

TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

SPECIAL MEETING – WARRANT ARTICLES

TUESDAY – SEPTEMBER 20, 2011 5 PM

Chairman Elaine Anderson convened the meeting at 5:00 PM noting the following
Board of Selectmen attending: Elaine Anderson, David Bedard, Austin Knight and David McChesney

Unexcused Absence: John Santos

Other attendees: Town Manager Sharon Lynn and Assistant Town Manager David Gardner

Recorder: Vernon Porter

1. DISCUSS AND INSERT TOWN MEETING WARRANT ARTICLES

October 24, 2011 Special Town Meeting

MOTION: *Move that the Board of Selectmen vote to insert the following ArticleS on the warrant for October 24, 201 - , Special Town Meeting subject to review by Town Counsel.*

Article 1. Wastewater Optimization and Expansion – Supplemental Borrowing Authorization.

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to supplement the amount appropriated under Article 2 of the April 2009 Special Town Meeting and Article 6 of the April 2011 Special Town Meeting, to be expended under the direction of the Town Manager and the Board of Selectmen, for the development of plans and specifications and for construction, optimization and expansion of the Town's sewer system including further extensions of the Town's sewer system, including without limitation all costs defined under C.29C, §1 of the General Laws and all other costs incidental and related thereto; 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 therefore; 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; and, further, the Town votes to authorize the Water and Sewer Board to assess one hundred percent of the project cost to the Town upon those who benefit from the project, such assessments to be made by the Uniform Unit method as provided by General Laws Chapter 83, Section 15; or take any other action relative thereto.

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

Motion by: Austin Knight Seconded By: David Bedard Yea 4 Nay 0

Article 2. FY 2012 Budget Adjustments

To see what amendments the Town will vote to make to the Fiscal Year 2012 operating budgets established under Article 2 of the April 2011 Annual Town Meeting and what sums the Town will vote to raise and appropriate or transfer from available funds therefore; or take any other action relative thereto.

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

Motion by: David Bedard Seconded By: Austin Knight Yea 4 Nay 0

Article 3. Prior Year Bills.

To see what sum the Town will vote to raise and appropriate or transfer from available funds for the purpose of paying prior year unpaid bills; or take any other action relative thereto.

[Requested by the Town Manager]

Motion by: Austin Knight Seconded By: David Bedard Yea 4 Nay 0

Article 4. Compensation to Volunteer Firefighters.

To see what sum the Town will vote to raise and appropriate or transfer from available funds for the purpose of compensating volunteer firefighters who completed training at the Firefighters Academy; or take any other action relative thereto.

[Requested by the Town Manager]

Motion by: Austin Knight Seconded By: David Bedard Yea 4 Nay 0

Article 5. VMES/Freeman Street Building Renovations.

To see if the Town will vote to transfer a sum of money from the Capital Improvements Stabilization Fund and transfer a sum of money from the Stabilization Fund - Unreserved for the repairs needed to complete the renovation of the Veteran’s Elementary School and the Freeman Street Building ; or to take any other action relative thereto.

[Requested by the Town Manager]

Motion by: Austin Knight Seconded By: David Bedard Yea 4 Nay 0

GENERAL BY-LAW AMENDMENTS

Article 6. General By-law Amendment: Yard, House, or Garage Sales.

To see if the Town will vote to amend the Provincetown General By-laws by inserting a new Section 13-1-4, for the purpose of regulating the frequency of yard sales, including amendments or modifications thereto, to read as follows:

13-1-4 YARD, HOUSE, GARAGE OR BARN SALES

13-1-4-1 Definitions. Yard, House, or Garage Sales shall mean the sale or offering for sale of ten (10) or more items of personal property at any one (1) residential premises at any one (1) time, excluding such sales as may be conducted by a bona fide charitable organization, religious or fraternal society or other tax-exempt organization.

13-1-4-2 Limits on number, frequency and length of sales.

No person or location shall be authorized more than four (4) sales per calendar year, and any such sale shall not continue for more than two consecutive days.

13-1-4-3 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.

