Passed.

10:40 p.m. Mary-Jo Avellar moved to adjourn until tomorrow, Tuesday, April 13, 2004 at 6:00 pm.

Motion Passed.

Town Moderator Elizabeth Steele-Jeffers called the meeting to order at 6:00 pm on Tuesday, April 13, 2004.

*Article 2. FY 2005 Operating Budget.
Division IV. Public Works*

**FINANCE COMMITTEE RECOMMENDS
BOARD OF SELECTMEN RECOMMENDS AS AMENDED**

Michele Couture moved that the Town vote to raise and appropriate the sum of \$1,843,324, and transfer from the Cemetery Perpetual Care Fund the sum of \$10,000, for a total of \$1,853,324, to fund operating budgets for the several Town departments for Fiscal Year 2005 under budget Division IV, Public Works, as requested by the Board of Selectmen.

Motion Passed.

*Article 2. FY 2005 Operating Budget.
Division V. Public Services*

**FINANCE COMMITTEE RECOMMENDS
BOARD OF SELECTMEN RECOMMENDS**

Richard Olson moved the Town vote to raise and appropriate the sum of \$3,623,175, and transfer the sum of \$10,760 from the Tourism Fund for the Beautification budget, for a total of \$3,633,935, to fund operating budgets for the several Town departments for Fiscal Year 2005 under budget Division V, Public Services, as requested by the Board of Selectmen.

Motion Passed.

*Article 2. FY 2005 Operating Budget.
Division VI. Public Schools - motion 1*

**SCHOOL COMMITTEE RECOMMENDS
FINANCE COMMITTEE RECOMMENDS**

School Committee Chair Terese Nelson moved that the Town vote to raise and appropriate the sum of \$4,185,330 to fund the 300 Provincetown Public Schools budget for Fiscal Year 2005.

Finance Committee Chair Ruth Gilbert moved to amend the Provincetown Public Schools budget for Fiscal Year 2005 to read "\$4,160,330." **Amendment Does Not Pass (For 89 Against 97)**

Motion Passed.

*Article 2. FY 2005 Operating Budget.
Division VI. Public Schools - motion 2*

**FINANCE COMMITTEE RECOMMENDS
BOARD OF SELECTMEN RECOMMENDS**

Mary-Jo Avellar moved that the Town vote to raise and appropriate the sum of \$53,851 to fund the 310 Cape Cod Regional Technical High School budget for Fiscal Year 2005.

Motion Passed.

*Article 2. FY 2005 Operating Budget
Bottom Line.*

Mary-Jo Avellar moved that the Town vote to raise and appropriate the sum of \$19,523,555; transfer from the Parking Fund the sum of \$359, 256; transfer from the Land Bank Fund the sum of \$336,945; transfer from the Tourism Fund the sum of \$10,760; transfer from the Municipal Waterways Fund the sum of \$9,000; and transfer from the Cemetery Perpetual Care Fund the sum of \$10,000; for a total of \$20,249,516 to fund operating budgets for the several Town departments for Fiscal Year 2005 in accordance with Chapter 9, section 1 of the Provincetown Charter.

Motion Passed.

Article 3. FY 2005 Enterprise Funds.

To see to if the Town will vote to raise and appropriate or transfer from available funds the following amounts for enterprise funds of the Town of Provincetown for Fiscal Year 2005:

<u>440 Wastewater Enterprise Fund</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>%</u>
Enterprise Fund Costs	\$1,931,415	\$1,925,096	
General Fund Costs	<u>280,000</u>	<u>280,000</u>	

<i>TOTAL COSTS</i>	\$2,211,415	\$2,205,096	
<i>TOTAL REVENUES</i>	\$1,400,164	\$2,052,410	-0.3%
<i>From WWEF Fund Balance</i>	\$811,251	\$152,686	
<hr/>			
<i>450 Water Enterprise Fund</i>	<i>FY 2004</i>	<i>FY 2005</i>	<i>%</i>
Enterprise Fund Costs	\$1,317,333	\$1,452,812	
General Fund Costs	<u>280,000</u>	<u>280,000</u>	
<i>TOTAL COSTS</i>	\$1,597,333	\$1,738,412	
<i>TOTAL REVENUES</i>	\$1,923,858	\$1,917,824	+8.8%
<i>To WEF Fund Balance</i>	\$326,525	\$179,412	

or to take any other action relative thereto.

[Requested by the Town Manager and the Board of Selectmen]

Article 3. FY 2005 Enterprise Funds.

1. 440 Wastewater Enterprise Fund.

**FINANCE COMMITTEE RECOMMENDS
BOARD OF SELECTMEN RECOMMENDS**

Cheryl Andrews moved that the Town vote that \$2,205,096 be appropriated to operate the Wastewater Enterprise Fund, for \$2,052,410 to come from enterprise fund revenues, \$152,686 to come from Wastewater Enterprise retained earnings, and further, \$280,000 to be appropriated in the general fund and funded from Wastewater Enterprise revenues.

Motion Passed.

Article 3. FY 2005 Enterprise Funds.

2. 450 Water Enterprise Fund.

**FINANCE COMMITTEE RECOMMENDS
BOARD OF SELECTMEN RECOMMENDS**

Cheryl Andrews moved that the Town vote that \$1,738,412 be appropriated to operate the Water Enterprise Fund, for \$1,452,812 to come from Water Enterprise Fund revenues, and further, \$285,600 to be appropriated in the general fund and funded from Water Enterprise revenues.

Motion Passed.

Article 4. FY 2005 Capital Improvements Program.

To see if the Town will vote to raise and appropriate, borrow, or transfer from available funds the following sums to defray the costs of the Fiscal Year 2005 Capital Improvements Program submitted in accordance with Chapter 9, section 2 of the Provincetown Charter as follows:

1. Replace Fire ALS Truck: \$30,000 to be expended under the direction of the Town Manager and the Board of Fire Engineers for the replacement of Fire ALS Truck, and costs related thereto;
2. Police Vehicles: \$43,018 to be expended under the direction of the Town Manager and the Chief of Police for replacement of two police vehicles, and costs related thereto;
3. Streets and Sidewalks: \$50,000 to be expended under the direction of the Town Manager

and the Director of Public Works for street and sidewalk maintenance and repairs, and costs related thereto;

4. Drainage: \$50,000 to be expended under the direction of the Town Manager and the Director of Public Works for drainage maintenance and repairs, and costs related thereto;

5. Stormwater master plan Improvements: \$50,000 to be expended under the direction of the Town Manager and the Director of Public Works for stormwater master plan improvements, and costs related thereto;

6. Town Hall Structural Repairs - Design: \$60,000 to be expended under the direction of the Town Manager and the Director of Public Works for the design of structural repairs to Provincetown Town Hall, and costs related thereto;

7. Wastewater Phase II Facilities Planning: \$200,000 to be expended under the direction of the Town Manager and the Director of Public Works for wastewater Phase II facilities planning, and for costs incidental and related thereto;

8. DEP Water Management Permit/New Source Development: \$250,000 to be expended under the direction of the Town Manager and the Director of Public Works for DEP Water Management Act permitting and new source development, and for costs incidental and related thereto;

or to take any other action relative thereto.

[Requested by the Board of Selectmen and the Town Manager]

Article 4. FY 2005 Capital Improvements Program.

1. Replace Fire ALS Truck:

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 7-0-0

Borrowing: 2/3's vote required under MGL C.44

Mary-Jo Avellar moved that the Town vote to appropriate and borrow the sum of \$30,000 to be expended under the direction of the Town Manager and the Board of Fire Engineers for the replacement of Fire ALS Truck, and costs related thereto; and that the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow said sum under and pursuant to Chapter 44, Section 7(9), of the General Laws, or any other enabling authority, and to issue bonds or notes of the Town therefor.

Motion Passed. (2/3rd Vote Required)

Article 4. FY 2005 Capital Improvements Program.

2. Police Vehicles:

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS \$32,911: 6-0-1

Borrowing: 2/3's vote required under MGL C.44

Mary-Jo Avellar moved that the Town vote to appropriate and borrow the sum of \$43,018 to be expended under the direction of the Town Manager and the Chief of Police for replacement of two police vehicles, and costs related thereto; and that the Treasurer, with the approval of the Board of

Selectmen, is authorized to borrow said sum under and pursuant to Chapter 44, Section 7(9), of the General Laws, or any other enabling authority, and to issue bonds or notes of the Town therefor.

Finance Committee member Mark Leach moved that the Town vote to amend Article 2, Item 2 to reduce the figure from \$43,018 to \$32,911 for one vehicle. **Amendment Passed.**

Motion As Amended Passed. (2/3rd Vote Required)

Article 4. FY 2005 Capital Improvements Program.

3. Streets and Sidewalks:

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 7-0-0

Cheryl Andrews moved that the Town vote to raise and appropriate the sum of \$50,000 to be expended under the direction of the Town Manager and the Director of Public Works for street and sidewalk maintenance and repairs, and costs related thereto.

Motion Passed.

Article 4. FY 2005 Capital Improvements Program.

4. Drainage:

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 6-0-1

Sarah Peake moved that the Town vote to raise and appropriate the sum of \$50,000 to be expended under the direction of the Town Manager and the Director of Public Works for drainage maintenance and repairs, and costs related thereto.

Motion Passed.

Article 4. FY 2005 Capital Improvements Program.

5. Stormwater master plan Improvements:

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 7-0-0

Borrowing: 2/3's vote required under MGL C.44

Michele Couture moved that the Town vote to appropriate and borrow the sum of \$50,000 to be expended under the direction of the Town Manager and the Director of Public Works for stormwater improvements and costs related thereto; and that the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow said sum under and pursuant to Chapter 44, Section 7(1) and 7(22), of the General Laws, or any other enabling authority, and to issue bonds or notes of the Town therefor.

Motion Passed. (2/3rd Vote Required)

Article 4. FY 2005 Capital Improvements Program.

6. Town Hall Structural Repairs - Design:

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE DOES NOT RECOMMEND: 7-0-0

Borrowing: 2/3's vote required under MGL C.44

Richard Olson moved that the Town vote to appropriate and borrow the sum of \$60,000 to be expended under the direction of the Town Manager and the Director of Public Works for the design of structural repairs to Provincetown Town Hall, and costs related thereto; and that the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow said sum under and pursuant to Chapter 44, Section 7(21) and 7(22), of the General Laws, or any other enabling authority, and to issue bonds or notes of the Town therefor.

Motion Does Not Pass. For 90 Against 69 (2/3rd Vote Required)

Article 4. FY 2005 Capital Improvements Program.

7. Wastewater Phase II Facilities Planning:

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 7-0-0

Borrowing: 2/3's vote required under MGL C.44

Cheryl Andrews moved that the Town vote to appropriate and borrow the sum of \$200,000, to be expended under the direction of the Director of Public Works for the development of Phase II plans and specifications for construction of an expansion to the Town's sewerage systems, and including without limitation all costs defined under C.29C,§1 of the General Laws; and to raise said appropriation the Town Treasurer, with the approval of the Board of Selectmen, is authorized to borrow said sum of money under and pursuant to C.44,§7(1) and/or C.29C of the General Laws, or any other enabling authority, and to issue bonds or notes of the Town therefor; and that to the extent that any State, Federal or other funds are or become available for the purposes set forth above, the Board of Selectmen is authorized to apply for and accept such funds.

