



TOWN OF PROVINCETOWN ZONING BY-LAWS

Provincetown Planning Board September 1, 1978
Last Updated: May 6, 2019

Amendments Adoption Revisions

APPROVED BY TOWN MEETING	APPROVED BY THE ATTORNEY GENERAL	APPROVED BY TOWN MEETING	APPROVED BY THE ATTORNEY GENERAL
November 13, 1978	April 6, 1979		
March 10, 1980			
March 9, 1981	December 16, 1981		
March 8, 1982	July 12 and 13, 1982		
October 27, 1982	January 11, 1983		
March 14, 1983	April 26, 1983		
March 12, 1984	July 5, 1984		
March 11, 1985	June 11, 1985		
June 10, 1985	August 19, 1985		
October 15, 1985	January 31, 1986		
March 10, 1986	April 11, 1986		
October 27, 1986	November 25, 1986		
March 9, 1987	April 17, 1987		
March 14, 1988	May 19, 1988		
March 13, 1989	June 5, 1989		
March 12, 1990	May 7 and June 8, 1990		
April 1, 1991	June 12, 1991		
April 6, 1992	July 2, 1992		
November 5, 1992	January 11, 1993		
April 7, 1993	July 13, 1993		
October 27, 1993	January 7, 1994		
April 1, 1996	May 6, 1996		
October 28, 1996	November 25, 1996		
April 7, 1997	May 28, 1997		
April 6, 1998	August 3, 1998		
April 5, 1999	July 20, 1999		
April 3, 2000	July 11, 2000		
April 2, 2001	July 17, 2001		
April 1, 2002 ATM	July 18, 2002		
April 1, 2002 STM	July 25, 2002		
April 7, 2003 ATM	August 14, 2003		
April 7, 2003 STM	May 21, 2003		
April 7, 2004 STM/ATM	July 9, 2004		
October 25, 2004 STM	December 16, 2004		
April 4, 2005 ATM	May 4, 2005		
November 7, 2005	December 7, 2005		
April 3, 2006 ATM	July 10, 2006		
November 13, 2006 STM	December 11, 2006		
April 4, 2007 STM/ATM	May 29, 2007		
April 6, 2009 ATM	July 14, 2009		
November 8, 2010 STM	February 22, 2011		
April 4, 2011	June 20, 2011		
October 24, 2011 STM	November 3, 2011		
April 2, 2012 ATM	May 7, 2012		
October 21, 2013 STM	January 13, 2014		
April 7, 2014 ATM	May 15, 2014		
April 6, 2015 ATM	May 19, 2015		
October 26, 2015 STM	December 10, 2015		
April 4, 2016 ATM	July 11, 2016		
April 3, 2017 ATM	July 6, 2017		
September 13, 2017 STM	January 11, 2018		
April 2, 2018 ATM	July 18, and Oct 12, 2018		
October 29, 2018 STM	February 22, 2019		
April 1, 2019 ATM	May 6, 2019		

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Purpose:

The purpose of the following By-Law is to promote the health, safety, convenience and welfare of the inhabitants by dividing the Town into districts and regulating the development therein, under the authority of Chapter 40A, General Laws, and of Article 89 of the Amendments of the constitution. In addition, these Zoning By-laws are adopted to promote and implement the goals, objectives, and policies of Provincetown's Local Comprehensive Plan and to manage future growth and development in accordance with that plan.

Article 1 – Definitions

For the purpose of these By-laws certain terms and words shall have the meaning given herein, unless a contrary meaning is required or specifically prescribed. Words used in the present tense shall include future; plural includes the singular; the words building, structure, lot, land or premises shall be construed as though followed by the words “or any portion thereof,” and the word shall is always mandatory and not merely directory. Terms and words not defined herein but defined in the state building code shall have the meanings given therein unless a contrary intention clearly appears. Words not defined in either place shall have the meanings given by a dictionary of construction terms if defined therein; or, if not, by a standard unabridged dictionary of the English language. For definitions of certain terms specifically related to telecommunications uses and flood area provisions, refer to Article 7 Wireless Telecommunications Towers and Facilities and Section 2330 Class A, V, and A-O” Flood Area Provisions, respectively.

Accessory Building or Use A structure or use which is customarily incidental to and subordinate in area, extent, and purpose to that of the principal structure or use and is located on the same lot therewith. If such use or structure occupies more than 30% of the floor area occupied by the principal structure or use or more than 50% of the lot area occupied by the structure or use, it shall no longer be considered accessory.

Accessory Dwelling Units A dwelling unit, which is subordinate in use and area to that of the principal structure and is located on the same lot therewith.

Adult Entertainment Uses shall include the following:

- a. Adult Bookstore, an establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in section thirty-one of chapter two hundred and seventy-two of the Massachusetts General Laws.
- b. Adult Motion Picture Theatre, an enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined section thirty-one of chapter two hundred and seventy-two of the Massachusetts General Laws.
- c. Adult Paraphernalia Store, an establishment having as a substantial or significant portion of its stock, devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in section thirty-one of chapter two hundred and seventy-two of the Massachusetts General Laws.
- d. Adult Video Store, an establishment having as a substantial or significant portion of its stock in trade, videos, movies, or other film material which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in section thirty-one of chapter two hundred and seventy-two of the Massachusetts General Laws.
- e. Establishment which displays live nudity for its patrons, any establishment which provides live entertainment for its patrons, which includes the display of nudity, as term is defined in section thirty-one of chapter two hundred and seventy-two of the Massachusetts General Laws.

- f. The substantial or significant portion mentioned in (a), (c), (d) above shall pertain to 20% more of their stock.
- g. Any section, if deemed illegal can be severed; the rest of the By-law Amendment remaining.

Affordable and Community Housing Dwelling units subject to Affordable and Community Housing deed restrictions for a term of perpetuity or the longest period allowed by law, that limits rental rates, limits eligibility for occupancy and purchase, and provides a right of first refusal to the Town of Provincetown, based on the Barnstable County median income as is periodically defined by United States Department of Housing and Urban Development adjusted for household size, as further defined below.

(a) Extremely Low Income Affordable Housing. Extremely Low Income Affordable Housing units shall be available for rental at a cost (including utility allowances) not exceeding 30% of annual income for a household at or below 50% of the Barnstable County median income; or, available for ownership at a cost (including mortgage interest, principal, taxes, insurance and common charges if any, but excluding utilities) not exceeding 30% of annual income for a household at or below 50% of the Barnstable County median income. Occupancy shall be limited to households whose income is at or below 65% of Barnstable County median income.

(b) Low Income Affordable Housing. Low Income Affordable Housing units shall be available for rental at a cost (including utility allowances) not exceeding 30% of annual income for a household at or below 65% of the Barnstable County median income; or, available for ownership at a cost (including mortgage interest, principal, taxes, insurance and common charges if any, but excluding utilities) not exceeding 30% of annual income for a household at or below 65% of the Barnstable County median income. Eligibility for occupancy shall be limited to households whose income is at or below 80% of Barnstable County median income.

(c) Moderate Income Affordable Housing. Moderate Income Affordable Housing units shall be available for rental at a cost (including utility allowances) not exceeding 30% of annual income for a household at or below 80% of the Barnstable County median income; or, available for ownership at a cost (including mortgage interest, principal, taxes, insurance and common charges if any, but excluding utilities) not exceeding 30% of annual income for a household at or below 80% of the Barnstable County median income. Eligibility for occupancy shall be limited to households whose income is at or below 100% of Barnstable County median income.

(d) Median Income Community Housing. Median Income Community Housing dwelling units shall be available for rental at a cost (including utility allowances) not exceeding 30% of annual income for a household at or below 120% of the Barnstable County median income; or, available for ownership at a cost (including mortgage interest, principal, taxes, insurance and common charges if any, but excluding utilities) not exceeding 30% of annual income for a household at or below 120% of the Barnstable County median income. Eligibility for occupancy shall be limited to households whose income is at or below 150% of Barnstable County median income.