13-1-4-4 Signs. Any sign advertising such sale shall not exceed two (2) square feet, and there shall be no off-premises signs allowed. All signs must be removed immediately at end of the sale event.

13-1-4-5 Violations and penalties.

A non-criminal disposition penalty will be assessed for any violation of this Bylaw in the amount of \$50 for each offense. Each day that a violation hereof exists shall be deemed to be a separate offense.

or take any other action relative thereto.

[Requested by the Town Manager and Board of Selectmen]

Motion by: David Bedard Seconded By: David McChesney Yea 4 Nay 0

Article 7. General By-law Amendment: Obstructions within the Public Ways.

To see if the Town will vote to amend the Provincetown General By-laws by inserting a new Section 11-6-4, and renumbering Section 13-2-22 in its entirety to Section 11-6-5, for the purpose of regulating the public safety hazards of encroachments and obstructions within the public way, including amendments or modifications thereto, to read as follows:

11-6-4. Obstructions within the Public Ways

In order to preserve and promote the safety of the public, no property owner shall permit an encroachment or obstruction within the public way.

Whenever the Director of Public Works, the Fire Chief or the Chief of Police determine that the public way is obstructed by a hedge, tree, brush, or similar natural growth, fence, sign, structure, landscape element or object so as to constitute a public safety hazard to vehicular or pedestrian traffic, or access of emergency or public works vehicles, they shall present a report to the Board of Selectmen.

The Board of Selectmen shall give such notice to interested parties, including affected property owners, as they deem appropriate, and following a public hearing in which a finding of a public safety hazard is made by a majority of the board, may thereafter vote to require that the obstruction be trimmed, altered, removed or moved so that the public way shall be unobstructed and clear from any public safety hazard.

and further,

Remove Section 13-2-22: Trees & Shrubs: Height Restrictions for Traffic Safety, from Chapter 13, Prohibited Activities and renumber as Section 11-6-5 and place without change to content under Chapter 11 Section 6 Public Ways, or take any other action relative thereto.

[Requested by the Town Manager and Board of Selectmen]

Motion by: David Bedard Seconded By: David McChesney Yea 4 Nay 0

Article 8. General By-law Amendment: Stretch Energy Code.

To see if the Town will vote to amend the Provincetown General By-laws by inserting a new Section 11.9, entitled “Stretch Energy Code” for the purpose of regulating the design and construction of buildings for the effective use of energy, pursuant to Appendix 120 AA of the Massachusetts Building Code, 780 CMR, the “Stretch Energy Code”, including amendments or modifications thereto, to read as follows:

Chapter 11-9 STRETCH ENERGY CODE

11-9-1 Definitions International Energy Conservation Code (IECC) 2009 - The International Energy

Conservation Code (IECC) is a building code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency and is amended on a three year cycle. Commencing July 1, 2010, the baseline energy conservation requirements of 780 CMR, the MA State Building Code, will defaulted to IECC 2009 with amendments adopted as part of 780 CMR. Stretch Energy Code - Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA, the Stretch Energy Code is the International Energy Conservation Code (IECC) 2009 with amendments contained therein.

11-9-2 Purpose

The purpose of 780 CMR 115.AA is to provide a more energy efficient alternative to the base energy code applicable to the relevant sections of the building code for both new construction and existing buildings.

11-9-3 Applicability

This code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR as applicable.

11-9-4 Authority

A municipality seeking to ensure that building construction within its boundaries is designed and built above the energy efficiency requirements of 780 CMR may mandate adherence to this appendix. 780 CMR 115.AA may be adopted or rescinded by any municipality in the commonwealth in the manner prescribed by law.

11-9-5 Stretch Energy Code

The Stretch Energy Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 115.AA, including any amendments or modifications, is herein incorporated by reference into the Town of Provincetown General Bylaws, Chapter 11-9. The Stretch Energy Code is enforceable by the Building Commissioner and Local Building Inspector. or take any other action relative thereto.

[Requested by the Board of Selectmen]

Motion by: David Bedard Seconded By: David McChesney Yea 4 Nay 0

Article 9. Establish Bicycle Committee.