Motion Passed. (2/3rd Vote Required)

Article 4. FY 2005 Capital Improvements Program.

8. DEP Water Management Permit/New Source Development:

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 7-0-0

Borrowing: 2/3's vote required under MGL C.44

Mary-Jo Avellar moved that the Town vote to appropriate and borrow the sum of \$250,000 to be expended under the direction of the Town Manager and the Director of Public Works for DEP Water Management Act permitting and new source development, and for costs incidental and related thereto; and that the Treasurer, with the approval of the Board of Selectmen, is authorized to borrow said sum under and pursuant to Chapter 44, Section 8(3A), of the General Laws, or any other enabling authority, and to issue bonds or notes of the Town therefor.

Steve Roderick moved to amend Article 4 Section 8 to transfer from the Water Enterprise Fund the sum of \$250,000, instead of borrowing. **Amendment Does Not Pass.**

Motion Passed. (2/3rd Vote Required)

Article 5. *FY 2005 Revolving Accounts.* To see if the Town will vote to continue for FY 2005 the following revolving accounts established pursuant to MGL C.44, §53E½:

- (1) *Preservation of Town Hall Auditorium:* to allow receipts from the rental and custodial fees charged for the public use of Town Hall Auditorium to be segregated into a special account; and with funds therefrom, up to a limit of \$20,000 annually, to be expended for the repair, updating and refurbishing of the Town Hall Auditorium under the direction of the Town Manager and Board of Selectmen;
- (2) *Shellfish Grants:* to allow receipts from Shellfish Grants to be segregated into a special account; and with funds therefrom, up to a limit of \$2,500 annually, to be expended under the direction of the Shellfish Warden and the Board of Selectmen for the purpose of shellfish seeding, cultivation on public shellfish areas;
- (3) *Sales of Vaccines:* to allow receipts from sales of vaccines to be segregated into a special account; and with funds therefrom, up to a limit of \$10,000 annually, to be expended for purchase of vaccines under the direction of the Director of Public Health and the Town Manager; or to take any other action relative thereto.

[Requested by the Town Manager and the Board of Selectmen]

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 7-0-0

Sarah Peake moved that the Town vote to approve Article 5 as printed in the warrant.

Motion Passed.

PERSONNEL MATTERS

Article 6. *Amendments to Personnel By-law/Classification and Compensation Plan.* To see if the Town will vote as follows:

1. *Schedule B:* to amend Schedule B, "Fire Department Positions," effective July 1, 2004, as requested by the Board of Fire Engineers, as follows:

Annual Stipends for Reimbursement of Expenses

Position Current Proposed

Deputy Fire Chief	\$6,000
District Fire Chief/Engineer	2,000
Firefighter	600
Fire Auxiliary	275
Fire Captain (<i>additional stipend</i>)	450
Fire Lieutenant (<i>additional stipend</i>)	275
House Steward (<i>additional stipend</i>)	1,000
Ladder Steward (<i>additional stipend</i>)	1,160
Main Station Steward (<i>additional stipend</i>)	4,800
Oil Inspector	1,747
Rescue Captain (<i>additional stipend</i>)	1,000
Rescue Lieutenant (<i>additional stipend</i>)	800
Rescue Steward (<i>additional stipend</i>)	1,600

Rescue Training Officer (*additional stipend*) 1,500

Radio Officer (*additional stipend*) 500

Air Officer (*additional stipend*) 800

Annual Salary

Position Current

Fire Chief \$22,500

Non-Firefighter Positions

Position Current Proposed

First Responders \$12.00 per call

EMT-Basic 15.91/hour 16.39/hour

EMT-Intermediate 17.24 17.76

EMT-Paramedic 19.10 19.67

Stand-by 14.03

Safety Inspections 14.03

Rescue Squad participation \$250.00 per quarter

2. ***Schedule C:*** to amend Schedule C, "Seasonal and Part-time Non-Union Positions," by applying a 2% salary schedule adjustment effective July 1, 2004, as follows:

<i>Proposed Position Classifications</i>	<i>Actual FY 2004</i>	<i>Proposed FY 2005</i>
Hourly Rates of Pay		
L Parking Lot Technical Manager	\$15.16	\$15.47
Property Inspector (Assessors)	15.16	15.47
K Assistant Harbormaster with police powers	14.73	15.03
Police Officer, Summer/Auxiliary	14.73	15.03
J Seasonal Recreation Swimming Instructor	14.31	14.60
I Parking Meter Collection/Repair	14.03	14.31
H Police Matron	13.63	13.90
Police Summer Dispatcher	13.63	13.90
G Parking Department Clerk	13.37	13.64
Licensing Assistant	13.37	13.64
F Assistant Harbormaster w/o police powers	12.98	13.24
Parking and Traffic Officers	12.98	13.24
Parking Lot Assistant Technical Manager	12.98	13.24
Parking Meter Enforcement	12.98	13.24
Secretary, On-call Relief	12.98	13.24
Transfer Station Laborer	12.98	13.24
E Veterans Agent	12.74	13.00
D Library Circulation Aide	12.37	12.62
Parking Lot Attendant/Out-booth/Floater	12.37	12.62
C Barrels & Grounds Laborer	12.02	12.26
Restroom/Building Custodian	12.02	12.26
Seasonal Recreation Supervisor	12.02	12.26
B <i>No Positions Assigned</i>	11.79	12.03
A Council on Aging Cook	11.56	11.79
Parking Lot Attendant/In-booth	11.56	11.79
Seasonal Recreation Aides	11.56	11.79
<i>Annual Stipends</i>		

Emergency Management Director	1,200.00
Gas Inspector	5,000.00
Plumbing Inspector	5,000.00

and to raise and appropriate the sum of \$9,998 and transfer \$5,395 from the Parking Fund, for a total of \$15,393, for raises for positions contained on Schedule C for FY 2005; or to take any other action relative thereto.

[Requested by the Personnel Board and the Town Manager]

PERSONNEL BOARD RECOMMENDS: 4-0-0

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 7-0-0

**Michele Couture moved that the Town vote to approve Article 6 as printed in the warrant.
Motion Passed.**

ZONING AMENDMENTS

Article 7. *Zoning By-law Amendment: Adding Illumination Criteria to the Site Plan Review Process.* To see if the Town will vote to amend the Provincetown Zoning By-laws, Article 4 Special Regulations, Section 4162 Consideration, by adding Consideration #6, as follows:

4162 Consideration In its review of the site plan, the Planning Board shall consider the following:

1. That the plan is in accordance with the Provincetown Zoning By-Laws.
2. That the plan meets the design requirements outlined in Section 4163.
3. That all necessary permits have been obtained or are approved and pending.
4. All ways within the site shall be designed so that they will provide for safe vehicular traffic.
5. That the plan shall address the requirements of Section 5331.
6. That development must conform to the illumination standards of Section 3430 Illumination, including the requirements of Subsections 3431 and 3432 of the Zoning By-laws.

The original copy of this zoning by-law change is on file for public inspection in the Town Clerk's Office; or take any other action relative thereto.

[Requested by the Local Comprehensive Plan Implementation Committee]

PLANNING BOARD RECOMMENDS: 4-0-0

LCP IMPLEMENTATION COMMITTEE RECOMMENDS: 3-0-0

FINANCE COMMITTEE HAS NO RECOMMENDATION

Zoning Amendment: 2/3's vote required under MGL C.40A

Planning Board member Howard Burchman moved that the Town vote to approve Article 7 as printed in the warrant.

Motion Passed. (2/3rd Vote Required)

Article 8. *Zoning By-law Amendment: Adding "Dormitory Housing" to the "Hotel/Motel" Definition in the Zoning By-laws.* To see if the Town will vote to amend the Provincetown Zoning By-laws, Article 1, Definitions so that it reads as follows, with additions shown in italics: "**Hotel, Motel, or Dormitory Housing** shall mean a building or group of buildings providing sleeping accommodations (but not individual cooking facilities) for persons lodged with or

without meals on a transient basis for compensation, *or on a seasonal or year-round basis*, but not meeting the definition of “Boarding, Lodging or Tourist Home or Inn.” The original copy of this zoning by-law change is on file for public inspection in the Town Clerk’s Office; or take any other action relative thereto.

[Requested by the Local Comprehensive Plan Implementation Committee]

PLANNING BOARD RECOMMENDS AS AMENDED: 4-0-0
LCP IMPLEMENTATION COMMITTEE RECOMMENDS: 3-0-0
FINANCE COMMITTEE HAS NO RECOMMENDATION

Zoning Amendment: 2/3’s vote required under MGL C.40A

Planning Board member Barnett Adler moved that the Town vote to approve Article 8 as printed in the warrant, with the following amendment: That the new definition of “Hotel, Motel, Dormitory Housing” reads as follows:

Hotel, Motel, Dormitory Housing shall mean a building or group of buildings providing sleeping accommodations (but not individual cooking facilities) for persons lodged with or without meals on a transient basis for compensation, but not meeting the definition of “Boarding, Lodging or Tourist Home or Inn.” Dormitory housing may be on a seasonal or year round basis, but must be for more than a month, and may be related to employment, educational or cultural purposes.

Motion Passed. (2/3rd Vote Required)

Article 9. *Zoning By-law Amendment: Parking Requirements.* To see if the Town will vote to amend the Provincetown Zoning By-laws, Parking Requirements, Section 2472 All Districts, and Section 2473 Certain Districts, by adding the text italics and/ or underlining, and deleting the text with strikeouts:

2470 Parking Requirements

2471 Applicability. All parking demand created by new structures or uses, and expansion or change of use in existing structures, shall be accommodated on the premises entirely off-street ~~as follows, to be calculated in accordance with the following table, rounding up for each resulting fraction. The with the exception that for multi-family developments of fewer than five dwelling units, the~~ Zoning Board of Appeals may grant a variance from this requirement for multi-family developments of fewer than five dwelling units if lot size or configuration makes meeting this requirement physically impossible, and for any use may grant a variance upon determination that special circumstances such as proximity to a municipal off-street parking lot render a lesser provision adequate for all parking needs. Art galleries shall be exempt from the requirement of providing off-street parking.

2472 All Districts The following minimums must be complied with in all districts:

USE	NUMBER OF SPACES
Multi-family dwelling	1 space/dwelling unit
Hotel, Motel, Inn	1 space/guest unit plus: 1 space/resident employee; 1 space/3 non-resident employee plus 1 temporary space/10 guest units or fraction thereof
Boarding, Lodging or Tourist Home	1 space/guest unit
<u>Affordable, elderly & or handicapped housing</u>	<u>1 space per two residential units</u>

2473 Certain Districts In all districts except TCC, which is exempted, every non-residential structure or building shall provide for a minimum parking of five (5) cars or comply with the following schedule, whichever will produce the greater number of parking spaces. The space provided for ingress and egress may not be again calculated as parking area.