(e) Middle Income Community Housing. Middle Income Community Housing dwelling units shall be available for rental at a cost (including utility allowances) not exceeding 30% of annual income for a household at or below 160% of the Barnstable County median income; or, available for ownership at a cost (including mortgage interest, principal, taxes, insurance and common charges if any, but excluding utilities) not exceeding 30% of annual income for a household at or

below 160% of the Barnstable County median income. Eligibility for occupancy shall be limited to households whose income is at or below 180% of Barnstable County median income.

Affordable and Community Housing Permits: A permit granted by the Provincetown Community Housing Council (“PCHC”) established by the vote under Article 12 of the April 7, 1997 Annual Town Meeting, or successor entity, for units of Affordable Housing and/or Community Housing in a project that requires a Growth Management Allocation Permit pursuant to Article 6, the Growth Management By-law. Criteria for approval of an Affordable Housing Permit and/or a Community Housing Permit shall include an executed and acknowledged housing restriction or, in the case of ownership unit(s) an executed and acknowledged covenant whereby the property owner agrees to convey the unit(s) subject to a certain housing restriction attached as an exhibit to the covenant, in either case approved as to form by town counsel.

Aircraft Landing Area shall mean any area of land or water which is used or intended for use for the loading and take-off of aircraft, including ancillary facilities for the service, sale, storage and maintenance of aircraft.

Animal Shelter shall refer to a non-profit public animal control facility or any other facility which is operated by any organization or individual for the purpose of protecting animals from cruelty, neglect or abuse.

Applicant For the purposes of Growth Management, an individual or a partnership, corporation, trusts or other legal entities in which the applicant of record holds a legal or beneficial ownership of greater than 1%.

Art Gallery shall mean premises for the preparation, sale, display or barter of paintings, sculpture, original, limited edition graphic arts and photographs created by individual artists on a single piece basis, but not including premises used by caricaturists and portrait artists working on a single-sitting, non-appointment basis.

Artist's Studio shall be a structure to be used for the creation of works of art including literature, paintings, sculpture, original limited edition graphic arts and photographs created by individual artists on a single piece basis; it may include a bathroom but not a kitchen and is not to be used as a dwelling unit, guest unit or commercial accommodation.

Boarding, Lodging or Rooming House means a dwelling or part thereof, in which rental living quarters are provided with or without meals by the owner occupant. The term shall not include "tourist homes" or "bed and breakfast" which provide transient accommodations for a fee.

(Boarding, Lodging or Tourist Home removed by April 2018 ATM Article 35)

Building A structure having a roof and supported by columns or walls for shelter or enclosure of persons, animals, property or an activity; such structure does not include Recreational Vehicles as defined in this By-laws.

Building Height the vertical distance between the highest point of the roof and the natural mean grade as measured from the natural grade at the four (4) furthest corners of the structure to the height of the highest point of the roof, and dividing the aggregate number of these heights by four (4). For buildings which existed prior to April 6, 2015, and located in the FEMA established A and V zones, building height shall be measured from the higher of Average Natural Grade or

Base Flood Elevation. Height limitations shall not apply to chimneys, TV antennae with poles of ten (10) feet or less, or spires, cupolas and widow walks that do not enclose more than thirty-five (35) square feet of floor space or exceed ten (10) feet in height or occupy more than five (5) percent of the roof area.

Cabin shall mean a small, detached guest unit providing sleeping accommodations and cooking facilities for persons on a transient basis for compensation, and subject to the licensing requirements of MGL Chapter 140, Section 32A.

Camp/Campground shall mean any recreational camp or overnight camp subject to the licensing requirements of MGL chapter 140, Section 32A.

Recreational Vehicle shall mean a vehicle, eligible to be registered and insured for highway use, designed to be used as a dwelling including equipment commonly called 5th wheels, independent travel trailers, dependent travel trailers, tent trailers, pickup campers, motor homes, converted buses, tiny houses on wheels, and other equipment, but not manufactured homes.

Change of Use For zoning purposes, an alteration of the use of a principal or accessory structure or use of a lot.

Commercial Accommodations shall mean boarding, lodging, tourist homes, dormitory, motel, hotel or inn.

Contractor's Yard shall mean premises used by a building contractor or sub-contractor principally for storage of equipment and supplies fabrication of subassemblies and parking of wheeled equipment.

Demolition Any act of destroying, elimination, pulling down, razing or removing a building or any portion thereof, or starting the work of any such act with the intention of completing the same.

Dormer a framed structure, either gable, shed or eyebrow style, which projects from a roof and has its own roof and sides. No part of a dormer shall extend above the ridge height of the roof from which it projects.

Dormitory or Employee Housing means a building used as living quarters for a group of unrelated individuals with common kitchen and living facilities on a seasonal or year-round basis, but must be for more than one month, and may be related to employment, educational or cultural purposes.

Dwelling, Multi-family shall mean a structure, regardless of form of tenure, containing three or more dwelling units.

Dwelling Unit shall mean a building or portion of a building providing complete, independent living facilities for one or more persons, including permanent and contiguous provisions for living, sleeping, eating, cooking and sanitation.

Economic Development Permit shall mean an economic development permit awarded by the Board of Selectmen pursuant to Section 5-15 of the General By-laws.

Façade: The face of a building as seen from a public way or other public space, typically the principal or front elevation of a building.

Fast Food Establishment shall be an establishment engaged primarily in the sale of fast food for consumption on or off the premises, fast food is food which is primarily

- a. intended for immediate consumption rather than for use as an ingredient in or component of meals,
- b. available upon a short waiting period and
- c. packaged or presented in such a manner that it can be readily eaten outside the premises where it is sold.

(Fixed Standing Spaces removed April 2017)

Floor Area the sum of the horizontal areas of the floor(s) of a building measured from the interior face of the interior walls of building, without deduction for hallways, stairs, closets, thickness of walls, columns or other features. For the purposes of computing floor area for half story, any portion of the floor area measuring less than five (5) feet from the finished floor to the finished ceiling shall not be included in the computation of floor area.

Green Area shall mean an area of a lot to be used for landscaping purposes using trees, shrubs or other plant material.

Growth Limitation Goal The annual allotment of increases in Title 5 Design Flow for new construction, alterations and additions to existing structures and changes in use, as specified in Growth Management Section E.

Growth Management Allocation Permit A permit issued by the Permit Coordinator, following receipt of a Completed Application, that assigns a portion of the available annual Growth Limitation Goal according to the Table of Use Categories and Priorities in Growth Management Section D.

Guest Unit shall mean a room or suite of rooms in a motel, hotel, inn, cabin or boarding, lodging or tourist home suitable for separate rental.

Half-story a partial story under a gable or hip roof, excluding mansard and gambrel roofs, the wallplates of which on a least two directly opposite sides are not more than three (3) feet above the floor of such story. (See also definition of Story.)

Home Occupation shall mean a business or profession engaged in within a dwelling by a resident thereof as a use accessory thereto.

Hotel, Motel and Inn means a building or group of buildings providing transient lodging for a fee, and may include food, retail and other ancillary services.

(Hotel, Motel, Dormitory Housing removed by April 2018 ATM Article 35)

(Inn removed by April 2018 ATM Article 35)

Lot shall mean a continuous parcel of land with legally definable boundaries.

Lot Area shall mean the contiguous horizontal area of a lot exclusive of any area in a street or recorded way open to public or private use and excluding any land which is under any water body or bog, dry bog, swamp, pond, wet meadows or marsh (as defined in Sec. 40, Chap. 131, MGL), or areas of exposed ground water.

Lot Coverage shall mean the percentage of total lot area covered by structures or roofed.

Lot Frontage shall mean that portion of a lot fronting upon and providing rights of access to a way qualifying to provide frontage for the division of land under the requirements of Sec. 81L, Ch. 41, G.L., to be measured continuously along a single street line.

Marine Service shall mean facilities to accommodate as principal use:

1. Landing, launching, mooring and in-water storage of boats;
2. Minor repairs and servicing of boats, engines and equipment only while afloat and/or within on-site duly licensed and/or inspected premises; and to accommodate only as accessory uses to the above;
3. Retail sale at dockside of boat supplies and bait;
4. Rental of boats and fishing tackle.

Manufactured Home means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities.

For flood plain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles. See Section 4300 Manufactured Homes and Campers.

Manufactured Home Park or Sub-division means a parcel of land (or contiguous parcels) divided into two or more manufactured home sites for rent or sale.