To see if the Town will vote to establish a standing committee of the Town to be known as the “Bicycle Committee” to be comprised of five regular members and one alternate member appointed by the Board Selectmen for three year overlapping terms so arranged that the terms of at least one member shall expire each year. It shall be the mission of the Bicycle Committee to advise the Board of Selectmen on matters pertaining to the advancement of Provincetown as a Bicycle Friendly Community, including public awareness and education of bike safety programs; Identifying and promoting needed bicycle amenities, facilities, routes, lanes and the elimination of dangerous areas; and to assist in promoting Provincetown as a bike friendly destination; or to take any take any other action relative thereto.

[Requested by Town Manager and the Board of Selectmen]

Motion by: David Bedard Seconded By: Austin Knight Yea 4 Nay 0

ZONING BY-LAW AMENDMENTS

Article 10. Section 2470 Parking Requirements.

To see if the Town will vote to amend the Provincetown Zoning Bylaws as follows:

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 to be calculated in accordance with the following table, rounding up for each resulting fraction. The Zoning Board of Appeals may grant ~~relief a variance~~ from this requirement with a Special Permit 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~~ relief with a Special Permit upon determination that the applicant has met the criteria for granting under section 5300 and 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, Dormitory, 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
Affordable, elderly & or handicapped housing	1 space per two residential units

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
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	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

or to take any other action relative thereto.

[Requested by the Planning Board]

Motion by: David Bedard

Seconded By: Austin Knight

Yea 4 Nay 0

Article 11. Section 3200 Sign Regulations.

To see if the Town will vote to amend the Provincetown Zoning Bylaws as follows:

Section 3200 Sign Regulation

3210 Administration and Enforcement

3211 Inspector of Buildings The Inspector of Buildings shall administer and enforce all regulations contained in this By-Law. The Inspector of Buildings shall give a written notice to any person or persons erecting new signs in violation of these regulations, to render compliance therewith within ten days or remove the sign by reason of failure to do so.

3212 Registration of Signs All existing signs shall be registered with the Building Inspector with a statement of size and content. No registration fee shall be required. All newly erected signs shall be registered with the Inspector of Buildings with a statement of size and content, and an inspection fee shall be paid at the time of registration.

3213 Length of Time Given for Compliance All persons, firms and corporations having presently established signs shall obtain permits for said signs as hereinafter provided; and any presently existing signs, regardless of size, may remain as nonconforming until such time of replacement or repairs which would change the principal wording, size or shape. At such time, such changed sign as aforesaid must comply with the requirements of this By-Law.

3214 Relief from these regulations. Relief from the restrictions in Section 3230 and 3240 may be granted by Special Permit from the Zoning Board of Appeals, or in case where a Site Plan review is required, the Planning Board shall be the Special Permit Granting Authority. Deviations from the Sign Regulations may be granted if the applicant demonstrates all of the following:

1. That the social, economic or other benefits for the neighborhood or town of the proposed sign outweigh any adverse effects such as hazard, congestion or environmental degradation; and
2. that the proposed sign is compatible with the architectural style, character and scale of the building and size of the parcel to which it may be attached or placed; and
3. that the proposed sign does not contribute to the visual clutter of the streetscape, such as off-site signs, oversized signs, and excessive temporary signage; and
4. that the proposed sign is designed for the purpose of identification of a property, business or use in an attractive and functional manner and serve as general advertising; and
5. that the proposed sign does not cause a traffic or pedestrian hazard, nor interfere with ingress/egress to or from the property, business or use or an abutting property, business or use.

No changes to section 3220 to 3224.

3225 No sign relating to commercial activity shall be permitted in a ~~Class B~~ Res 1-Residential District.

No changes to section 3226, 3227 and 3230.

3240 Multiple Signs

No changes to section 3240 a through f.

~~g. A single sign not over three square feet in area, including frame or other decoration, erected to announce the sale or rent of the property so designated is allowed in addition to the above provided that such sign must be placed parallel to the street, may not be mounted on trees or shrubs, must be securely attached to a structure or in the ground and must be set back from the lot line at least ten feet, except when a building is not set back ten feet from the lot line in which case such sign may be erected on the building or in the ground against the building.~~

g. For sale, rent, lease or construction: an on-premises sign advertising the property being sold, leased, rented or constructed, including new construction or renovation.