Use Number of Spaces

USE	NUMBER OF SPACES
Theater	1 space/5 seats
Church	1 space/8 seats
Funeral home	1 space/50 sq. feet floor area
Restaurant, bar	1 space/50 sq. feet floor area
Skating Rink	1 space/100 sq. feet floor area
Bowling alley	1 space/250 sq. feet floor area
Offices	8 spaces office or 1 space/350 square feet floor area whichever is greater 1 space/350 sq. feet of floor area
Miscellaneous (any building or structure, not specifically identified by one of the above mentioned use categories, which exceeds 350 sq. feet in floor area.)	1 space/350 sq. feet floor area or portion thereof

The original copy of this zoning by-law change is on file for public inspection in the Town Clerk's Office; or take any other action relative thereto.

[Requested by the Local Comprehensive Plan Implementation Committee]

PLANNING BOARD RECOMMENDS AS AMENDED: 3-0-0

LCP IMPLEMENTATION COMMITTEE RECOMMENDS: 3-0-0

FINANCE COMMITTEE HAS NO RECOMMENDATION

Zoning Amendment: 2/3's vote required under MGL C.40A

Local Comprehensive Plan Implementation Committee member Ted Malone moved to approve Article 9 as printed in the warrant with the following amendments:

1. To change "Hotel, Motel, Inn" in the left column of Uses in Section 2472 All Districts to read "Hotel, Motel, Dormitory, Inn;" and
2. To change 2473 Certain Districts in the right column Number of Spaces (for offices) to delete "8 spaces/office or 1 space/350 square feet floor area whichever is greater," and replace it with "1 space/350 square feet floor area."

Motion Passed. (2/3rd Vote Required)

Article 10. Zoning By-law Amendments, Section 2450, Permitted Accessory Uses. To see if the Town will vote to amend the Provincetown Zoning By-laws, Article 2, Use Regulations, Section 2450(G) Permitted Accessory Uses by amending the current permitted accessory use table as follows:

2450 Permitted Accessory Uses

		Residential			Commercial		Sea-shore	Public Use
		Res1	Res2	Res3 ResB	TCC	GC	S	M
G.	Permitted Accessory Uses							
G1	Garage for 1 or 2 autos	Yes	Yes	Yes	Yes	Yes	No	No

G2	Vegetable or flower garden	Yes						
G3	Home Occupation (see Sec. 3500)	Yes	Yes	Yes	Yes	Yes	Yes	BA
G4	Sale of seafood caught by a resident of the premises	No	No	Yes	Yes	Yes	No	No
G5	Stable	BA						
G6	Temporary construction office or shelter	Yes						
G7	Scientific Research or Development	BA						
G8	Outdoor food dispensing machine	No						
G9	Aircraft landing area	No						
G10	Artist's studio	Yes	Yes	Yes	Yes	Yes	No	No
G11	Other customary accessory uses	BA						
G12	Swimming Pool	BA						
G13	Utility/ Garden Shed (120 sq. ft. max.) ¹	Yes	Yes	Yes	Yes	Yes	No	Yes
G14	Utility/ Garden Shed (96 sq. ft. max.) ²	BA	BA	BA	BA	BA	No	No
<u>G15</u>	<u>Business, Professional Offices</u>	<u>PB</u>	<u>PB</u>	<u>PB</u>	<u>PB</u>	<u>PB</u>	<u>No</u>	<u>No</u>

Residential Commercial Seashore Public

¹ A utility/garden shed shall not exceed 120 square feet, nor exceed 9 feet in height from the finished floor to the roof ridge of a gable or gambrel roof or 7 feet to the highest point of any other roof configuration. The lowest point of the shed shall not be elevated more than 6 inches above the highest point of the natural grade within its footprint.

² Special Permits may be granted by the Zoning Board of Appeals for the installation of utility/garden sheds that meet at least 50% of the side and/or rear yard setback requirements of the district in which the property is located (Article 2, Section 2560) and at least 50% of building separation requirements (Article 2, Section 2550). Such Special Permits shall only be issued following a Public Hearing wherein the Zoning Board of Appeals determines that the installation of said shed cannot meet the current front, side and/or rear yard setback and building separation requirements. The benefits derived from the issuance of a permit shall outweigh any adverse effects such as hazard, congestion and environmental degradation. The shed shall not exceed 96 square feet, nor exceed 9 feet in height from the finished floor to the roof ridge for a gable or gambrel roof or 7 feet to the highest point of any other roof configuration. The lowest point of the shed shall not be elevated more than 6 inches above the highest point of the natural grade within

its footprint. Doors and windows shall not face or open into an area of the standard side and rear yard setbacks of the district in which the shed is located.

The original copy of this zoning by-law change is on file for public inspection in the Town Clerk's Office; Or take any other action relative thereto.

[Requested by the Local Comprehensive Plan Implementation Committee]

PLANNING BOARD RECOMMENDS AS AMENDED: 4-0-0

LCP IMPLEMENTATION COMMITTEE RECOMMENDS: 3-0-0

FINANCE COMMITTEE HAS NO RECOMMENDATION

Zoning Amendment: 2/3's vote required under MGL C.40A

Local Comprehensive Plan Implementation Committee member Ted Malone moved that the Town vote to approve Article 10 as printed in the warrant, with the following amendment: that the Permitted Accessory Use Table show Use G15 (Business and Professional Offices) as a "Yes" rather than a "PB" in the Town Center Commercial Zoning District, and in the General Commercial Zoning District.

Motion Does Not Pass. For 55 Against 46 (2/3rd Vote Required)

Regina Binder moved to reconsider Article 10.

Motion to Reconsider Does Not Pass.

Article 11. *Zoning By-law Amendment: Deleting Sign Regulations from Zoning By-law.*
To see if the Town will vote to amend the Provincetown Zoning By-laws, Article 3, General Requirements by deleting Section 3200, Sign Regulation in its entirety, The original copy of this zoning by-law change is on file for public inspection in the Town Clerk's Office; or take any other action relative thereto.

[Requested by the Local Comprehensive Plan Implementation Committee]

PLANNING BOARD RECOMMENDS: 3-0-0

LCP IMPLEMENTATION COMMITTEE RECOMMENDS: 3-0-0

FINANCE COMMITTEE HAS NO RECOMMENDATION

Zoning Amendment: 2/3's vote required under MGL C.40A

Planning Board member Anne Howard moved that the Town vote to approve Article 11 as printed in the warrant.

Sarah Peake moved to table Article 11.

Motion Passed.

Town Moderator Elizabeth Steele-Jeffers adjourned the meeting until tomorrow, Wednesday, April 14, 2004 at 6:00 p.m.

Town Moderator Elizabeth Steele-Jeffers convened the meeting at 6:05 p.m.

Town Moderator Elizabeth Steele-Jeffers moved to take Article 11 off the table.

Motion passed.

Alix Ritchie moved to indefinitely postpone Article 11.

Motion Passed.

GENERAL BY-LAWS AMENDMENTS

Article 12. *General By-law Amendment: Sign Regulations.* To see if the Town will vote to make the following changes to Section 10 of the Provincetown General By-laws, Sign Code Regulations:

(a) Amend Section 10-2-1 **Related Premises** by adding the following sentence at the end thereof:

"This requirement shall not apply to temporary signs, banners or posters covering social, holiday and political events."

(b) Amend Section 10-2-2 **Off Premises Signs** by adding the following sentence at the end thereof:

"This requirement shall not apply to temporary signs, banners or posters covering social, holiday and political events."

(c) Amend Section 10-1-3 **Length of time given for compliance** so that it reads as follows:

Non Conforming Signs: Length of Time Given for Compliance. All persons, firms and corporations having presently established signs shall obtain permits for said signs as hereinafter provided. Except as otherwise provided herein, any sign existing at the time of enactment of this by-law which does not conform to this by-law, is a nonconforming sign. Each nonconforming sign shall conform to the provisions hereof on or before April 1, 2009. ~~and any presently existing signs, regardless of size, may remain as nonconforming until such time of replacement or repairs which would change the principle wording, size or shape. At such time, such changed sign as aforesaid must comply with the requirements of this By-Law.~~ Thereafter, any nonconforming sign shall be removed. Nonconforming signs which are structurally altered, relocated, or replaced, or which are not properly maintained, shall comply immediately with all provisions of this bylaw.

(b) add the following new section:

10-1-4 Waiver from requirements

Signs in existence prior to November 1978 may seek a waiver from the requirements of this by-law from the Planning Board. Among the factors in deciding whether to waive certain requirements of this bylaw, the Committee shall consider the historic and cultural significance of the sign, the sign's visual impact on the surrounding area, the sign's impact and consistency with community character, and whether the sign will be detrimental to the general purposes of this by-law.

(c) Amend Section 10-5 **Temporary and Political Signs** by revising the second sentence to read: Temporary signs, banners, and posters covering social, holiday and political events need not obtain prior authorization from the Building Commissioner, but must be firmly attached to a supporting device and present no undue hazard to the public.

or take any other action relative thereto.

[Requested by the Local Comprehensive Plan Implementation Committee]

LCP IMPLEMENTATION COMMITTEE RECOMMENDS: 3-0-0

PLANNING BOARD RECOMMENDS: 3-0-0

FINANCE COMMITTEE HAS NO RECOMMENDATION

[Mark Latour moved that the Town vote to indefinitely postpone approve Article 12.](#)

Motion Passed.

[Regina Binder moved to vote zoning articles in the order of Article 14, 15, 18, 17, 16, and 21.](#)

Motion Passed.

Article 13. General By-law Amendment: Amendment to Temporary Sign Regulations in the General By-laws. To see if the Town will vote to amend the Provincetown General By-laws, Article 10, Section 5 Temporary and Political Signs as follows:

10-5. Temporary and political signs. Cloth or cardboard signs, banners, and posters except posters intended for window display, shall be referred to the Building Inspector for approval and issuance of a permit. Temporary signs, banners, and posters covering ~~social, holiday and~~ political events must be firmly attached to a supporting device and present no undue hazard to the public. The time allowed for this type of advertising shall not exceed ninety (90) days.

Control of political advertising during an election campaign shall be administered by the Inspector of Buildings who may grant a one-time group permit to the Chairman or Candidate of any party in lieu of individual permits. All such advertising must be removed within ten (10) days after the election date.

Special Event Temporary Signs and/or Banners for social events and holidays approved within

the context of the Sign Regulations and the Public Safety Policies developed by the Building/Inspection Department pursuant to 780 CMR, Massachusetts State Building Code sign requirements may contain the names and logos of sponsors. Signs for social events and holiday events which have been approved by the Inspector of Buildings, including but not limited to, those involving commercial sponsorships and advertisements, may be erected ten (10) days prior to the opening day of the event and shall be removed the day following the closing of the event. All signs, banners and posters must be firmly attached to a supporting device, and may present no undue hazard to the public.

Or take any other action relative thereto.

[Requested by the Local Comprehensive Plan Implementation Committee]

LCP IMPLEMENTATION COMMITTEE RECOMMENDS: 3-0-0

PLANNING BOARD RECOMMENDS: 3-0-0

FINANCE COMMITTEE HAS NO RECOMMENDATION

Mark Latour moved that the Town vote to approve Article 13 as printed in the warrant.

Dana Faris moved to indefinitely postpone Article 13.

Motion to Indefinitely Postponed Passed.