Marijuana Establishment - Retailer means an entity licensed to purchase and deliver marijuana and marijuana products from Marijuana Establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to Marijuana Establishments and to consumers. Shall include those institutions authorized to dispense medical marijuana.

Marijuana Establishment - Industrial means a marijuana cultivator, independent testing laboratory, marijuana product manufacturer, or any other type of licensed marijuana-related business.

Motor Vehicle shall mean any self-propelled wheeled conveyance that does not run on rails, including automobiles, motorcycles, moped, motorized recreational vehicles, trucks, busses and construction or farm equipment.

Museum shall mean premises for the procurement, care and display of inanimate objects of lasting interest and value, operated on a non-profit basis, with sale of objects only incidental to other activities.

Natural Grade The existing grade or elevation of the ground surface at the time of application for a building permit, special permit, variance or site plan approval, as shown on any plan or by

any other evidence deemed to be reliable by the Zoning Enforcement Officer in his/her discretion. To determine the applicable natural grade, which may not be artificially heightened to raise the elevation of a structure, the critical topographical data shall be provided as required by the Zoning Enforcement Officer. On any lot exhibiting evidence of fill not authorized, the Zoning Enforcement Officer may require the applicant to provide a professional soil analysis to determine the natural grade.

Neighborhood Retail Sales or Service An establishment having not more than 3,000 square feet gross floor area, primarily engaged in the provisions of frequently or recurrently needed goods for household consumption, such as prepackaged food and beverages, periodicals, limited household supplies, hardware drug store, or laundry services, but not including liquor or gasoline sales.

Nonprofit Health Care Related Use: A nonprofit nursing home, convalescent home, or a nonprofit assisted living facility, as defined in Section 2350, or an outpatient rehabilitation facility as defined in Section 2350 provided it is not operated for profit.

Outdoor Food Dispensing Machine shall mean any device for food storage transport, or preparation from which an operator dispenses food to customers unless totally enclosed within a building.

Package Store shall mean premises chiefly devoted to the sale of sealed bottles of alcoholic beverages for consumption off the premises.

Palletized Patio – A combination of materials assembled, constructed or erected which is not fixed to a structure and whose assembled components are no more than 8” above grade.

Parking Lot/Garage – An open air, ground level lot or enclosed area/structure used to park cars that is not appurtenant to a principal use.

Parking Space shall mean a space adequate to park a standard automobile, plus means of access. Marked spaces shall be not less than 8' x 18'. Where spaces are not marked, each space shall be assumed to require 350 square feet.

Posted Occupant Load defined as the approved number of occupants of an assembly room or space posted in a conspicuous place, near the main entrance to the room or space.

Public Utility shall mean an organization, subject to public control and regulation, that maintains the infrastructure for a public service, including: electricity, natural gas, water, sewage, telephone, and broadband internet telecommunications.

Restaurant Use: A use shall be considered a Restaurant Use if it involves the preparing, heating and/or cooling of food or beverage, with or without seats, whether eat-in or take-out, except that the heating and cooling of water, the cooling of prepackaged food and beverages, and the heating of prepackaged food and beverages by a customer using a microwave shall not constitute a restaurant use.

Retaining Wall a wall or similar device used at a grade change to retain or restrain lateral forces of unbalanced soil or other material.

(Seats removed by April 2018 ATM Article 30)

Sign shall mean any device, contrivance, assemblage, or construction, whether temporary or permanent, designed to inform or attract the attention of a person, not within the building or structure on the premises, to the principal service or product offered for sale at the location on which the device is located. Any exterior building surface which is internally illuminated or decorated with gaseous tube or other lights shall be considered a sign as is any advertising device attached to a motor vehicle, trailer or other movable object if it is regularly located for fixed display. The following however, shall not be considered signs within the context of this By-Law:

- a. Flags and insignia of any government;
- b. legal notices, or information signs erected or required by public agencies;
- c. Standard gasoline pumps bearing thereon, in usual size, the name, type, and price of gasoline;
- d. integral decorative or architectural features of buildings, except letters, trademarks, moving parts or parts internally illuminated or decorated with gaseous tube or other lights;
- e. on premise signs guiding and directing traffic and parking; not exceeding 2 square feet in area, and bearing no advertising matter;
- f. awnings or similar devices, provided that no lettering or symbols thereon shall exceed 3" in height and no lettering or symbols shall exceed a total of four square feet in area;
- g. paper or cardboard signs inside display windows, provided that they are illuminated only by building illumination.
- h. Any device with lettering or symbols placed on interior walls, provided that the device shall be placed more than 4 feet from any window or shall be placed so as to be perpendicular to the street that any window faces.
- i. Temporary holiday decorations and lighting that are void of any commercial message.

Sign Area shall mean the area of the smallest horizontally or vertically oriented rectangle which could enclose all the display area of the sign, together with any backing different in color or material from the finished material of the building face without deduction for open space or other irregularities. Structural members not bearing advertising matter shall not be included unless internally or decoratively lighted. Only one side of flat back-to-back signs need be included in calculating sign area.

Story That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above it. For the purposes of determining the number of stories specified in the Dimensional Requirements of the Zoning By-Law, the following restrictions shall apply:

- a. If the top story of a building is roofed by a dormer covering fifty (50) percent or more of the floor area, it shall be considered a full story.
- b. Cellars, basements and/or foundation work shall not be considered a story unless the walls of which extend more than an average of 3'6" (three feet six inches) on all pertinent sides from the finished grade.
- c. Floor area under a gambrel or mansard roof shall be considered a full story.

Street shall mean an accepted town way, or a way established by or maintained under county, state or federal authority, or a way established by a sub-division plan approved in accordance with the Sub-division Control Law, or a way determined by the Planning Board to have sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in

relation to the proposed use of the land, and for the installation of municipal services to serve such land and the building erected or to be erected thereon.

Structure any combination of materials assembled, constructed or erected that fixed location on the ground or attached to something having location on the ground, including swimming pools having a capacity of 4,000 gallons or more and retaining walls supporting more than four feet of unbalanced material, but not including flagpoles, paving, temporary structures such as tents and canopies, palletized patios, or fences which do not exceed 6 feet above the property grade. The word "structure" shall be construed where the context requires, as though followed by the words, "or part or parts thereof".

Temporary structure A structure without any foundation or footing and removed when the designated time period, activity, or use for which the temporary structure was erected has ceased. Temporary structures such as tents and canopies shall not exceed allowed lot coverage (see definition) and setbacks, except when such structures are in use for a period not exceeding seven days. Temporary structures shall not be construed to constitute a permanent structure or addition thereto.

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 in these By-laws.

Title 5 Design Flow The estimated amount of wastewater to be produced or discharged as a result of the proposed construction or use as determined using the Title 5 Flow Design criteria found in 310 CMR 15.203: System Sewage Flow Design Criteria.

Tourist House, Guest House or Bed and Breakfast shall mean a building housing a dwelling unit with a resident manager on the premises or associated with the business when the business occupies more than one parcel, in which overnight rooming accommodations are provided or offered for transient guests for a fee.

Transport Terminal shall mean premises for the boarding, parking, storage and servicing of commercial vehicles other than as a permitted accessory use.

Use Any purpose for which a lot, building, or other structure or tract of land may be designated, arranged, intended, maintained, or occupied; or any activity, occupation, business, or operation carried on or intended to be carried on in a building or other structure or on a tract of land.

Yard shall mean an area open to the sky, located between a street or other property line and any structure or element thereof other than a fence, wall, other customary yard accessory, or projection allowed to encroach on building lines by the Commonwealth of Massachusetts State Building Code. Depth is to be measured perpendicularly to the street or property line.

Yard Front shall mean a yard extending between lot side lines across the front of a lot adjacent to each street the lot adjoins.

Yard Rear shall mean a yard adjacent to the rear lot line and extending between side lot lines.

Yard Side shall mean a yard adjacent to the side lot line and extending from the front yard to the rear yard.