1. Each sign shall not exceed six (6) square feet.

2. Such signs shall advertise only the property on which the sign is located.

3. A maximum of two (2) such signs may be maintained on any property being sold, leased, rented, built or renovated

4. All signs shall be removed by the owner or agent within three (3) days of sale, lease, rent or completion of work.

5. Public projects or projects with public subsidies, which have sign requirements associated with grant funding shall be exempt from size requirements up to a maximum of 32 square feet.

No further changes

Or to take any other action relative thereto.

[Requested by the Planning Board]

Motion by: Austin Knight Seconded By: David Bedard Yea 4 Nay 0

Article 12. Zoning Bylaw Article 6 Growth Management.

To see if the Town will vote to amend the Provincetown Zoning Bylaws as follows:

No changes to Section 6100 through Section 6500

Section 6600 Growth Limitation Goal Allocations

No changes to Section 6600 I. (a) and (b)

(c) Annually, during the Growth Management Review, the Board of Selectmen may allocate up to ~~1,250~~ 3,750 gpd to General Use Category 4, provided that the Board of Selectmen shall have made a finding that the Town is in compliance with the water withdrawal permit issued by the Department of Environmental Protection (“DEP”) pursuant to 310 CMR 36.00 and all applicable rules and regulations promulgated by DEP with respect thereto.

The Selectmen shall have the flexibility with the General Use Category 4 to distribute the 3,750 gallons between General Use Category 4 and Use Category 4a, Projects that receive an Economic Development Permit.

All unassigned gallonage remaining at the end of each calendar year for General Use Category 4 shall remain available for assignment in the next calendar year for General Use Category 4, and all unassigned gallonage available at the end of each calendar year for Use Category 4a, shall remain

available for assignment in the next calendar year for Use Category 4a.

3. Growth Management Review.

Annually, by January 15, the Town Manager, in consultation with the DPW Director, Water Superintendent, Permit Coordinator, Planning Board, Board of Health, Water & Sewer Board, and Provincetown Community Housing Council (PCHC) shall evaluate the effects of growth on our resources over the past year, including but not limited to potable water supply, solid waste disposal, wastewater disposal, and the inventory of affordable housing and a review of the demand for Category 4a and issue an Annual Growth Management Report to the Board of Selectmen on those impacts and their recommendations therefore. The Board of Selectmen shall hold a Public Hearing on the Report within 30 days, and make a determination as to the amount of the Growth Limitation Goal Allocations, not to exceed the assigned allocations in Section 6600 for the upcoming year.

No further changes

Or to take any other action relative thereto.

[Requested by the Planning Board]

Motion by: David Bedard Seconded By: David McChesney Yea 4 Nay 0

Article 13. Zoning Bylaw Article 7 Wireless Telecommunication Towers and Facilities.

To see if the Town will vote to amend Zoning By-law Article 1 Definitions and Article 7, Section 7070. General Requirements. L. Standards for Siting Telecommunications Facilities, Towers, Repeaters and Section 7070. General Requirements. M. Parameters and Criteria for Evaluating Siting Impacts, as set forth below or to take any other action relative thereto:

Zoning Bylaw Article 1 – Definitions.

The terms “Article X” and “Section 3300” in the last sentence of the first paragraph shall be deleted and the terms “Article 7” and “Section 2330” shall be substituted therefore.

and

Zoning Bylaw Article 7 Wireless Telecommunication Towers and Facilities. Section 7070

No changes to Sections 7010 through 7070 L.