Article 14. General By-Law Amendment, Illumination. To see if the Town will vote to amend the Provincetown General By-Laws by inserting the following language into Section 11 Building Regulations: **11-9 Illumination.** “11-9-1 **Overspill.** Illuminated signs, parking lot lighting, building floodlighting, or other exterior lighting other than municipal street lighting shall be so designed and arranged that their collective result does not create so much light overspill onto adjacent premises or roadway that it casts observable shadows, and so that it does not create glare from unshielded light sources.” or take any other action relative thereto.

[Requested by the Local Comprehensive Plan Implementation Committee]

LCP IMPLEMENTATION COMMITTEE RECOMMENDS: 3-0-0

PLANNING BOARD RECOMMENDS: 3-0-0

FINANCE COMMITTEE HAS NO RECOMMENDATION

Local Comprehensive Plan Implementation Committee member Regina Binder moved that the Town vote to approve Article 14 as printed in the warrant.

Motion Does Not Pass.

ZONING AMENDMENTS

Article 15. Zoning By-law Amendment, Article 5, Administration. To see if the Town will vote to amend Section 5300, Special Permits, as follows:

Section 5300 Special Permits

5310 Special Permit Granting Special Permit applications shall be heard and decided by the Board of Appeals or the Planning Board. ~~except where otherwise noted in this By-Law.~~

5320 Public Hearings Special Permits shall only be issued following public hearings held within sixty-five days after filing with the Special Permit Granting Authority an application, a copy of which shall forthwith be given to the Town Clerk by the applicant.

5330 Consideration Special Permits (other than those specified in Section 3420) shall be granted by the Special Permit Granting Authority only upon its written determination that the social, economic or other benefits of the proposal for the neighborhood or town outweigh any adverse effects such as hazard, congestion or environmental degradation.

5331 Development Impact Statements. WHEREAS due to the existing limitation of the Town's resources the impact of such an additional intensity use should be evaluated in a consistent framework. For the purpose of protecting the Town of Provincetown, Massachusetts – Zoning By-laws Page 45 safety, convenience and welfare of the inhabitants of the Town, before approval of any development/conversion/construction requiring a Site Plan or Special Permit, the Special Permit Granting Authority ~~Planning Board or the Board of Appeals~~ may require that the applicant submit a Development Impact Statement if the scope of the project or the characteristics of the location indicate a need therefore.

The Development Impact Statement shall contain appropriate supporting data, setting forth the probable impact or effect of the proposed project on the neighborhood and the Town generally. In compiling such Impact Statement, the applicant shall consult with the various Town Departments having knowledge and authority such as the Department of Public Works, Health Agent, Assessor, Finance Committee, Fire and Police Departments, Conservation Commission, etc. Such Development Impact Statement shall cover at least the subject area listed hereunder and such other subject areas as the Special Permit Granting Authority ~~Board of Appeals~~ may, in particular cases, deem necessary.

- a. Impact of the density and location of the project on water supply, water quality or the provision thereof.
- b. Impact of the individual and collective on-site septage system or systems on abutting property or any marsh, bog, pond, or other wetland or body of water by introducing therein excessive nutrients, dangerous chemical substances or pathological organisms.
- c. Impact of drainage run-off in terms of possible damage to adjoining property and/or overload or silt up or contamination in any way of a marsh, bog, swamp or other wetland or body of water.
- d. Impact of any proposed filling, cutting or other alteration of the topography or any devegetating operations on existing drainage patterns within or in the vicinity of the project.
- e. Impact on any adjacent, access or other serving roads, whether public or private, including carrying capacity, maintenance and safety both during and after construction.
- f. Impact of the estimated additional new service requirements in time and/or cost that the proposed project may place upon the Town sanitary disposal facilities for septage and solid waste disposal both during and after construction.
- g. Impact of any additional burdens the proposed project may place upon the public safety services (such as fire and police), including probable cost in terms of hours and facilities both during and after construction.
- h. Impact of additional burdens the proposed project may place upon Town administration, including Inspection Dept., Assessor, Treasurer, etc.
- i. Impact of proposed project on solar access of neighboring buildings (ref. Chap. 637 MGL).
- j. Impact of proposed development in terms of any probable detrimental effect on the ecology of the area, such as disruption of the biological environmental so as to endanger desirable species of trees and other vegetation or encourage proliferation of undesirable species, or so as to upset an existing balance between animal and insect pests and their natural bird, animal or insect predators, resulting in damage to either persons or useful and desirable forms of vegetation.

5340 Expiration Special Permits shall lapse twenty-four months following grant thereof (plus such time required to pursue or await the determination of an appeal referred to in Sec. 17, Ch. 40A, G.L.) if a substantial use thereof or construction has not sooner commenced except for good cause as

determined by the Special Permit Granting Authority. ~~Board of Appeals.~~

The original copy of this zoning by-law change is on file for public inspection in the Town Clerk's Office; or take any other action relative thereto.

[Requested by the Local Comprehensive Plan Implementation Committee]

PLANNING BOARD RECOMMENDS: 3-0-0

LCP IMPLEMENTATION COMMITTEE RECOMMENDS: 3-0-0

FINANCE COMMITTEE HAS NO RECOMMENDATION

Zoning Amendment: 2/3's vote required under MGL C.40A

Local Comprehensive Plan Implementation Committee member Regina Binder moved that the Town vote to approve Article 15 as printed in the warrant.

Motion Does Not Pass. (2/3rd Vote Required)

Anne Howard moved to take Articles 17, 16, and 21 off the table and address them in that order.

Motion Passed.

Article 16. Zoning By-Law Amendment, Article 4, Special Regulations. To see if the Town will vote to amend Provincetown Zoning By-law Article 4, Special Regulations by adding the following new Section 4700 Supplemental Use Requirements:

4700 Supplemental Use Requirements

(a) Uses authorized under Special Permit

For uses otherwise authorized under special permit by the Zoning Board of Appeals pursuant to Section 2440 Schedule of Permitted Uses, in cases where such uses require Site Plan Review pursuant to Article 4 Special Regulations, the Special Permit Granting Authority shall be the Planning Board.

(b) In Res3/ResB, banks and professional office uses shall ~~have~~ be limited to no more than one firm ~~or and~~ 2,000 square feet per building and no more than one building per lot. In addition, ~~stock in trade is~~ retail sales are not permitted.

(c) Hotel, Motel, Inn, Restaurant, Bar.

No hotel, motel, inn, restaurant or bar holding or seeking to hold a license granted pursuant to General Laws, Chapter 138, Section 12; General Laws, Chapter 140, Section 2; or General Laws, Chapter 140, Section 183A, respectively, shall be used for the service of food or alcoholic beverages to the public or public entertainment, ~~nor any other premises or establishment for public entertainment,~~ nor any establishment increase its Posted Occupant Load, unless such use has been authorized with a Special Permit from the Zoning Board of Zoning Appeals as provided for in Section 5300.

Any permit application under this section shall specify the area in which it is proposed that entertainment be offered, food or alcoholic beverages be served, and is to be accompanied by a plan showing the specific area of the proposed usage. No sale of food, drink, or other products to persons standing in the street, sidewalk, or parking areas at or about such establishment shall be permitted. Other outdoor service shall be allowed only ~~on~~ by Special Permit from the Zoning Board of Appeals.

To provide for the orderly implementation of this Section, the following guidelines shall prevail; an existing licensed use covered by this Section which does not have a Special Permit may continue (i.e. its license may be renewed or transferred) as nonconforming until a change, addition, or alteration (other than the name of the establishment) is made; all new licensed uses

covered by this Section shall require a Special Permit.

(d) Storage Facility

Special Permits for rental storage facilities may ~~to~~ be granted on a yearly basis only, and only after, a Public Hearing and approval of the Building Inspector and Fire Department each year; storage of toxic or hazardous materials (as determined by the Building Inspector, Fire Department and Massachusetts Division of Hazardous Waste under the provision of Chapter 21 M.G.L.) is prohibited and shall be cause for permanent revocation of Special Permit.

(e) Parking Lots

Special Permits for parking lots are to be granted only after a Public hearing and approval of the Building Inspector, the Fire Department and the Police Department.

(f) Fast Food Establishments

After March 1, 1983, for any new construction, any substantial increase in intensity or use or any renovation of an existing structure to include the defined use, a Special Permit as specified in Sec. 5300 may be granted by the Board of Appeals:

- (a) only upon its written determination that the proposed fast food establishment does not create any adverse effect due to hazard or congestion especially including traffic impacts as determined by a traffic impact assessment prepared by the applicant according to Institute of Transportation Engineers guidelines regarding carrying capacity/level of service of the affected streets and any proposed mitigation sufficient to offset those impacts;
- (b) only if the applicant can demonstrate that the proposed use will not overburden public water, septage or solid waste facilities;
- (c) only if the applicant provides and enforceable plan for the mitigation and control of trash and litter generated by the proposed establishment;
- (d) ~~any only~~ if the architecture and signage conforms to traditional Cape Cod style; and
- (e) only if, in order to assure that the concerns of the abutters and residents will be considered as a significant factor in the determination of the benefits or adverse effects of the proposed fast food establishment on the neighborhood and the Town, the Zoning Board of Appeals shall make a specific Finding of Significance regarding the response to the proposed use. consider all of the issues identified in this Section (f) Fast Food Establishments, in determining whether to grant a Special Permit.

(g) Temporary Carnivals, Festivals and Fairs: Temporary Carnivals, Festivals and Fairs shall not exceed one week in duration.

(h) Temporary Structures

Dwellings: If a dwelling is destroyed by fire or other natural cause, a temporary dwelling such as a manufactured home built on a permanent chassis, designed for use with or without temporary foundation when connected to required utilities may be moved upon the lot for habitation by the resident(s) affected by the loss, provided that:

- (a) the applicant has obtained all permits necessary for the temporary use from the building, electrical and health officials prior to occupancy;
- (b) the occupancy of the temporary dwelling shall not exceed one year; and
- (c) the applicant obtains a building permit to reconstruct the destroyed dwelling structure within three (3) months of the destruction of the original dwelling structure.

Commercial Structures: If a commercial use structure is destroyed by fire or other natural cause, a temporary structure may be erected upon the lot on which the original commercial structure was located, or within 300 feet of said lot for the operation of the business(s) for which that lot was used at the time the structures was destroyed. The temporary structure(s) shall meet the requirements of 780 CMR, the Massachusetts State Building Code, Sixth Edition,

(and subsequent revisions and editions thereto) and Chapter 31 controlling temporary structure(s) shall require a special permit from the Zoning Board of Appeals as provided in Section 5300 of this By-law. The time that the temporary structures may remain shall not exceed 180 days.

The original copy of this zoning by-law change is on file for public inspection in the Town Clerk's Office; or take any other action relative thereto.

[Requested by the Local Comprehensive Plan Implementation Committee]

PLANNING BOARD RECOMMENDS: 3-0-0

LCP IMPLEMENTATION COMMITTEE RECOMMENDS: 3-0-0

FINANCE COMMITTEE HAS NO RECOMMENDATION

Zoning Amendment: 2/3's vote required under MGL C.40A

[Mark Latour moved to table Articles 16 and 17.](#)

Motion Passed.

Article 16 taken off the table at 8:05 p.m. by majority vote.