Article 2 – Districts and District Regulations

Section 2100 Establishment of Districts

2110 Establishment To accomplish the purposes of this chapter, the Town of Provincetown is hereby divided into zoning districts as shown on the map entitled "Provincetown Zoning Districts", dated April 1, 2002, which map and all explanatory matter thereon is hereby made a part of this By-law. Those districts are as follows:

Residential Districts

- Res1, Residential District 1
- Res2, Residential District 2
- Res3, Residential District 3
- ResB, Residential -Business District

Commercial Districts

- TCC, Town Center Commercial
- GC, General Commercial

Other Districts

- S, Seashore District
- M, Municipal District

Overlay Districts

- Harborfront Overlay District
- High Elevation Protection District
- Class "A, V, and A-O Flood Area
- Health Care Overlay District

2120 Purposes of Zoning Districts The purposes of the zoning districts shall be as follows:

Res1: to provide for less dense residential development in the town's outlying areas.

Res2: to provide for high-density residential development in the east and west sections of town adjacent to the downtown waterfront area.

Res3: to provide for high-density residential development in the downtown and other appropriate areas.

ResB: to provide for mixed-use development while retaining the existing scale and character of the residential neighborhood.

TCC: to provide for dense commercial development in the downtown area consistent with the historic village character and pedestrian environment.

GC: to provide for small-scale commercial and industrial uses outside the central downtown area while maintaining pedestrian scale development and accessibility, maintaining or enhancing landscaping, minimizing visibility of parked automobiles, and avoiding creation of hazards or congestion.

S: to provide for further preservation and development of the Cape Cod National Seashore in accordance with the purposes of the Act of Congress of August 7, 1961 and to provide for uses

that do not conflict with the regulations governing the Seashore and are not incompatible with the character of the park.

M: to provide for necessary governmental functions and public facilities and services on town owned land.

2130 Divided Lots When a boundary line between zoning districts divides a lot in single ownership, each portion of the lot shall be governed by the use and dimensional requirements of the zoning district in which each portion of the lot is located. Lots located in part in another municipality shall be regulated as if entirely within Provincetown.

Section 2200 Seashore District Within the Seashore District the following shall apply in addition to all the other requirements of the By-Law.

2210 Prohibited Actions Upon any lands in "Class S - Seashore" there shall be no burning of cover; cutting of timber; filling of land; removal of soil, loam, sand or gravel; no dumping; storage or piling of refuse and other unsightly objects or other uses which would detract from the natural or traditional seashore scene.

2220 Variances In the event of any application for a variance from the provisions of the Zoning By-Law, the applicant for such variance is charged with notice that under Section 5 (d) of the Act of Aug. 7, 1961, the Secretary of the Interior is authorized to withdraw the suspension of his authority to acquire, by condemnation, "improved property" that is made the subject of the variance or exception and which in his opinion fails to conform or is in any manner opposed to or inconsistent with the preservation and development of the Seashore as contemplated in said Act.

The Secretary of the Interior shall be given notice by the Board of Appeals of all applications or petitions made for variances or exceptions to the By-Law for the Seashore District, and he shall be provided notice by the Building Inspector of all applications for building permits involving Seashore District, all such notices to be given within seven (7) days of receipt of the applications or petitions.

Subsequently to meet the requirements of the Act of Congress of August 7, 1961, the Secretary shall be given notice by the appropriate Board of any variance, or exception or building permit granted or denied within the Seashore District.

Section 2300 Overlay Districts

2310 Harborfront Regulation

2311 Purpose The purpose of this section is to regulate the uses permitted in the harborfront area in order to promote appropriate waterfront activities and efficient use of the harbor frontage while minimizing adverse impacts to pedestrian and visual access and protecting harbor water quality.

2312 Applicability The following requirements apply to the "Harborfront Area", defined as all that area which is more than 160 feet seaward (i.e., southward) from the northern edge of the traveled ways of Commercial Street in the Class TCC, Town Center Commercial zone.

2313 Allowed Uses Any of the following uses is allowed in the Harborfront Area without necessity of a Special Permit unless it is prohibited or requires a Special Permit in the underlying district:

Use Item	Name
B4d	Marine service, boat sales
C1	Seafood processing
C2	Boatbuilding, repair, overhaul
C3	On-shore boat storage
D1a	Religious or educational use exempt from zoning prohibition
E3b	Picnic area, commercial beach, bathhouse
F1 (part)	Aquaculture
F2	Other farms, nurseries, greenhouses
G3	Home occupation (see Section 4400)
G4	Sale of seafood caught by a resident of the premises
G6	Temporary construction office or shelter

2314 Special Permit Uses All other uses are allowed in the Harborfront Area on Special Permit from the Planning Board unless prohibited in the underlying district, except that Residential Uses as listed in Section 2440 shall not occupy more than 20% of the gross floor area of any structure or portion thereof within the Harborfront Area.

Such use shall be authorized with a Special Permit from the Planning Board as provided for in Section 5300 and after considering the degree to which the proposal would:

- a. Interrelate productively with, and help promote, other waterfront activities;
- b. Make efficient use of harbor frontage in relation to jobs supported or taxes contributed or other public benefits conferred;
- c. Improve opportunities for visual and pedestrian access to the waterfront.
- d. Impact harbor water quality.

2320 High Elevation Protection District

A. Purpose. To preserve high elevation dunes which are of natural scenic beauty, important to the tourist economic base of the Town, and which present serious concerns regarding the consequences of erosion.

B. District Delineation. All elevations above the 40' contour line shall be delineated as HEP District A; all elevations above the 60' contour line shall be delineated as HEP District B.

C. Special Regulations for HEP Districts A and B. All new construction or additions and expansions, including but not limited to decks and other non-enclosed structures, even if the overall footprint is not being enlarged or any excavation, land removal or earth moving of more than 2500 cubic feet that will alter the topography from natural grade, whether or not subject to a building permit shall be subject to Site Plan Review as specified in Section 4000 with additional requirements as specified herein.

- 1. To facilitate siting and design related to the special considerations of the setting, the following additional information shall accompany the site plan:
 - a. Placement, height, physical characteristics of all existing and proposed building and structures;

- b. Proposed landscape features including location and description of screening, fencing and planting;
 - c. Viewpoints (photographs of site from points along harborfront, streets, highways and town entry vistas);
 - d. Measures to be undertaken during and after construction to prevent erosion;
2. In its Site Plan Review, the Planning Board shall apply the following additional standards:
- a. Placement of buildings, structures, or signs shall not detract from the site's scenic qualities and shall blend with the natural landscape.
 - b. Building sites shall be directed away from the crest of hills in order to preserve the visual and physical integrity of the dune unless such siting shall be more detrimental to the physical integrity of the dune.
 - c. Developments for more than one structure shall incorporate variable setback and multiple orientation.
 - d. Foundations shall be constructed to reflect natural slope of the terrain; excessive support members or mechanical systems shall be covered and screened.
 - e. Landscaping shall consist primarily of native trees and plants.
 - f. Retaining walls shall be screened with appropriate materials.
 - g. Any grading or earth-moving shall be planned and executed in such a manner that final contours are consistent with existing terrain both on and adjacent to the site.
 - h. Utilities shall be constructed and routed to minimize detrimental effects on the visual setting.
 - i. Storage of petroleum products shall be placed on a diked impermeable surface.
 - j. All run-off from impervious surfaces shall be recharged on site by being diverted to storm water infiltration basins designed to handle a 25-year storm and covered with natural vegetation.
 - k. No area totaling 2000 square feet or more on any parcel or contiguous parcels in the same ownership shall have existing vegetation clear-stripped or be filled 6 inches or more so as to destroy existing vegetation unless special controls are approved to control run-off, avoid erosion, and either a constructed surface or cover vegetation provided and mulched by end of August. No such areas shall remain through the winter without plant material cover.

D. Special Regulations for High Elevation Protection District B In addition to the above, construction of buildings which extend beyond the height of existing vegetation (including trees) shall be prohibited in this District, or no building shall be greater than 1 1/2 story high.

2330 Floodplain District Boundaries and Base Flood Elevation Data

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Provincetown designated as Zone AE, AO or VE on the Barnstable County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Barnstable County FIRM that are wholly or partially within the Town of Provincetown are panel numbers 25001C0103J, 25001C0104J, 25001C0108J, 25001C0109J, 25001C0111J, 25001C0112J, 25001C0114J, 25001C0116J, 25001C0117J and 25001C0118J dated July 16, 2014. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Barnstable County Flood Insurance Study (FIS) report dated July 16, 2014. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, and Conservation Commission.