Section 7070.L: Special Permit Standards for Siting New Telecommunication Facilities, Towers, Repeaters:

Subject in every instance to the provisions of Section 7030, no new Telecommunication Facility shall be sited except upon issuance of a Special Permit, which shall be allowed in all zoning districts within the Town, provided that each new Telecommunications Facility shall conform to the following requirements:

1. Any new facility or Tower, ~~with the exception of Repeaters,~~ shall be sited as far away as possible, and at least five hundred (500) feet horizontally, from any existing dwelling unit, school (public or private), ~~municipal water supply towers,~~ child care facility and housing for the elderly or infirm. ~~unless otherwise specified in Section 7070, subsection M of this Article.~~

2. Any new Telecommunications Facility, Tower and Repeater shall conform to the height and setback requirements of Section 7070;
3. Any new Telecommunications Facility, tower and Repeater shall conform to the Special Permit Regulations set forth in this Bylaw, including Section 7070.M.
4. If feasible, every new Telecommunication Facility shall be located on an existing structure, including but not limited to any existing building, water tower, Telecommunications Facility, utility pole and Tower, and related facilities, provided further that any installation of any such new Telecommunications Facility shall, to the maximum extent possible, preserve the character and integrity of the existing structure and its surroundings. In particular, every applicant is urged to consider using existing telephone and electric utility structures as sites for one or more personal wireless service facilities. Each applicant shall have the burden of proving that there is no feasible existing structure upon which to locate the proposed new Telecommunications Facility.

If an applicant demonstrates that it is not feasible to locate on an existing structure, then the proposed new Telecommunication Facility and any proposed new Tower shall be designed so as to be camouflaged from view from adjacent properties and from public ways, parks, facilities and bodies of water to the greatest extent possible, including but not limited to: the use of compatible building materials and colors, screening, landscaping and placement within trees.

~~No Repeater shall be located closer than 200 feet horizontally to an existing dwelling unit or less than 35 feet above ground without demonstration by the applicant that such placement is the only way in which adequate coverage can be provided.~~

Section 7070.M: Parameters and Criteria for Evaluating Siting Impacts:

1. Towers and Telecommunications Facilities shall be located, subject to the requirements of Section 7030, and then constructed and maintained so as to minimize the following potential impacts to the greatest extent possible:
 - a) Visual / Aesthetic Impacts: Towers and Telecommunications Facilities shall be encouraged to be sited off of ridge lines and where their visual impact is least detrimental to highly rated scenic views and in those locations where the visual impact upon adjacent properties and public ways, parks, facilities and bodies of water and historic and scenic views shall be minimized to the greatest extent either through relocation or appropriate and effective camouflaging.
 - b) Diminution of residential property values, based on supporting documentation.
 - c) Safety Hazards in cases of from structural failure, ice accumulation and discharge safety from excessive and electromagnetic radiation in the event that a tower or telecommunications facility is found to exceed FCC guidelines at any time, and attractive nuisance, that exceeds FCC requirements at any time, and the creation of attractive nuisances from abandoned or deteriorating equipment or structures.
2. The following additional criteria for siting decisions issuing a special permit to site a new Tower or a new Telecommunications Facility shall be considered:

- a) Shared use of existing Telecommunications Facility shall be encouraged (if it is demonstrated that safety is not compromised as a result.)
- b) Clustering of Towers: Applications for Towers adjacent to existing Towers shall be encouraged if it is demonstrated that safety is not compromised as a result.
- c) Use of municipal, state and federal lands, which comply with other requirements of this Article and where visual and safety impacts can be minimized and mitigated, shall be encouraged.
- d) Use of very low power Repeaters to provide Adequate Coverage, without requiring a new Tower(s), shall be encouraged.
- e) Location of facilities on existing buildings and structures, including water towers, shall be encouraged over new Towers.

3. ~~Mandatory Ranking of Preferred Sites:~~

~~Every application for approval of a new Site for a telecommunication facility or tower shall conclusively demonstrate to the SPGA's satisfaction that the proposed site is at the highest level in the order of site acceptability which follows, which would still provide adequate coverage and adequate capacity as defined in this Article, and also comply with the specific requirements of Section 7070, subsection L, as well as all of the other requirements of this Article and other laws. The preferred site locations listed below reflect the unique long and narrow topography of Provincetown, which limits the areas in which site impacts may be minimized. Site location sites or types follow in order of declining acceptability, Class "1" representing most acceptable, and Class "4" representing least acceptable.~~