[Planning Board member Anne Howard moved to indefinitely postpone Article 16.](#)

Motion Passed.

Article 17. *Zoning By-law Amendments, Section 2400, Use Regulations.* To see if the Town will vote to amend the Provincetown Zoning By-laws, Article 2, Use Regulations, as follows:

(a) By inserting the following new sentence at the end of Section 2410 Applications: "Further use regulations are set forth elsewhere throughout these By-laws, including without limitation, Section 4700 Supplemental Use Regulations." And

(b) By amending Section 2440 Permitted Principal Uses so that the use table provides as follows:
2440 Permitted Principal Uses

		Residential			Commercial		Sea-shore	Public
		Res1	Res2	Res3 ResB	TCC	GC	S	Use M
A.	Residential							
A1a	Single Family Dwelling							
	1. one per lot	Yes	Yes	Yes	Yes	Yes	No	No
	2. two per lot (each separate structure)	No	BA PB	Yes	Yes	Yes	No	No
	3. three or more (each separate structure)	No	No	Yes PB	Yes PB	Yes PB	No	No
A1b	Two Family Dwelling							
	1. one per lot	No	Yes	Yes	Yes	Yes	No	No
	2. two per lot	No	No	Yes PB	Yes PB	Yes PB	No	No
	3. three or more per lot	No	No	Yes PB	Yes PB	Yes PB	No	No
A2	Multi Family Dwelling	No	No	Yes PB	Yes PB	Yes PB	No	No
A3	Boarding, lodging or tourist homes	No	Yes	Yes	Yes	Yes	No	No
A4	Nursing Home	No	BA	BA	BA	BA	No	No
A5	Manufactured home park or	No	No	No	BA	BA	No	No

	subdivision							
A6	Cluster Development	No	No	Yes	Yes	Yes	No	No
B.	Business							
B1	Business or professional offices, banks	No PB	No PB	No PB	Yes	Yes	No	No
B2	Funeral Home	No	No	No	Yes	Yes	No	No
B3	Hotel, motel, <u>dormitory</u> , or inn <u>Boarding, lodging or tourist homes</u>	No ⁵ <u>No</u>	No ⁵ <u>Yes</u>	Yes ³ <u>Yes</u>	Yes ² <u>Yes</u>	Yes ² <u>Yes</u>	No	No <u>No</u>
B4	Residential sales or service							
	a. neighborhood	BA	BA	BA	Yes	Yes	No	No
	b. art gallery	No	No	Yes	Yes	Yes	No	No
	c. motor vehicles sales, rental or services ⁴	No	No	No	BA	Yes	No	No
	d. marine service, boat sales	No	No	No	Yes	Yes	No	No
	e. package store	No	No	No	BA	BA	No	No
	f. all other retail <u>g. banks</u>	No <u>No</u>	No <u>No</u>	No <u>BA</u>	Yes ¹⁷ <u>Yes</u>	Yes ¹⁷ <u>Yes</u>	No <u>No</u>	No <u>No</u>
B5	Restaurant, bar	No	No	No	BA ⁶	BA ⁶	No	No
B6	Rental Storage Storage facility	No	No	BA ⁹	BA ⁹	BA ⁹	No	No
B7	Parking lots	No	BA ¹¹	BA ¹¹	BA ¹¹	BA ¹¹	No	No
B8	Fast Food Establishments (excluding those with seating for less than ten and which occupy no more than a total of 500 square feet)	No	No	No	BA ¹²	Yes ¹³ <u>BA</u>	No	No
C	Industrial							
C1	Seafood processing	No	No	No	BA	BA	No	No
C2	Boat building, repair overhaul							
	a. owner and one worker	BA	BA	Yes	Yes	Yes	No	No
	b. more workers	No	No	BA	Yes	Yes	No	No
C3	On-shore boat storage							
	a. one or two boats	Yes	Yes	Yes	Yes	Yes	Yes	Yes
	b. three or more boats	No	No	BA	Yes	Yes	No	No
C4	Oil, gas refining, processing pipelines	No	No	No	No	No	No	No
C5	Earth removal	No	No	No	No	No	No	No
C6	Solid waste processing, disposal	No	No	BA	BA	BA	BA	Yes
C7	Other manufacturing, processing	No	No	No	No	Yes	No	No
C8	Public utility	No	No	BA PB	BA PB	BA PB	No	No
C9	Transportation terminal	No	No	No	Yes	Yes	No	No
C10	Warehouse	No	No	No	No	Yes	No	No
C11	Contractor's yard	No	No	No	No	Yes	No	No
C12	Aircraft landing area	No	No	No	No	No	BA PB	No
D	Institutional							
D1	Religious or educational use							
	a. <u>uses</u> exempt from zoning prohibitions ⁷ <u>under Sec. 3, Ch 40A MGL</u>	Yes	Yes	Yes	Yes	Yes	Yes	Yes

	b. all others	No	No	Yes	Yes	Yes	No	No
D2	Cemetery	BA						
D3	Municipal Use	BA	BA	BA	BA	BA	BA	Yes
D4	Non-profit club without entertainment	No	No	Yes	Yes	Yes	No	No
D5	Museum	No	No	Yes	Yes	Yes	No	No
D6	Hospital, other institutional or philanthropic use	No	No	Yes	Yes	Yes	No	Yes
D7	Nursing Home	<u>No</u>	<u>BA</u>	<u>BA</u>	<u>BA</u>	<u>BA</u>	<u>No</u>	<u>No</u>
E	Recreational							
E1	Boys' or girls' camp	No	No	Yes	Yes	Yes	No	No
E2	Indoor recreation							
	a. commercial	No	No	No	Yes	Yes	No	No
	b. municipal	No	Yes	Yes	Yes	Yes	No	Yes
E3	Commercial outdoor recreation							
	a. tennis, golf, miniature golf, stables	No	No	No	BA	Yes	No	No
	b. picnic area, commercial beach, bathhouse	No	No	No	Yes	Yes	No	No
	c. campground	No	No	No	No	BA	No	No
	d. amusement park, drive-in theater, cart track	No						
	e. Temporary Carnivals, Festivals & Fairs ¹⁴	No	No	BA	BA	BA	No	No
	f. All other	No	No	No	BA	BA	No	No
F.	Other Principal Uses							
F1	Farms under 5 acres with livestock, aquaculture	BA						
F2	Other farms, nurseries, green houses	Yes						
F3	Animal kennel	No	No	No	No	Yes	No	No
F3a	Animal hospital	No	No	BA	No	Yes	No	No
F4	Use having externally observable attributes similar to uses permitted above	BA						
F5	Artist's Studio	BA	BA	Yes	Yes	Yes	Yes	No
F6	Temporary Single-family Dwelling ¹⁵	Yes	Yes	Yes	Yes	Yes	No	No
F7	Temporary Commercial Structure ¹⁶	No	No	BA	BA	BA	No	No
F8	All other principal uses	No						

Residential Commercial Seashore Public

1. Except "YES" in W B for banks and for professional offices including real estate, insurance, and accounting, without stock in trade, with no more than one firm or 2,000 square feet per building and no more than one building per lot.
2. Except "NO" if serving alcoholic beverages and containing fewer than twenty guest units.
3. Except "BA" if serving alcoholic beverages and containing fewer than twenty guest units.
4. No moped rental in all zones. 1980 ATM Art. 87 amended.
5. Except "YES" if existing as of January 1, 1981. 1981 ATM amended.
6. No sale of food, drink, or other products to persons standing in the street, sidewalk, or parking areas at or about such establishment. Other outdoor service allowed only on Special Permit from the Board of Appeals. 1982 ATM amended.
7. See sec. 3, Ch. 40A, M.G.L.
8. Except "BA" if the total number of dwelling units on the lot exceeds six (6). Obtaining a Special Permit does not relieve the applicant from the obligation of complying with the Plan Review under Section 4160 nor any other applicable By law provision.
9. Special Permit to be granted on a yearly basis only, and only after a Public Hearing and approval of the Building

~~Inspector and Fire Department each year; storage of toxic or hazardous materials (as determined by the Building Inspector, Fire Department and Massachusetts Division of Hazardous Waste under the provision of Chapter 24 M.G.L.) shall be cause for permanent revocation of Special Permit.~~

~~10. Left blank.~~

~~11. Special Permit to be granted only after a Public hearing and approval of the Building Inspector, the Fire Department and the Police Department.~~

~~12. After March 1, 1983, for any new construction, any substantial increase in intensity or use or any renovation of an existing structure to include the defined use, a Special Permit as specified in Sec. 5300 may be granted by the Board of Appeals: (a) only upon its written determination that the proposed fast food establishment does not create any adverse effect due to hazard or congestion especially including traffic impacts as determined by a traffic impact assessment prepared by the applicant according to Institute of Transportation Engineers guidelines regarding carrying capacity/level of service of the affected streets and any proposed mitigation sufficient to offset those impacts; (b) only if the applicant can demonstrate that the proposed use will not overburden public water, septage or solid waste facilities; (c) only if the applicant provides an enforceable plan for the mitigation and control of trash and litter generated by the proposed establishment; (d) any if the architecture and signage conforms to traditional Cape Cod style; and (e) only if, in order to assure that the concerns of the abutters and residents will be considered as a significant factor in the determination of the benefits or adverse effects of the proposed fast food establishment on the neighborhood and the Town, the Board of Appeals shall make a specific Finding of Significance regarding the response to the proposed use.~~

~~13. Architecture and signage must conform to traditional Cape Cod style and must be submitted to the Planning Board for review.~~

~~14. Temporary Carnivals, Festivals and Fairs shall not exceed one week in duration.~~

~~15. If a dwelling is destroyed by fire or other natural cause, a temporary dwelling such as a manufactured home built on a permanent chassis, designed for use with or without temporary foundation when connected to required utilities may be moved upon the lot for habitation by the resident(s) affected by the loss, provided that:~~

~~(a) the applicant has obtained all permits necessary for the temporary use from the building, electrical and health officials prior to occupancy;~~

~~(b) the occupancy of the temporary dwelling shall not exceed one year, and~~

~~(c) the applicant obtains a building permit to reconstruct the destroyed dwelling structure within three (3) months of the destruction of the original dwelling structure.~~

~~16. If a commercial use structure is destroyed by fire or other natural cause, a temporary structure may be erected upon the lot on which the original commercial structure was located, or within 300 feet of said lot for the operation of the business(s) for which that lot was used at the time the structure was destroyed. The temporary structure(s) shall meet the requirements of 780 CMR, the Massachusetts State Building Code, Sixth Edition, and Chapter 31 controlling temporary structure(s) shall require a special permit from the Zoning Board of Appeals as provided in Section 5300 of this By-law. The time that the temporary structures may remain shall not exceed 180 days.~~

~~17. Including adult entertainment uses, provided that said adult entertainment uses must be located at least 500 feet from any other adult entertainment uses must be located at least 500 feet from any school, playground, museum, church, community center, municipal building, nursing home, or cemetery in Provincetown (ATM April 1998)~~

The original copy of this zoning by-law change is on file for public inspection in the Town Clerk's Office; or take any other action relative thereto.