2331 Elevation New construction or substantial improvement (which shall be defined for the purposes of this section as any repair, construction or alteration costing 50% or more of the market value of the structure before improvements; or if damaged, before damage occurred) of residential structures shall have the lowest floor (including basement) elevated to not less than Base Flood Elevations. (Substantial improvement is deemed to have occurred when the first alteration of any structural part of the building commences).

New construction or any substantial improvement of non-residential structures shall either be similarly elevated or, together with attendant utility and sanitary facilities shall be flood proof (i.e. watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy to or above that level) to not less than the Base Flood Elevations. However, structures such as boathouses that would be functionally impaired by such measures, because it requires a water level locations, and is not continuously used for human occupancy, may be exempted from this requirement, upon the issuance of a Special Permits from the Zoning Board of Appeals.

2332 Code References Any new construction or substantial improvements to be undertaken within said district shall be in accordance with the Massachusetts Uniform Building Code.

2333 Use of Available Flood Data The Building Inspector shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or any other source, as a criteria for requiring that new construction, substantial improvements, or other development in A Zones meet all requirements set forth in Section 60.3 (c) (2), (3), (5), and (6) and (d) (3) of the National Flood Insurance Program. In Zone AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

2334 "V" Zones No land within areas designated as V (velocity) Zones on the Federal Emergency Management Agency Flood Insurance Rate Maps shall be developed unless such development:

- a. is demonstrated by the applicant to be located landward of the reach of the mean high tide through issuance of a special permit by the Zoning Board of Appeals, and;
- b. Any man-made alteration of sand dunes within said designated V Zones which might increase the potential for flood damage shall be prohibited.

2335 Other Use Regulations

1. Within Zone O on the FIRM, adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.
2. All subdivision proposals shall be designed, based upon pre-construction and post-construction drainage calculations provided by a professional engineer, to assure that:
 - a. Such proposals minimize flood damage;
 - b. All public utilities and facilities shall be located and constructed to minimize or eliminate flood damage; and
 - c. Adequate drainage shall be provided to reduce exposure to flood hazards.

2336 Variances

Any variance from the requirements of this section shall be considered a use variance and no use variance shall be issued from this section by the Zoning Board of Appeals. Only the

Massachusetts State Building Code Commission may grant a variance from the building code requirements in the floodplain.

2337 Other Laws.

Where these flood area provisions impose greater or lesser restrictions or requirements than those of other applicable by-laws or regulations, the more restrictive provisions shall apply.

2338 Notification of Watercourse Alteration

In a riverine situation, the Zoning Enforcement Officer shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities
- NFIP State Coordinator
Massachusetts Department of Conservation and Recreation
251 Causeway Street, Suite 600-700
Boston, MA 02114-2104
- NFIP Program Specialist
Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110

(Town Clerk's Note: Section 2350 Water Resource District was deleted by STM 2002 Article 4.)

2350 Health Care Overlay District

2351 Purposes The purpose of the Health Care Overlay District ("HCOD") is to promote the public health and welfare by allowing for campus-type development of health care-related uses in a readily accessible location and similar uses listed below in Section 2353, Permitted Uses.

2352 District Boundaries The boundaries of the HCOD are shown on a map entitled: "Highway Corridor Overlay District, Provincetown, MA", dated December 17, 2001, which map is hereby incorporated into the Zoning By-laws by reference. The boundaries are further described as follows: Those lands south of the paved surface of Route 6, going southward to and including the railroad bed; and those lands running from the eastern edge of Howland Street to the Atkins-Mayo Road, but excluding the residential properties in this area having frontage on Howland Street.

The boundaries of the HCOD shall be expanded to include those properties shown on a map, entitled "Highway Corridor Overlay District, Provincetown, MA," dated December 12, 2002, which map is on file with the Town Clerk's office and hereby incorporated by reference into the Zoning By-laws. The properties shown on said map include: those lands north of the paved surface of Route 6, going northward to and including the DPW Highway Garage Site, and those lands running westward and northward from the eastern edge of the Race Point Road and Route 6 intersection to include the following four parcels: Assessors Map 9-1-08; 9-1-013; and 9-1-07; and a portion of the layout of Route 6 which is adjacent to both 9-1-013 and 9-1-07 which is about the same size as parcels 9-1-013 and 9-1-07.

The boundaries of the HCOD shall be expanded to include those properties shown on a map, entitled "Health Care Overlay District, Provincetown, MA," dated February 4, 2004, which map is on file with the Town Clerk's office and hereby incorporated by reference into the Zoning By-laws. The properties shown on said map are bounded on southeast by the southern edge of Collyer Street from Alden to Winslow Streets, along the southwest by Winslow Street to Jerome

Smith Road, along the northwest by Jerome Smith Road from Winslow to Alden Street, and on the northeast by Alden Street from Jerome Smith to Collier Street.

2353 Permitted Uses

- a. Within the boundaries of the HCOD, the following uses are permitted: Any use permitted in the underlying district in which the land is situated, subject to the same use and development restrictions as may otherwise apply thereto.
- b. Within the boundaries of the HCOD, the following additional uses may be authorized with a special permit issued by the Zoning Board of Appeals, subject to a finding that the proposed use is consistent with the purpose of the HCOD district and conforms to all applicable provisions of the Zoning By-laws:
 - Nursing Home, Convalescent Home
 - Assisted Living Facility
 - Outpatient Rehabilitation Facility
 - Medical or Health Care Center
 - Animal Shelter
 - Independent Living Units for Seniors.

2354 Dimensional Regulations. The following dimensional regulations shall apply to uses authorized under Section 2353:

- Minimum lot area: 2 acres
- Minimum frontage: 100 feet
- Minimum Front Yard Setback: 30 feet
- Minimum Rear Yard Setback: 25 feet
- Minimum Side Yard Setback: 25 feet, of which a minimum of 15 feet shall be maintained as a vegetative buffer
- Maximum Number of Stories: three stories
- Maximum Height: 44 feet

2355 Parking Standards. The following parking standards shall apply to uses authorized under Section 2353:

- Nursing Home, Convalescent Home: One (1) space per two (2) beds
- Assisted Living Facility – One (1) space per two (2) units.
- Outpatient Rehabilitation Facility: Three (3) spaces per staff doctor, therapist, nurse or other professional plus one (1) space per other employee on the longest shift.

2356 HCOD Definitions

Nursing Home, Convalescent Home, shall mean a facility licensed under G.L. c. 111, §71, and maintained for the purpose of providing nursing or convalescent care for four or more persons admitted thereto.

Assisted Living Facility shall mean a residential facility for elderly or disabled persons, certified under G.L. c. 19D, §3, providing room and board together with personal services such as assistance with, or supervision of, activities of daily living, self-administered medication management and similar self-care assistance services, to its residents.

Outpatient Rehab Facility shall mean outpatient rehabilitation services including restorative therapies such as sports therapy; occupational therapy; physical therapy; speech therapy.

Medical or Health Care Center shall refer to any facility or institution that is licensed to provide health care services to natural persons, including but not limited to health-maintenance organizations, home-health agencies, rehabilitation agencies and skilled nursing facilities.

Animal Shelter shall refer to a non-profit public animal control facility or any other facility which is operated by any organization or individual for the purpose of protecting animals from cruelty, neglect or abuse.

Independent Living Units for Senior Citizens shall mean housing intended for occupancy by persons fifty-five or over or sixty-two or over which complies with the provisions set forth in 42 U.S.C. Section 3601, et seq. and which is associated with a Nursing Home, Convalescent Home or Assisted Living Facility as defined in this Bylaw.

2360 Formula Business Regulated District.

2361 Definition:

"Formula Business" means a type of retail sales establishment, restaurant, tavern, bar, or take-out food establishment which is under common control or is a franchise, and is one of ten or more businesses or establishments worldwide maintaining two or more of the following features:

- (a) Standardized menu or standardized array of merchandise with 50% or more of in-stock merchandise from a single distributor bearing uniform markings.
- (b) Trademark or service mark, defined as a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of the goods from one party from those of others, on products or as part of the store design, such as cups, napkins, bags, boxes, wrappers, straws, store signs or advertising devices.
- (c) Standardized signage and color scheme used throughout the interior of the establishment.
- (d) Standardized uniform, including but not limited to, aprons, pants, shirts, smocks or dresses, hat and pins (other than name tags).
- (e) Standardized façade, signage or color scheme used on the exterior of the establishment.