~~Location, Class/Type~~

- ~~1. Within the boundaries of the National Seashore or within the boundaries of the land owned by State Government, except no closer than one thousand five hundred (1,500) feet horizontally from dwelling units or schools. The distance requirement in this Class is intentionally greater than that specified in Section 7070, subsection L.~~
- ~~2. Within the boundaries of the National Seashore or within the boundaries of land owned by State government, except no closer than five hundred (500) feet horizontally from those structures and facilities specified in Section 7070, subsection L.~~
- ~~3. Within the boundaries of the Old Burn Site, site 6, except within five hundred (500) feet horizontally from those structures and facilities specified in Section 7070, subsection L.~~
- ~~4. Within municipal or privately owned land, except within five hundred (500) feet horizontally from those structures and facilities as noted in Section 7070, subsection L.~~

~~4-3. Limited Number of Total Towers and Telecommunication Facilities:~~

~~Subject to the requirements of Section 7030, any new Tower and any new Telecommunications Facility shall be located so as to provide Adequate Coverage and Adequate Capacity with the least total number of Tower(s), Antenna(s) and Repeater(s) which are technically and economically feasible.~~

No further changes

or take any other action relative thereto.

[Requested by the Planning Board]

Motion by: David Bedard

Seconded By: Austin Knight

Yea 4 Nay 0

Article 14. Solar Photovoltaic Facilities.

To see if the Town will vote to amend the Provincetown Zoning Bylaw, Section 2440, Permitted Principal Uses and Section 2450, Permitted Accessory Uses, by adding the following use:

2440 Permitted Principal Uses

		Res 1	Res 2	Res 3 Res B	TCC	GC	S	M
<u>B12</u>	<u>Small-Scale Ground-Mounted Solar Photovoltaic Installation</u>	<u>Yes</u>						
<u>B13</u>	<u>Large-Scale Ground-Mounted Solar Photovoltaic Installation</u>	<u>BA</u>	<u>BA</u>	<u>BA</u>	<u>BA</u>	<u>BA</u>	<u>Yes</u>	<u>Yes</u>

2450 Permitted Accessory Uses

		Res 1	Res 2	Res 3 Res B	TCC	GC	S	M
<u>G18</u>	<u>Building-Mounted Solar Photovoltaic Installation¹</u>	<u>Yes</u>						

Footnote 5: Historic District Commission approval might be required.

And

To see if the Town will vote to amend the Provincetown Zoning Bylaw, by adding the following:

Zoning By-law Article 8: Ground Mounted Solar Photovoltaic Installations

Section 8100 Ground-Mounted Solar Photovoltaic Installations

8101. Purpose and Intent. The purpose of this bylaw is to promote the creation of new Ground-Mounted Solar Photovoltaic Installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations to address public safety, minimize impacts on scenic, natural and historic resources, and provide adequate financial assurance for the eventual decommissioning of such installations.

The provisions set forth in this section shall apply to the construction, operation, and/or repair of Ground-Mounted Solar Photovoltaic Installations.

8102. Applicability

This section shall apply to Ground-Mounted Solar Photovoltaic Installations proposed for construction after the effective date of this section. This section shall also pertain to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

8103. Definitions

As-of-Right Siting: As-of-Right Siting shall mean that development may proceed without the need

for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-Right development may be subject to Solar Photovoltaic Installations Site Plan Review to determine conformance with the Town's zoning bylaws. Projects subject to Solar Installation Site Plan Review cannot be prohibited, but can be reasonably regulated by the site plan reviewing authority.

Large-Scale Ground-Mounted Solar Photovoltaic Installation: A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 250 kW DC and a minimum area of one acre.

Solar Photovoltaic Installation Site Plan Review: A review by the site plan reviewing authority to determine conformance with the Town's zoning bylaws. The Planning Board is the site plan reviewing authority for **Ground-Mounted Solar Photovoltaic Installations**.

On-Site Solar Photovoltaic Installation: A solar photovoltaic installation that is constructed at a location where other uses occur at the underlying property.

Nameplate Capacity: The maximum rated output of the electric power production of the photovoltaic system in Direct Current (DC).

Small-Scale Ground-Mounted Solar Photovoltaic Installation: A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of under 250 kW DC and less than one acre in size.