[Requested by the Local Comprehensive Plan Implementation Committee]

PLANNING BOARD RECOMMENDS AS AMENDED: 4-0-0

LCP IMPLEMENTATION COMMITTEE RECOMMENDS: 3-0-0

FINANCE COMMITTEE HAS NO RECOMMENDATION

Zoning Amendment: 2/3's vote required under MGL C.40A

Planning Board member Anne Howard moved that the Town vote to approve Article 17 as printed in the warrant, with the following amendments: anywhere in the Table where it says PB change to BA, and in A1a2, cross out PB.

Article 17 taken off the table at 8:15 p.m. by majority vote.

Duane Gregory moved to indefinitely postpone Article 17.

Motion to Indefinitely Postpone Passed.

Article 18. *Zoning By-law Amendment: Symbols.* To see if the Town will vote to amend the Provincetown Zoning By-laws, District Regulations, Section 2430, Symbols by inserting “and PB, a use as authorized under Special Permit from the Planning Board as provided for in Section 5300 Special Permits.” at the end of the paragraph, so that

2430 Symbols In the following Use Regulation Schedule symbols shall mean the following: YES, a permitted use; NO, an excluded or prohibited use; BA, a use authorized under Special Permit from the Board of Appeals as provided for in Section 5300 Special Permits, and PB, a use as authorized under Special Permit from the Planning Board as provided for in Section 5300 Special Permits.

The original copy of this zoning by-law change is on file for public inspection in the Town Clerk’s Office; or take any other action relative thereto.

[Requested by the Local Comprehensive Plan Implementation Committee]

PLANNING BOARD RECOMMENDS: 3-0-0

LCP IMPLEMENTATION COMMITTEE RECOMMENDS: 3-0-0

FINANCE COMMITTEE HAS NO RECOMMENDATION

Zoning Amendment: 2/3’s vote required under MGL C.40A

[Mark Latour moved to indefinitely postpone Article 18.](#)

Motion Passed.

ZONING AMENDMENTS

Article 19. *Zoning Amendment: Adult Entertainment:* To see if the Town will vote to amend the Zoning By-laws as follows:

1. By deleting footnote 17 from Section 2440(B4) and inserting a new Section 2440(B9) in the table of Permitted Principal Uses, which shall provide as follows:

	Res1	Res2	Res3 ResB	TCC	GC	S	M
B9 Adult Entertainment ¹							
a. Establishment which displays live nudity for its patrons	No	No	No	Yes	Yes	No	No
b. Other adult entertainment	No	No	No	Yes	Yes	No	No

[1] All adult entertainment uses must be located at least 300 feet from any library, school or playground. Further, all adult entertainment uses, other than establishments which display live nudity for their patrons and do not engage in other adult entertainment uses, must also be located at least 300 feet from any museum, church, community center, municipal building, nursing home or cemetery in Provincetown. Said setbacks are to be measured from the nearest points on the property lines of the lots hosting the proposed adult entertainment use and the use triggering the setback requirement.

And
2. By inserting a new Section 2450(G15) in the table of Permitted Accessory Uses, which shall provide as follows:

	Res1	Res2	Res3 ResB	TCC	GC	S	M
G15 Adult Entertainment ²							
a. Establishment which displays live nudity for its patrons	Yes	Yes	Yes	Yes	Yes	Yes	Yes
b. Other adult entertainment	No	No	No	Yes	Yes	No	No

² Accessory adult entertainment uses are permitted, as indicated in the above table, where the adult entertainment use is accessory to a non-residential use that is either a permitted use or a legally preexisting nonconforming use. All such adult entertainment uses must be located at least 300 feet from any library, school or playground. Further, all such adult entertainment uses, other than establishments which display live nudity for their patrons and do not engage in other adult entertainment uses, must also be located at least 300 feet from any museum, church, community center, municipal building, nursing home or cemetery in Provincetown. Said setbacks are to be measured from the nearest points on the property lines of the lots hosting the proposed adult entertainment use and the use triggering the setback requirement.
Or to take any other action relative thereto.

[Requested by the Board of Selectmen]

PLANNING BOARD RECOMMENDS: 3-0-0
 BOARD OF SELECTMEN RECOMMENDS: 5-0-0
 LCP IMPLEMENTATION COMMITTEE RECOMMENDS: 3-0-0
 FINANCE COMMITTEE HAS NO RECOMMENDATION

Zoning Amendment: 2/3's vote required under MGL C.40A

Richard Olson moved that the Town vote to approve Article 19 as printed in the warrant, with the following changes:

1. Delete the following, second from footnote 1:
 Further, all adult entertainment uses, other than establishments which display live nudity for their patrons and do not engage in other adult entertainment uses, must also be located at least 300 feet from any museum, church, community center, municipal building, nursing home or cemetery in Provincetown.
2. Delete the following, third sentence from footnote 2:
 Further, all adult entertainment uses, other than establishments which display live nudity for their patrons and do not engage in other adult entertainment uses, must also be located at least 300 feet from any museum, church, community center, municipal building, nursing home or cemetery in Provincetown.

A further change to be made in 5.2 by changing the footnote number from 2 to 3.

Motion Passed. (2/3rd Vote Required)

Article 20. *Zoning Amendment: Definition of Theater:* To see if the Town will vote to amend the Zoning By-laws as follows:

1. By amending Article 1 – Definitions, to add the following definition of "Theater" between the definitions of "Temporary Structure" and "Title 5 Design Flow":

Theater shall mean any indoor or outdoor use of property for the presentation of live entertainment or cinema for patrons, other than Adult Entertainment Uses, which are defined elsewhere in these By-laws.

And 2. By inserting a new Section 2440(B10) in the table of Permitted Principal Uses, which shall

provide as follows:

		Res1	Res2	Res3 ResB	TCC	GC	S	M
B10	Theater	BA	BA	BA	YES	YES	BA	BA

And 3. By inserting a new Section 2450(G16) in the table of Permitted Accessory Uses, which shall provide as follows:

		Res1	Res2	Res3 ResB	TCC	GC	S	M
16	Theater	BA	BA	BA	YES	YES	BA	BA

or to take any other action relative thereto.

[Requested by the Board of Selectmen]

PLANNING BOARD RECOMMENDS: 3-0-0
 BOARD OF SELECTMEN RECOMMENDS 5-0-0
 LCP IMPLEMENTATION COMMITTEE RECOMMENDS: 3-0-0
 FINANCE COMMITTEE HAS NO RECOMMENDATION

Zoning Amendment: 2/3's vote required under MGL C.40A

Richard Olson moved to approve Article 20, as printed in the Warrant, with the following change:

1. Delete the following clause at the end of the definition of Theater:
 "other than Adult Entertainment Uses, which are defined elsewhere in these By-laws";
 and
2. replace it with the following:
 "provided that Adult Entertainment Uses shall be subject to such further regulation as set forth elsewhere in these By-laws."

As revised, the definition will read as follows:

Theater shall mean any indoor or outdoor use of property for the presentation of live entertainment or cinema for patrons, provided that Adult Entertainment Uses shall be subject to such further regulation as set forth elsewhere in these By-laws.

A further change to be made in Section 2 changing the numbering 2440B (10) to 2440B (9) in the two places it appears.

Terese Nelson moved to amend the article by deleting the term "outdoor" from the definition of Theater. Amendment Does Not Pass.

Motion Passed. (2/3rd Vote Required)

Article 21. *Zoning By-law Amendment: Growth Management.* To see if the Town will vote to amend the Provincetown Zoning By-law by amending Article 6 Growth Management By-law to read as follows:

Article 6 - Growth Management By-Law

Section 6100 Purpose

The purpose of this Article is to maintain the rate of development in the Town at a level which will allow the Town to provide in a planned and rational manner adequate public services and facilities to meet the needs of its current and future population without overburdening the Town's natural resources or the capacities of existing and planned public facilities, particularly with respect to provision of potable water, wastewater disposal, and solid waste disposal. The regulations provided in this Article are designed to effectuate the purposes of zoning in :

- facilitating adequate provision of water, drainage, sewerage, and other public health safety and welfare requirements;
- protecting and enhancing the character of the community and its historical and natural resources; and
- ensuring that the rate of development does not overly burden the capacity of the Town to absorb the costs of meeting water, sewerage and waste disposal service demands in light of both fiscal constraints and limited availability of natural resources; while at the same time, encouraging affordable housing development and minimizing hardship to persons of limited incomes who live, or may choose to live, in the town.

Section 6200 Applicability

1. Except as provided below this Growth Management By-law shall apply to all new construction, including new structures and enlargement, alteration or renovation of existing structures, to all new uses, and to all expansions, changes, or alterations of existing uses, which will result in an increase, no change, or a decrease in Title 5 Design Flow (pursuant to 310C.M.R. 15.00) as determined by the ~~Health Agent~~ Building Commissioner.

2. No building permit shall be issued for a new structure or for the enlargement, renovation or alteration of an existing structure and no occupancy permit shall be issued for any new use or any expansion, change or alteration of an existing use for which no building permit is required until, ~~and unless either:~~

(a) ~~The Health Agent~~ Building Commissioner determines the amount, if any, by which the proposed use will not increase Title 5 Design Flow will increase or decrease as a result of the proposed use. In making determinations of Title 5 Design Flow, the Building Commissioner shall apply the definitions of Fixed Standing and Seats as defined in Article 1, where applicable. ; or

(b) In the event the Health Agent ~~Building Commissioner~~ determines the amount of ~~increase in~~ Title 5 Design Flow will increase, which will result from the proposed use, and no building permit or occupancy permit shall issue until the property owner obtains ~~Permit Coordinator issues~~ a Growth Management Allocation Permit sufficient to allow the increase.

(c) A use that has resulted in a determination of decreased Title 5 Design Flow within the previous 2 years may be changed, expanded, or altered so as to increase its Title 5 Design Flow up to and including the Title 5 Design Flow amount prior to the determination of decreased Title 5 Design Flow without obtaining a Growth Management Allocation Permit unless the owner of the subject property has expressly abandoned this right.

~~In making such determination, the Health Agent shall apply the definitions of Fixed Standing and Seats as defined in Article 1, where applicable.~~

3 ~~2~~. This Growth Management Zoning By-law shall not apply to Municipal Uses or approved laundromats.

4. ~~3~~. Notwithstanding any other provisions of this By-law to the contrary, any building permit issued

for construction authorized by a special permit granted prior to December 31, 2000 shall continue to be governed by the applicable provisions of the Growth Management By-law in effect on the date the special permit was granted, provided that:

- a. ~~(1-)~~ the building permit application for such construction was submitted to the Department within six months of the date of the grant of the authorizing special permit, and
- b. ~~(2-)~~ any delay in issuance of the building permit beyond the six month period following the grant of the special permit was due solely to the annual building permit limitations contained in the Growth Management By-law in effect on the date the special permit was granted.