2362 Purpose:

The purpose and intent of the Formula Business Regulated District (FBRD) is to address the adverse social and economic impact of standardized businesses on Provincetown's community character. Formula Business uses are regulated in the FBRD in order to maintain a unique retail and dining experience. Formula Businesses frustrate this goal by detracting from Provincetown's overall historic experience and threatening its tourist economy. The proliferation of Formula Businesses will have a negative impact on the Town's economy, historical relevance, unique character and economic vitality.

1. Location. The location of the Formula Business Regulated District (FBRD) shall encompass the General Commercial (GC) and Town Commercial Center (TCC) zoning districts. Formula businesses are prohibited in all other districts.

2. Permitted Uses. Any use permitted in the underlying zoning district shall be permitted, except for those specifically prohibited below in Section 3. Drive-through facilities are not allowed.

3. Regulated Uses. The proposed use of any building or structure for a Formula Business establishment shall require both a Special Permit from the Zoning Board of Appeals.

Criteria for establishment, expansion, or relocation of a Formula Business:

- (a) The Formula Business is designed and operated in a manner that preserves the community’s distinctive small-town character;
- (b) The Formula Business contributes to the diversity of uses to assure a balanced mix of businesses available to serve residents and visitors;
- (c) The Formula Business use, together with the design and any improvements, is compatible with the existing architecture and unique aesthetic appearance of the Town; and
- (d) The Formula Business shall not increase the intensity of use on the site to a level that will adversely impact land uses in the area; pedestrian, bicycle, or motor vehicle traffic; or the public welfare.

4. Determination. A business which meets the initial consideration but does not meet a minimum of 2 of the five required features will need to demonstrate that in writing to the Building Commissioner prior to applying for a business license. A Formula Business may adapt its business activities in consultation with the Building Commissioner so that the proposed establishment no longer qualifies as a Formula Business.

5. Scope and Validity of the Bylaw. The invalidity of any section or provision of this bylaw 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.

Section 2400 Use Regulations

2410 Applications No building or structure shall be erected, and no premises shall be used except as set forth in the Use Regulations Schedule.

2420 More Than One Use Where an activity might be classified under more than one of the following uses, the more specific classification shall determine permissibility; if equally specific the more restrictive shall govern.

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; PB, a use authorized by Special Permit from the Planning Board.

2440 Permitted Principal Uses

		Residential			Commercial		Sea-shore	Public Use
		Res1	Res2	Res3 ResB	TCC	GC	S	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	PB	PB	PB	PB	NO	NO
	3. three per lot	NO	NO	PB	PB	PB	NO	NO
	4. four or more per lot	NO	NO	PB	PB	PB	NO	NO
A1b	Two Family Dwelling							
	1. one per lot	NO	PB	PB	PB	PB	NO	NO
	2. two per lot	NO	NO	PB	PB	PB	NO	NO
	3. three per lot	NO	NO	PB	PB	PB	NO	NO

		Residential			Commercial		Sea-shore	Public Use
		Res1	Res2	Res3 ResB	TCC	GC	S	M
	4. four or more per lot	NO	NO	PB	PB	PB	NO	NO
A2	Multi Family Dwelling							
	1. three units	NO	NO	YES	YES	YES	NO	NO
	2. four units or more	NO	NO	PB	PB	PB	NO	NO
A3	Boarding, Lodging or Rooming House; Dormitory or Employee Housing	BA	YES	YES	YES	YES	NO	NO
A4	Nursing Home	NO	BA	BA	BA	BA	NO	NO
A5	Manufactured home park or subdivision	NO	NO	NO	BA	BA	NO	NO
A6	Cluster Development	NO	NO	YES	YES	YES	NO	NO
A7	Tourist House, Guest House or Bed and Breakfast	NO	YES	YES	YES	YES	NO	NO
B.	Business							
B1	Business or professional offices, banks	NO	NO	NO ¹	YES	YES	NO	NO
B2	Funeral Home	NO	NO	NO	YES	YES	NO	NO
B3	Hotel, motel or inn ²	BA	BA	YES	YES	YES	NO	NO
B4	Retail 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	NO	NO	BA ¹⁸	YES ¹⁷	YES ¹⁷	NO	NO
B5	Restaurant, bar	NO	NO	BA ¹⁸	BA ⁶	BA ⁶	NO	NO
B6	Rental storage	NO	NO	BA ⁹	BA ⁹	BA ⁹	NO	NO
B7	Parking lots/garages	NO	BA ¹¹	BA ¹¹	BA ¹¹	BA ¹¹	NO	NO
B8	Fast Order Food Establishments (excluding those with seating for less than ten and which occupy no more than a total of 500 sq.ft.)	NO	NO	BA ¹⁸	BA ¹²	YES ¹³	NO	NO
B9	Adult Entertainment ¹⁷							
	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
B10	Theater	BA	BA	BA	YES	YES	BA	BA
B11	Formula Businesses	NO	NO	NO	BA	BA	NO	NO
B12	Small-Scale Ground-Mounted Solar Photovoltaic Installation	YES	YES	YES	YES	YES	YES	YES
B13	Large-Scale Ground-Mounted Solar Photovoltaic Installation	PB	PB	PB	PB	PB	YES	YES
B14	Marijuana Establishments, Retail ¹⁹	NO	NO	NO	PB	PB	NO	NO
B15	Marijuana Establishments, Industrial ¹⁹	NO	NO	NO	PB	PB	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	BA	BA	BA	BA	BA	BA	BA
C9	Transportation terminal	NO	NO	NO	YES	YES	BA	BA

		Residential			Commercial		Sea-shore	Public Use
		Res1	Res2	Res3 ResB	TCC	GC	S	M
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	NO
D. Institutional								
D1	Religious or educational use							
	a. exempt from zoning prohibitions ⁷	YES	YES	YES	YES	YES	YES	YES
	b. all others	NO	NO	YES	YES	YES	NO	NO
D2	Cemetery	BA	BA	BA	BA	BA	BA	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
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	BA	BA	BA	NO	BA	BA	NO
	d. amusement park, drive-in theater, cart track	NO	NO	NO	NO	NO	NO	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	BA	BA	BA	BA	BA	BA
F2	Other farms, nurseries, green houses	YES	YES	YES	YES	YES	YES	YES
F3	Animal kennel	NO	NO	NO	NO	YES	NO	NO
F3a	Animal hospital	NO	NO	BA	NO	YES	NO	NO
F3b	Animal shelter	NO	NO	BA	NO	NO	NO	NO
F4	Use having externally observable attributes similar to uses permitted above.	BA	BA	BA	BA	BA	BA	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	NO	NO	NO	NO	NO	NO

Footnotes

1. Except "YES" in ResB 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. Food service, retail and other ancillary services commonly associated with a hotel, motel or inn use may be permitted by BA within an establishment
3. *Removed by April 2018 ATM Article 35.*
4. No moped rental in all zones. 1980 ATM Art. 87 amended.
5. *Removed by April 2016 ATM Article 27.*

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. *Removed by October 2015 STM Article 2.*
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 21 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 and enforceable plan for the mitigation and control of trash and litter generated by the proposed establishment; (d) 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 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. All adult entertainment uses must be located at least 300 feet from any library, school or playground. 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. Furthermore, all adult entertainment

uses with establishments which display live nudity for its patrons must take place entirely indoors and in such a manner as not to be observable from any abutting property, sidewalk or public way.

- 18. If existing as of October 1, 2006.
- 19. The Planning Board shall be the Special Permit Granting Authority for Marijuana Establishments. Except no facility or business shall be permitted with a radius of 100 feet of a school or daycare center. The 100 foot distance is measured in a straight line from the nearest point of the parcel of the school or daycare center to the nearest point of the proposed parcel of the facility or business.