8104. Compliance with Laws, Ordinances and Regulations.

The construction and operation of all Ground-Mounted Solar Photovoltaic Installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of the installation shall be constructed in accordance with the State Building Code. No Ground-Mounted Solar Photovoltaic Installation shall be constructed, installed or modified without first obtaining a building permit.

8105. Special Permit Granting Authority. For Large-Scale Ground-Mounted Solar Photovoltaic Installations that require a Special Permit, the Planning Board shall serve as the Special Permit Granting Authority. The Planning Board shall grant a special permit only if it finds that the proposal complies with the provisions of Section 8106 and Section 5300.

8106. Solar Photovoltaic Installation Site Plan Review. Prior to construction, installation or modification, Ground Mounted Solar Photovoltaic Installations shall undergo Solar Photovoltaic Installation Site Plan Review by the Planning Board as provided below. In accordance with Section 22(c) of the Massachusetts Green Communities Act, Solar Photovoltaic Installation Site Plan Review shall be expedited and no decision shall be rendered more than one (1) year after the date of a complete application, as determined by the Planning Board.

A. Application and Plan Requirements.

1. Subject to submittal requirements of the Community Development Department, a completed application for Solar Photovoltaic Installation Site Plan Review or Special Permit shall be filled with the Planning Board, along with the applicable review fee. Upon receipt of an application, the Planning Board may engage, at the applicant's cost, professional and technical consultants, including

legal counsel, to assist the Planning Board with its review of the application, in accordance with the requirements of G.L. c.44. sec 53G. The Planning Board may direct the applicant to deposit funds with the Planning Board for such review at the time the application is determined to be complete, and may direct the applicant to add additional funds as needed upon notice. Failure to comply with this section shall be good grounds for denying the application. Upon approval of the application, any excess amount attributable to the application processing by the Planning Board, including any interest accrued, shall be refunded to the applicant.

2. Site plan(s), prepared by a Professional Engineer licensed in the Commonwealth of Massachusetts, at a scale of one inch equals forty feet (1" = 40') shall be filed with the Planning Board, including:

- a. North arrow and locus map;
- b. Property boundaries and physical features, including roads;
- c. Name/Description of project;
- d. Topography, proposed changes to the landscape of the site, grading, vegetation clearing, including proposed drainage;
- e. Zoning designation;
- f. Location of proposed structures, drives, etc., including setbacks;
- g. Sign(s) location(s);
- h. Landscaping, both existing and proposed;
- i. Lighting, including locations, type and wattage.

3. Plans or drawings of the Ground-Mounted Solar Photovoltaic Installation prepared by a Registered Professional Engineer licensed in the Commonwealth of Massachusetts, showing the proposed layout of the system and any potential shading from nearby structures or vegetation.

4. One or three line electrical diagram detailing the Ground-Mounted Solar Photovoltaic Installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices.

5. Documentation of the major system components to be used, including the photovoltaic panels, mounting system, and inverter(s).

6. Documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed installation.

7. An operation and maintenance plan (see also Section 8106 C).

8. Proof of liability insurance. The owner or operator of the Ground-Mounted Solar Photovoltaic Installation shall provide the Town Clerk with a certificated of insurance showing that the property has sufficient liability coverage pursuant to industry standards.

9. Description of financial surety that satisfies Section 8106 J.

10. Name, address and contact information for the proposed system installer.

11. Name, address and phone number and signature of the applicant(s) and property owner(s), if the

applicant is not the property owner. If the applicant is not the property owner, a statement, signed by the property owner, authorizing the applicant to proceed is required.

12. **Application Submission.** The application packet must contain all the appropriate application fees, forms and number of copies of all plans and supporting documentation. The application packet shall be submitted to the Town Clerk who shall stamp the application with the date received and shall immediately notify the Chair of the Planning Board of a submitted application packet.

13. **Completeness Review.** The Planning Board shall, within thirty (30) calendar days of the receipt of the application by the Town Clerk, determine whether the application is complete or incomplete and shall notify the applicant in writing by certified mail.

a. **Incomplete Applications.** If the Planning Board determines the application to be incomplete, the Board shall provide the applicant with a written explanation as to why the application is incomplete and request the information necessary to complete the application. Any additional information submitted by the applicant starts a new thirty (30) calendar day Completeness Review.

b. **Complete Applications.** When the Planning Board determines the application to be complete, the Board shall notify the applicant in writing.