5.4: This Growth Management Zoning By-law shall not apply to:

- a. the demolition, reconstruction and/or remodeling of dilapidated and/or condemned structures deemed by the Inspector of Buildings on or before March 1, 2000 to be a public safety hazard subject, however, to all other provisions of these By-laws governing maintenance, extension, alteration or change to pre-existing structures and/or uses.
- b. construction of a single-family dwelling, one per lot, upon a vacant lot by the owner(s) of record ~~owner(s)~~ thereof appearing at the Barnstable County Registry of Deeds as of March 1, 2000 which is intended to be occupied and is subsequently occupied for a continuous period of at least two (2) years by said owner(s) as his/her/their permanent principal residence. An Affidavit of Intention setting forth the owner(s) certification of intended commitment to compliance with the requirements of this subsection and signed and notarized under the pains and penalties of perjury by said record owner(s) shall be filed with the Inspector of Buildings with any building permit application filed pursuant to this exception. No property utilizing this exception shall be eligible to receive an additional Growth Management Allocation Permit for a period of five (5) years from the date of issuance of the original Growth Management Allocation Permit nor may a qualifying person or persons under this exception ever re-qualify for a further exception under this subparagraph b.~~d~~.
- c. single family dwellings where the owners are the resident and have a private well suitable for drinking. Said lot shall not be permitted to connect to the Town's water system.

6.5: This Growth Management By-law shall not apply to non-profit health care related uses in the Highway Corridor Overlay District or in the Health Care Overlay District.

Section 6300 Procedure

1. Application for a Growth Management Allocation Permit may be made in writing to the Permit Coordinator only after having first applied for all other permits, (except building and occupancy permits), licenses, special permits, variances, determinations and/or orders of conditions for the proposed construction and/or use as deemed necessary by the Permit Coordinator including, if applicable, affordable housing permits awarded by the PLHP. For purposes of such application, statutory appeal periods relative to said permits, variances, special permits, determinations and/or orders of conditions, need not have expired without appeals having been taken in order for the Permit Coordinator to determine that an application for a Growth Management Allocation Permit is completed.
2. In order to be considered complete, a Growth Management Allocation Permit application must be accompanied by the application for any building permit required for the proposed construction or, if no building permit is required, the application for an occupancy permit.
3. Growth Management Allocation permits shall be issued based upon the allowed Growth Limitation Goal allocation for each category at the beginning of each calendar year in the order that Completed Applications have been received in the Department of Regulatory Management and after the Department of Regulatory Management has had 30 days to review the Completed Application.
4. The Building Commissioner shall, two years after a determination of decreased Title 5 Design Flow, and provided that such Title 5 Design Flow has not increased during the two year period in

accordance with Section 6200(2)(c) above, assign the difference in gallonage between the prior, higher Title 5 Design Flow use and the current use to a "Surplus Gallonage Pool."

Section 6400 Priorities

Growth Management Allocation Permits shall be issued on the basis of the order of use priorities listed within each General Use Category in the following Table, and within each use priority in order of the date of the completed applications. The first listed use within each General Use Category shall be the highest use priority within that General Use Category.

Section 6500 Table of Use Categories and Priorities

GENERAL USE CATEGORY 1

1. 1. Affordable Housing Units.

1. 2. "Community Development Projects"

GENERAL USE CATEGORY 2

The non-affordable housing components of project consisting of:

2a1 Multi-family dwellings projects that consist of 50%-99% affordable housing bedrooms

2a2 Two-family dwellings projects that consist of 50%-99% affordable housing bedrooms

2a3 Single-family dwelling projects that consist of 50%-99% affordable housing bedrooms

2b1 Multi-family dwelling projects that consist of 33%-49.9% affordable housing bedrooms

2b2 Two-family dwelling projects that consist of 33%-49.9% affordable housing bedrooms

2b3 Single-family dwelling projects that consist of 33%-49.9% affordable housing bedrooms

GENERAL USE CATEGORY 3

~~3a1 Single-family dwelling, one per lot~~

~~3a2 Single-family dwelling, two per lot, each in a separate structure~~

~~3a3 Single-family dwelling, three or more per lot, each in a separate structure~~

~~3b1 Two-family dwelling, one per lot~~

~~3b2 Two-family dwelling, two per lot, each in a separate structure~~

~~3b3 Two-family dwelling, three or more per lot, each in a separate structure~~

~~3c Manufactured Home developments~~

~~3d Cluster development~~

~~3e All other new residential uses, or expansions or alterations to existing residential structures or uses, that result in increased Title 5 flow.~~

Market rate residential projects without affordable housing components including: single-family dwelling(s), two-family dwelling(s), and all other residential uses or expansions or alterations to existing residential structures or uses, that result in increased Title 5 flow, issued on a first-come, first-served basis.

GENERAL USE CATEGORY 4

4a. Office, Artists' Studio, For profit Nursing home, For profit Outpatient Rehabilitation Facility, issued on a first-come, first-served basis.

4b. Boarding, Lodging or Tourist Homes, Hotel, Motel, Inn, Camp, Cabin, Restaurant and Bar and all other non-residential uses, expansions or alterations to existing non-residential structures or uses and any change in non-residential use or increase in posted occupant load that results in increased Title 5 Design Flow, issued on a first-come first-served basis.

~~4c Hotel, Motel, Inn, Camp, Cabin~~

~~4d Restaurant and Bar~~

~~4e All other uses, expansions or alterations to existing structures or uses and any change in use or increase in posted occupant load that results in increased Title 5 Design Flow.~~

Section 6600 Growth Limitation Goal Allocations

1. Initially, 13,200 gpd shall be allotted for assignment for Use Category 1. Thereafter, all unassigned gallonage remaining at the end of each calendar year for General Use Categories 1, 3, and 4 shall be

allotted for assignment in the next calendar year for Use Category 1. Unassigned gallonage remaining at the end of each calendar year for General Use Category 2 shall be allotted for assignment in the next calendar year for Use Category 2.”

2. The Growth Limitation Goal shall be allocated for categories 2, 3 and 4 each year as follows:

(a.) 1870 gpd shall be allocated for assignment under General Use Category 2.

(b.) 1100 gpd shall be allocated for assignment under General use Category 3.

(c.) 700 gpd shall be allocated for assignment under General Use Category 4.

3. Gallonage in the Surplus Gallonage Pool at the end of each calendar year shall be available for allotment in subsequent calendar years to General Use Category 1.1 and 1.2 at the discretion of the Planning Board.

4. Annually, by November 15, the DPW Director, Water Superintendent, Permit coordinator, Planning Board, Board of Health, Water & Sewer Board, Local Housing Partnership and the Local Comprehensive Plan Implementation Committee shall evaluate the effects of growth on our resources including but not limited to potable water supply, solid waste disposal and wastewater disposal and issue a report to the Board of Selectmen on those impacts and their recommendations therefor. The Board of Selectmen shall hold a Public Hearing on the report in December of each year.

Section 6700 “Community Development Project” designation

6710 Purpose The purpose of the “Community Development Project” designation is to encourage development that advances the goals of the Local Comprehensive Plan (“LCP”) and provides a distinct benefit to the Provincetown community while maintaining consistency with the purposes of the Growth Management by-law. A proposed development that is designated under Section 6740 as a “Community Development Project” is eligible for Growth Management Allocation Permits under General Use Category 1.2.

6720 Applicability Proposed development that requires a Growth Management Allocation Permit under Section 6200 Applicability may apply to the Planning Board for a Community Development project designation.

6730 Procedure To be considered for designation as a Community Development project, an applicant must submit the following information to the Planning Board:

1. Copy of a completed Growth Management Allocation Permit application;

2. Description of the project’s consistency with the LCP including the following: description of project’s consistency with the LCP Vision Statement, and the identification of at least two specific LCP goals that are advanced in the project;

3. Description of the need for the project in the Provincetown community and the measurable benefits the project would provide to the Provincetown community;

4. Draft deed restriction limiting the Title 5 Design Flow and use of the property to the use and gallonage allocated to the project under the Growth Management Allocation Permit.

6731 Public Hearing A “Community Development Project” designation application shall be decided following a public hearing held within sixty-five days after filing a complete application with the Planning Board, a copy of which shall be given to the Town Clerk by the applicant. Within 30 days of the aforementioned public hearing, the Planning Board shall either grant or deny the application for “Community Development Project” designation with a statement of reasons. Failure of the Planning Board to act within such time shall not result in constructive approval of the application.

6740 Consideration A Community Development Project designation may be granted only if the Planning Board determines that the applicant has demonstrated that the proposed project meets all of the following standards:

1. The proposed development is consistent with the Community Vision Statement of the LCP.

2. The proposed development advances at least two goals of the LCP and does not derogate from any

LCP goals.

3.The development confers upon or results in demonstrable and measurable benefits to the Provincetown community.

4.The development does not derogate from the intent and purposes of the Growth Management by-law.

5.The property's future use and gallonage is limited to the use and amount allocated for the project by a deed restriction approved by the Planning Board.

6.The deed restriction referenced in Section 6730(4) shall be in a form approved by Town Counsel.

Section ~~6700~~ 6800 Scope and Validity of the By-law

Nothing in this Growth Management Zoning By-law shall nullify or exempt any property or use from any other provisions of these By-laws or other Town regulations. The invalidity of any section or provision of this By-law shall not invalidate any other section or provision hereof, nor shall it invalidate any building permit, occupancy permit or special permit issued in reliance on said section or provision prior the determination of its invalidity.

The original copy of this zoning by-law change is on file for public inspection in the Town Clerk's Office; or take any action relative thereto.

[Requested by the Local Comprehensive Plan Implementation Committee]

PLANNING BOARD RECOMMENDATION: 4-0-0

LCP IMPLEMENTATION COMMITTEE RECOMMENDS: 3-0-0

FINANCE COMMITTEE HAS NO RECOMMENDATION

Zoning Amendment: 2/3's vote required under MGL C.40A

[Alix Ritchie moved to table Article 21.](#)

Motion Passed.

Article taken off the table at 8:25 p.m. by majority vote.

[Planning Board member Anne Howard moved to indefinitely postpone Article 21.](#)

Motion Passed.

Article 22. *Zoning Amendment. Masonic Place Rezoning.* To see if the Town will vote to amend the Provincetown Zoning By-Laws as follows: by adding the following paragraph to §2100, Establishment of districts: "The boundaries of the Town Center Commercial District shall be expanded to include those properties shown on a map, entitled "Masonic Place Expansion of Town Center Commercial District, Provincetown, MA" dated March 4, 2004, which map is on file with the Town Clerk's office and hereby incorporated by reference into the Zoning By-Laws. Those properties to be rezoned from Residential District 3 (Res 3) to Town Center Commercial District (TCC) include 11-3-040 (7 Masonic Place) and the adjacent property 11-3-041 (5 ½ Masonic place). (11-3-041 is already adjacent to the Town Center Commercial district, but is outside of that district)." The original copy of this zoning by-law change is on file for public inspection in the Town clerk's office; or to take any other action relative thereto.

[Requested by Eliot Denault and others]

PLANNING BOARD HAS NO RECOMMENDATION: 4-0-0

LCP IMPLEMENTATION COMMITTEE RECOMMENDS: 3-0-0

FINANCE COMMITTEE HAS NO RECOMMENDATION

Zoning Amendment: 2/3's vote required under MGL C.40A

Christopher Snow moved that the Town vote to approve Article 22 as printed in the warrant, with the following amendment; by adding the paragraph to section 2100 as presented in quotation marks under Article 22 of the warrant.