2450 Permitted Accessory Uses

		Residential			Commercial		Seashore	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	YES	YES	YES	YES	YES	YES
G3	Home Occupation (see Sec. 4400)	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	BA	BA	BA	BA	BA	BA
G6	Temporary construction office or shelter	YES	YES	YES	YES	YES	YES	YES
G7	Scientific research or development	BA	BA	BA	BA	BA	BA	BA
G8	Outdoor food dispensing machine	NO	NO	NO	NO	NO	NO	NO
G9	Aircraft landing area	NO	NO	NO	NO	NO	NO	NO
G10	Artist's studio	YES	YES	YES	YES	YES	NO	NO
G11	Other customary accessory uses	BA	BA	BA	BA	BA	BA	BA
G12	Swimming pool	BA	BA	BA	BA	BA	BA	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
G15	Adult Entertainment ³							
	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
G16	Theater	BA	BA	BA	YES	YES	BA	BA
G17	Accessory Dwelling Unit	YES ⁶	YES ⁶	YES ⁶	YES ⁶	YES ⁶	NO	NO
G18	Building-Mounted Solar Photovoltaic Installation ⁵	YES	YES	YES	YES	YES	YES	YES

Footnotes

- 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.

3. 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. 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. Furthermore, all adult entertainment uses with establishments which display live nudity for its patrons must take place entirely indoors and in such a manner as not to be observable from any abutting property, sidewalk or public way.
4. Subject to the requirements of Article 4 Section 4800 of these By-Laws.
5. Historic District Commission approval might be required.
6. One accessory dwelling unit may be allowed in the Res1 Zoning District, for a total of two dwelling units per lot; and in Res2 Zoning District for a total of three dwelling units per lot; and in the Res3, ResB, TCC and GC Zoning Districts when the lot area limits the number of dwelling units to one or two, and there are no more dwelling units on the lot than the number allowed under this Bylaw, for a total of no more than three dwelling units per lot. All accessory dwelling units shall meeting the following criteria: the accessory dwelling unit is deed restricted for year-round rental only; it is limited in size to 600 square feet if it is a free-standing dwelling unit or 40% of the gross floor area if it is located within the principal residence.

2460 Special Permit Requirements 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 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. * 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 non-conforming 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.

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 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 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
Residential	1 space/dwelling unit (studio or 1 bedroom); 1.5 spaces /dwelling unit (2 bedrooms or more)

	(applies to new units, existing development is grandfathered. Required spaces shall be rounded up to the nearest whole number.) Accessory Dwelling Units are exempt.
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 comply with the following schedule. 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

2474 Egresses In a GC Commercial District, each parking area for three or more vehicles shall have a point of entry, turn-around and exit to eliminate the need to back out upon the street. A single or shared point of entry and exit is encouraged wherever feasible.

Section 2500 Dimensional Requirements

2510 Applicability No structure shall be erected, altered, or moved, and no lot shall be created or changed in size or shape (except through a public taking) so as to result in violation of these dimensional requirements, unless expressly exempted from them by this By-Law or by Sec. 6, Chap. 40A G. L.

2520 Statutory Exemption Under Section 6 of Chapter 40A, G.L., certain isolated lots (see 1313) are generally not subject to subsequent amendments in dimensional requirements, and land shown on subdivisions or other plans endorsed by the Planning Board are exempted from subsequent zoning amendments in certain respects for a limited period of time. (See Sec. 6, Ch. 40A G.L.)

2530 Isolated Lot Exemption Chapter 40A, Sec. 6 M.G.L. exempts certain vacant lots for single or two family residential use only, from any increase in dimensional requirements governing area, frontage, width, yard or depth. Such protection shall apply to legally created lots not meeting current requirements provided that the applicant documents that:

- (a) at the time such lot was recorded or endorsed, whichever occurred sooner, it:
 - (1) was not held in common ownership with any adjacent land; and

- (2) conformed to then existing requirements; and
- (3) had at least 4,000 square feet of lot area and 20 feet of frontage on a qualified way (as specified in Chapter 41, Sec. 81 L, M.G.L); and
- (b) the lot is not to be used for multi-family or commercial accommodation use.

2550 Multiple Buildings Per Lot More than one building may be erected or moved onto a single lot provided that they are not closer to each other than nine (9) feet or twelve (12) feet if either exceeds two stories in height. Lot area requirements must be met for each principal building without counting any lot area twice. For the purpose of this bylaw, buildings are considered separate unless they are connected by a minimum one-story structure that meets the definition of Building in Article 1.

2560 Dimensional Schedule (See Section 4100 for additional multi-family and commercial accommodation requirements)

Requirements	Residential			Commercial		Seashore	Public Use
	Res1	Res2	Res3 ResB	TCC	GC ³	S	M
Min. Lot Area (square feet)	16,000 ⁷	5,000	5,000	5,000	7,000	120,000	--
Min. Lot Frontage (linear feet)	100 ⁷	50	50	50	70	--	--
Min. Front Yard (feet)	30	20 ¹	20 ¹	10	10	50	--
Min. Side Yard (feet)	15	6	6	5 ²	10	25	--
Min. Rear Yard (feet)	20	15 ¹	10 ¹	10 ¹	25	25	--
Max. Lot Coverage (%)	40	40	40	60 ⁸	40	--	--
Max. Number of Stories ⁴ (Refer to Story in Definitions)	2 ½	2 ½	2 ½	2 ½	2 ½	2 ½	2 ½
Max. Building Heights ⁵							
Hip, gable and Shed_roofs (feet) ⁶	33	33	33	33	33	33	33
Mansard, gambrel, arch, or dome roofs (feet)	28	28	28	28	28	28	28
Flat roof defined as less than 3/12 pitch (feet)	23	23	23	23	23	23	23

Footnotes

1. Or, if smaller, the average of the setbacks of the buildings on the lots thereto on either side, a vacant lot being counted as though occupied by a building set back the minimum required distance.
2. May be reduced to zero with a party wall (jointly owned by owner or abutting properties) meeting the requirements of the State Building Code, provided that access to the rear of the property is maintained for emergency vehicles.
3. Residential uses shall comply with requirements of the Res3 District.
4. For the number of stories allowed in High Elevation District, see Section 2320 High Elevation District. Mansard, gambrel, arch, dome, and flat roofs shall not exceed two stories.
5. Height limitations shall not apply to chimneys, TV antennae with poles of ten (10) feet or less, or spires, cupolas and widow walks that do not enclose more than thirty-five (35) square feet of floor space or exceed ten (10) feet in height or occupy more than five (5) percent of the roof area. If the roof is composed of multiple

forms, the maximum height for each type of roof shall apply to each respectively. For Building Height allowed in High Elevation District, see Section 2320 High Elevation District. Municipal and Public Safety facilities may exceed height limitations when authorized by a Special Permit issued by the Zoning Board of Appeals as provided in Section 5300 with additional findings that the proposed height: 1) is influenced by unique design characteristics or constraints necessitated by the particular use, purpose or program of the structure, and 2) where it would be beneficial to the general public by decreasing costs, providing greater functionality, or enhanced public safety.

6. and all other roof forms that enclose a top story in accordance with the definition of a ½ story and footnote 5.
7. Except parcels legally created prior to April 2, 2018 shall conform with a minimum lot area of 8,000 sf and minimum lot frontage of 50 ft.
8. May be waived by Special Permit from the Planning Board.

Section 2600 Design Standards

2610 Purpose

The design standards required by this Article are intended to ensure that all development or redevelopment occurs in a manner that preserves, restores and respects the unique architectural heritage and community character that is Provincetown. Roof Configuration and Building Scale are important contributing elements to the experience of the streetscape and the character of the community. The regulations in this Section arise from the community character analysis and Goals, Objective and Policies contained in the Local Comprehensive Plan.