B. Waiver of Requirements: Upon the applicant's written request submitted as part of the application, the Planning Board may waive any requirements.

C. Operation & Maintenance Plan. The applicant shall submit a plan for the operation and maintenance of the Ground-Mounted Solar Photovoltaic Installation, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.

D. Utility Notification

No Ground-Mounted Solar Photovoltaic Installation shall be constructed until evidence has been given to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the installation owner or operator's intent to install an interconnected customer-owned generator as well as documentation from said utility that it will connect the proposed customer-owned generator into its power grid. Off-grid systems shall be exempt from this requirement.

E. Dimension and Density Requirements.

1. **Setbacks.** Setbacks from all boundary lines shall comply with the zone.

2. **Appurtenant Structures.** All appurtenant structures to Ground-Mounted Solar Photovoltaic Installations shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be screened from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

F. Design Standards.

1. **Lighting.** Lighting of Ground-Mounted Solar Photovoltaic Installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the Ground-Mounted Solar Photovoltaic Installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.
2. **Signage.** Signs on Ground-Mounted Solar Photovoltaic Installations shall comply with a Provincetown Sign Code. A sign that identifies the owner and provides a 24-hour emergency contact phone number shall be required. Ground-Mounted Solar Photovoltaic Installations shall not be used for displaying any advertising. Advertising does not include signs providing reasonable identification of the manufacturer or operator of the installation.
3. **Utility Connections.** Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections for the Ground-Mounted Solar Photovoltaic Installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

G. Safety and Environmental Standards.

1. **Emergency Services.** The Ground-Mounted Solar Photovoltaic Installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Provincetown Fire Chief. Upon request, the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
2. **Land Clearing, Soil Erosion and Habitat Impacts.** Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the Ground-Mounted Solar Photovoltaic Installation or otherwise prescribed by applicable local, state and federal laws and regulations.

H. Monitoring and Maintenance.

1. **Ground-Mounted Solar Photovoltaic Installation Conditions.** The Ground-Mounted Solar Photovoltaic Installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Provincetown Fire Chief and emergency medical services. The owner or operator shall be responsible for the cost of maintaining the installation and any access road(s), unless accepted as a public way.
2. **Modifications.** All material modifications to a Ground-Mounted Solar Photovoltaic Installation made after issuance of the required building permit shall require approval by the Planning Board.

I. Abandonment and Decommissioning.

1. Removal Requirements. Any Ground-Mounted Solar Photovoltaic Installation which has reached the end of its useful life or has been abandoned consistent with Section 8106 I.2. shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- a. Physical removal of all Ground-Mounted Solar Photovoltaic Installations, structures, equipment, security barriers and transmission lines from the site.
- b. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- c. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

2. Abandonment. Absent notice to the Planning Board of a proposed date of decommissioning or written notice requesting an extension due to extenuating circumstances, the Ground-Mounted Solar Photovoltaic Installation shall be considered abandoned when it fails to operate or operations are discontinued for more than one (1) year without the written consent of the Planning Board. If the owner or operator of the Ground-Mounted Solar Photovoltaic Installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or discontinuance or the proposed date of decommissioning, the Town, to the extent it is otherwise duly authorized by law, may enter the property and physically remove the installation.

J. Financial Surety. An applicant for a Ground-Mounted Solar Photovoltaic installation shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the Town must remove the installation and re-mediate the landscape, in an amount and form determined to be reasonable by Planning Board, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent. Such surety shall not be required for municipally- or state-owned facilities. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.

or take any other action relative thereto.

[Requested by the Planning Board]

Motion by: David Bedard Seconded By: Austin Knight Yea 4 Nay 0

2. OTHER - None

Motion to adjourn by David Bedard at 5:30 PM

Minutes transcribed by: Vernon G. Porter, Secretary to Board of Selectmen
September 21, 2011