Motion Passed. (2/3rd Vote Required)

Article 23. *Zoning Amendment: Outdoor Display.* To see if the Town will vote to amend the Zoning By-law, Article 2420, Outside Display, by amending Section E under "exceptions" to read as follows:

E. The displaying and selling of commodities (excluding food and beverage) by businesses and residents during the weekend (Saturday and Sunday) *in May* of the "Monumental Yard Sale", which shall be under the sponsorship of a local businesspersons' organization; *and an inventory sale during Columbus Day Weekend (Saturday, Sunday, and Monday) in October.* ~~"The Monumental Yard Sale" will occur annually during the weekend prior to Memorial Day weekend.~~ No displays or sales shall take place within or upon public land, sidewalks or roadways. Displays and sales shall only appear upon property of the participants, whether jointly or independently. Displays and sales shall not impede pedestrian traffic or cause concerns for the public's safety.

or to take any other action relative thereto.

[Requested by Rob Tosner and others]

PLANNING BOARD RECOMMENDS: 4-0-0

LCP IMPLEMENTATION COMMITTEE RECOMMENDS: 3-0-0

FINANCE COMMITTEE HAS NO RECOMMENDATION

Zoning Amendment: 2/3's vote required under MGL C.40A

Planning Board member Ellen Battaglini move that the Town vote to amend Article 23 so that the reference to Article 2420 reads "Article 3420."

Sarah Peake moved to amend the motion by adding after the words in May: "except Memorial Day Weekend". Amendment Passed.

Motion as Amended Passed. (2/3rd Vote Required)

LAND

Article 24. *Release of Fee Interest in Certain Abandoned Portions of Browne Street.* To see if the Town will vote to amend its vote on Article 59 of the 1991 Annual Town Meeting and its vote on Article 27 of the 1992 Annual Town Meeting to release to the abutters the fee interest in those portions of the 1890 Browne Street layout that were abandoned by said Town Meeting actions, or to take any other action relative thereto.

[Requested by the Board of Selectmen and the Board of Assessors]

BOARD OF SELECTMEN RECOMMENDS MOTION: 5-0-0

FINANCE COMMITTEE HAS NO RECOMMENDATION

Mary-Jo Avellar moved that the Town vote to indefinitely postpone action on Article 24.

Motion Passed.

Article 25. *Abandon a Portion of Browne Street.* To see if the Town will vote to discontinue and abandon as a Public Way and release to the abutters thereto the fee ownership in a certain portion of Browne Street, said portion being an unworked and/or unimproved way, which was accepted by the Town of Provincetown on February 10, 1890, all as shown on a Plan of Land Showing Layout of Browne Street, prepared by the Provincetown Assessors' Office and dated January 22, 2004, which plan is available for inspection in the Town Clerk's office and incorporated herein by reference, or to take any other action relative thereto.

[Requested by the Board of Selectmen and the Board of Assessors]

BOARD OF SELECTMEN RECOMMENDS MOTION: 5-0-0

FINANCE COMMITTEE HAS NO RECOMMENDATION

Cheryl Andrews moved that the Town vote to indefinitely postpone action on Article 25.

Motion Passed.

Article 26. *Hunting Within Cape Cod National Seashore.* To see if the Town will vote to ask the Cape Cod National Seashore not to allow hunting and trapping within the entire boundaries governed by the Cape Cod National Seashore, or to take any other action relative thereto.

[Requested by Peter Souza and others]

BOARD OF SELECTMEN DOES NOT RECOMMEND: 3-2-0

CONSERVATION COMMISSION DOES NOT RECOMMEND: 4-0-0

FINANCE COMMITTEE HAS NO RECOMMENDATION

Peter Souza moved that the Town vote to ask the Cape Cod National Seashore not to allow hunting and trapping within the entire boundaries governed by the Cape Cod National Seashore.

Motion Does Not Pass.

RESOLUTIONS OF TOWN MEETING

Article 27. *Site Y for Cape End Manor Care Campus.* To see if the Town will vote to instruct Governor Romney to investigate the State Department of Fish and Wildlife decision regarding environmental concerns based on misinformation to acquire surplus land known as Site Y Parcel No. 16-1-006, 625 Route 6, for construction purposes. In particular, the 5 acre parcel that was proposed for the Cape End Manor Care Campus. And further, that the Town vote to instruct Governor Romney to pursue through whatever means that the 5 acre parcel known as Site Y will be the site for the Cape End Manor Care Campus, or to take any other action relative thereto.

[Requested by Peter Souza and others]

BOARD OF SELECTMEN DOES NOT RECOMMEND: 4-0-1

FINANCE COMMITTEE DOES NOT RECOMMEND: 7-0-0

CONSERVATION COMMISSION DOES NOT RECOMMEND: 4-0-0

Peter Souza moved that the Town vote to approve Article 27 as printed in the warrant.

Motion Does Not Pass.

Article 28. *Non-binding referendum to dissolve Provincetown Public Pier Corporation.* To see if the Town will vote on a non-binding referendum “Should the Provincetown Public Pier Corporation be Dissolved.” or to take any other action relative thereto.

[Requested by Luis M. Ribas and others]

BOARD OF SELECTMEN DOES NOT RECOMMEND: 3-0-2

FINANCE COMMITTEE DOES NOT RECOMMEND: 7-0-0

John Baldwin moved that the Town vote on a non-binding referendum “Should the Provincetown Public Pier Corporation be dissolved.”

Motion Passed. For 61 Against 51

OTHER FINANCIAL ARTICLES

Article 29. *Study Septage at Wastewater Treatment Plant.* To see if the town will vote to raise and appropriate or transfer from the Wastewater Enterprise Fund the sum of \$20,000 to initiate and, pending approval of the state Department of Environmental Protection, fund a study and pilot program for the disposal of septage at the Provincetown sewage treatment plant supervised by the Sewer Team with Woodard & Curran.

[Requested by the Water & Sewer Board]

BOARD OF SELECTMEN DOES NOT RECOMMEND: 5-0-0

FINANCE COMMITTEE RECOMMENDS AS AMENDED: 8-0-0

CONSERVATION COMMISSION RECOMMENDS: 4-0-0

Jonathan Siniako moved that the Town vote to raise and appropriate the sum of \$20,000 for Article 29.

Finance Committee member Matthew Clark moved that the Town vote to amend Article 29 to reduce the amount appropriated to \$0. Amendment Does Not Pass.

Motion Passed.

Article 30. *FY 2005 Human Services Grant Program.* To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$51,744 to be expended under the direction of the Board of Selectmen, to fund grants to assist non-profit agencies and organizations to maximize available resources to meet needs identified by the community by providing services to local residents, particularly those of low- and moderate-income and those who are uninsured or underinsured, as follows:

AIDS Support Group of Cape Cod \$7,000

Cape Cod Children’s Place.. 3,250

Consumer Assistance Council.... 250

Gosnold 13,000

Helping Our Women 5,500
 Independence House... 3,800
 Interfaith Council for the Homeless.. 2,344
 Legal Services for Cod Cape & Islands.. 4,300
 Lower Cape Outreach Council, Inc... 4,000
 Mass Appeal..... 400
 Outer Cape Health Services 4,500
 Sight Loss Services, Inc..... 400
 Soup Kitchen in Provincetown.. 3,000
 Total \$51,744

or to take any other action relative thereto.

[Requested by the Human Services Committee, the Board of Selectmen, and the Town Manager]

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 8-0-0

Mary-Jo Avellar I moved that the Town vote to raise and appropriate the sum of \$51,744 for Article 30.

Motion Passed.

Article 31. *Expenditures from the Tourism Fund.* To see if the Town will vote to transfer from the Tourism Fund the sum of \$438,000 to be expended under the direction of the Board of Selectmen and the Visitor Services Board to fund the following expenditures which market, beautify or enhance tourism in Provincetown pursuant to Chapter 178 of the Acts of 1996:

1. \$81,500 for coordination/support of the Visitor Service Board and the Tourism Department; and costs related thereto;
2. \$140,000 for marketing, and costs related thereto;
3. \$110,000 for promotional events, and costs related thereto;
4. \$87,092 for municipal projects, and costs related thereto; and
5. \$18,408 to reduce the Fiscal Year 2005 property tax levy to offset regional transit authority charges for the summer shuttle;

or to take any other action relative thereto.

[Requested by the Board of Selectmen and the Visitor Services Board]

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 7-0-0

Sarah Peake moved that the Town vote to approve Article 31 as printed in the warrant, with the correction that \$88,092 is appropriated for municipal projects, within the total of \$438,000.

Motion Passed.

Article 32. *Replenishment of Tourism Fund.* To see if the Town will vote to raise and appropriate the sum of \$81,183 to deposit in the Tourism Fund established under Chapter 178 of the Acts of 1996, to be expended under the direction of the Board of Selectmen and the Visitor Services Board to fund expenditures which market, beautify, or enhancement tourism in Provincetown; said sum being one-third of the \$243,549 that the April 7, 2003 Special and Annual Town Meetings voted shall be repaid to the Tourism Fund over a three-year period beginning FY 2005; or to take any other

action relative thereto.

[Requested by the Town Manager and the Board of Selectmen]

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE DOES NOT RECOMMEND: 6-0-1

Steven Melamed moved to indefinitely postpone Article 32.

Motion Passed.

Article 33. *HeartSafe Program.* To see if the Town will vote to raise and appropriate or transfer from available funds or transfer from the Tourism Fund the sum of \$28,800 to be expended under the direction of the Board of Fire Engineers for the purchase of Automated External Defibrillators (AED's) and the training of personnel where the AED's are permanently located.

[Requested by the Board of Fire Engineers]

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 7-0-0

Mary-Jo Avellar moved that the Town vote to raise and appropriate the sum of \$28,800 to be expended under the direction of the Board of Fire Engineers for the purchase of Automated External Defibrillators (AED's) and the training of personnel where the AED's are permanently located.

Motion Passed.

Article 34. *Use of Free Cash to Reduce FY 2005 Property Tax.* To see what sum the Town will vote to transfer from Free Cash to reduce the Fiscal Year 2005 property tax levy; or to take any other action relative thereto.

[Requested by the Town Manager and the Board of Selectmen]

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 7-0-0

Mary-Jo Avellar moved that the Town vote to transfer from Free Cash the sum of \$270,000 to reduce the Fiscal Year 2005 property tax levy.

Motion Passed.

Article 35. *Use of Parking Fund to Reduce the FY 2005 Tax Levy.* To see if the Town will vote to transfer the sum of \$1,100,000, or any greater or lesser sum, from the Parking Fund to reduce the Fiscal Year 2005 property tax levy, as provided by Chapter 790 of the Acts of 1981, or to take any other action relative thereto.

[Requested by the Town Manager and the Board of Selectmen]

BOARD OF SELECTMEN RECOMMENDS: 5-0-0

FINANCE COMMITTEE RECOMMENDS: 7-0-0

Mary-Jo Avellar moved that the Town vote to transfer the sum of \$1,100,000 from the Parking Fund

to reduce the Fiscal Year 2005 property tax levy, as provided by Chapter 790 of the Acts of 1981.
Motion Passed.

Town Moderator Elizabeth Steele-Jeffers motioned to adjourn at 10:50 p.m.
Motion Passed.

Annual Town Meeting adjourned at 10:50 p.m.