2620 Applicability

All new construction and any development that alters the exterior façade or roof configuration of an existing structure not specifically excluded from these provisions, shall be required to submit a site plan, floor plan and elevation drawings of the existing and proposed buildings or renovations, and other supporting documents. If such development meets the standards set forth in this Article, then it may be approved by the Zoning Enforcement Officer. If such development fails to meet any one of the standards, then it shall be referred to the Board of Appeals accompanying an application for a Special Permit. The Board of Appeals may grant a Special Permit for a proposed development that differs from the standards contained herein provided that it finds the design of the proposed development meets the requirements for granting a Special Permit. The Board may attach conditions to a development approval to ensure that the objectives are met, or it may deny the development as inconsistent with the objectives

2630 Roofs.

A. Applicability: This section is applicable in all zoning districts.

B. Purpose: The streetscape and community character that exist in Provincetown are the result of the compatible relationships among historic roof styles resulting from an architectural heritage that spans three centuries. Part of that community character is based on the large number of buildings of modest size and bulk, generally not more than 2 and 1/2 stories. The purpose of this regulation is to enhance community character by limiting the bulk above the second story and to mitigate potential negative impacts on adjacent properties.

C. Roof Configuration: Gable, Hip and Shed are the predominant roof forms in the Provincetown architectural tradition. Modifications of these roof configurations can transform the bulk of buildings.

Therefore, above the second story of a building, limits are as follows:

- 1) dormers cannot exceed coverage of 50% of the floor area directly below the contiguous roof in which the dormer will be located; and,
- 2) knee walls above the floor plates cannot exceed three feet in height.

Roof configurations that exceed these limits are prohibited. Other roof forms exist that by design enclose more volume on the upper floor and would be considered a full story: mansard, gambrel, and arched or dome roof forms therefore are prohibited above the second story. Flat roof form is also prohibited above the second story, except on dormers. Nothing shall prohibit modified roof configurations or combinations of roof forms provided that they comply with Section 2560, the Dimensional Schedule.

No existing gable roof shall be replaced with a different roof configuration without a Special Permit from the Board of Appeals, which shall specifically address, in addition to the requirements of Section 5330, the solar access available to neighboring structures (reference Chapter 637 of the Acts of 1985), and public safety including Fire Department facilities.

D. Building Height: The maximum height to be permitted in town shall be consistent with Section 2560 of the Provincetown Zoning By-Laws.

E. Relief under this Section: The Board of Appeals may grant a Special Permit deviating from the above standard if the ZBA finds that the deviation from the standard is in keeping with the standard criteria for granting a Special Permit, the objectives of the Local Comprehensive Plan and is appropriate for one of the following reasons:

1. The function of the structure or the structure's importance to the community as a whole, justifies a different roof configuration.
2. Other features of the proposed design are such that the deviation of the roof configuration is not disruptive to the character of the area.

Section 2640 Building Scale

A. Applicability. This Section is applicable to all new buildings and all additions in all zoning districts in Provincetown. This Section does not apply to:

1. remodeling where the total volume of the building is to be reduced;
2. structures destroyed by fire or other similar casualty which may be rebuilt so long as the scale, volume and capacity is not increased and so long as it conforms to all other provisions of these Bylaws including Growth Management, Height and Roof Pitch Regulations or where the proposed addition to an existing structure is less than three hundred twenty-four (324) cubic feet of space; or structures existing prior to April 1, 2018, which are located in the FEMA established A and V zones that are required to raise their buildings above base flood elevation so long as the envelope of the building is not also being increased;
3. for structures in the FEMA established A and V zones that are required to be raised above base flood elevation where there will be an increase in footprint or volume, then only the portion of the building below base flood elevation will be exempted from the scale calculation;

B. Purpose. Provincetown is characterized by buildings that have relatively consistent and harmonious scale within neighborhoods. Exceptions include the Pilgrim Monument, the Town Hall, churches, and some old industrial buildings. Newer buildings, where the appropriate scale has not been maintained, have disrupted the character of the neighborhoods. Preservation of appropriate building scale has also been identified as critically important by the Town's residents. All new buildings or additions shall comply with appropriate scale to their neighborhood.

C. Procedure. Each application for a building permit, except where the total volume is reduced, shall contain information on the building volume of all structures that fall wholly or partially within two hundred fifty (250) feet of the center of the proposed renovation if a structure exists, and within two hundred fifty (250) feet of the center of the parcel for a proposed new building except for stand-alone non-residential accessory use structures of 2160 cubic feet or less.

Determination of existing and proposed building volume and neighborhood average shall be directed by the Zoning Enforcement Officer based on the established methodology by calculating the volume in cubic feet of the building that is above grade, including roofs and porches. The neighborhood average shall be calculated after removing the largest and smallest structures and after removing stand-alone non-residential accessory use structures of 2160 cubic feet or less.

Municipal buildings shall not be included in calculating the neighborhood average. For a new structure, the calculation shall not include the volume of the proposed development; for a renovation project, the calculations shall contain the volume of the structure prior to renovation.

D. Standards. All new development may vary from the neighborhood average by an increase of no more than fifteen (15) percent, within the designated Provincetown Historic District or by an increase of no more than twenty-five (25) percent in other areas, unless a Special Permit is granted by the Board of Appeals as specified in Article 5 Section 5230 in conformance with the requirements listed below.

E. Board of Appeals Approval. Discretionary approval for a deviation in building scale may be granted if the Board of Appeals finds that the deviation meets the standards for a Special Permit, under Article 5, Section 5300 and that the applicant demonstrates that the deviation is appropriate and meets one or more of the following criteria:

1. The proposed building or addition is in keeping with the goals and objectives of the Local Comprehensive Plan.
2. The building is an important structure to the community as a whole. Public buildings are logical candidates for this type of conditional approval. For example, the Pilgrim Monument is out of scale with everything in town, yet its value as a monument to the town's history and in giving identity to the town, makes it acceptable.
3. The proposed building or addition by necessity must be large and that the location is suited for that larger scale use. For example, churches may be permitted uses in a residential district and their larger scale is often dictated by traditional architectural forms.
4. The building scale deviation is warranted due to the size of the parcel of land involved so as to discourage subdivision into smaller parcels and the proposed building or addition will not result in a structure that will disrupt the character of the neighborhood in which it is located.
5. The proposed building or addition successfully integrates into its surroundings and is sited in a manner that minimizes the appearance of mass from the streetscape and will not have a significant negative impact on the natural light to, or views from, neighboring structures.
6. The property is located in the Provincetown Historic District and the addition is consistent with the Historic District Guidelines and approval of the deviation would further the purpose and intent of the bylaw.

Section 2650 Surveys

(a) Height Surveys

1. All applications for site plan approval and building permits for new structures or additions that alter the height of existing structures must include complete height calculations.
2. If the height of the structure is within 2 feet of the maximum building height, or

if the structure is being constructed on a site with a change in topography of 8 feet or greater, a survey is required from a professional land surveyor.

3. The survey shall be conducted and submitted to the Zoning Enforcement Officer at a point of construction when enough roof structure is in place to accurately measure the structure yet early enough in the process to still make changes if the structure is too tall.

(b) Foundation Surveys

1. All building permits for new buildings or additions require a foundation survey.
2. After the foundation has been constructed, a foundation survey shall be prepared, stamped and signed by a professional land surveyor and submitted to the Zoning Enforcement Officer for review.
3. All work must stop until the foundation survey is submitted, reviewed and approved by the Zoning Enforcement Officer. The full building permit shall not be issued until the foundation survey is approved by the Zoning Enforcement Officer.
4. Any setback or easement violations must be corrected before the full building permit is issued.

The purpose of the following By-Law is to promote the health, safety, convenience and welfare of the inhabitants by dividing the Town into districts and regulating the development therein, under the authority of Chapter 40A, General Laws, and of Article 89 of the Amendments of the constitution.

Article 3 - General Requirements

3110 Change, Extensions or Alterations. As provided in Sec. 6, Ch. 40A, G.L., lawfully pre-existing, non-conforming structures and use may be altered, reconstructed, extended or changed as set forth below.

1. Single and two family structures may be altered as provided for under G.L. c.40A, §6, ¶1, with any required finding by the Board of Appeals that needs to be made, to be made by Special Permit and any new nonconformity to obtain any necessary dimensional relief.
2. All other pre-existing nonconforming structures may be extended, altered or changed only upon issuance of a Special Permit by the Board of Appeals and only if all of the criteria under G.L. c.40A, §6, ¶1 and the criteria set forth under Zoning By-law §5300 are satisfied.
3. Nonconforming structures may be extended, altered or changed so as to make a conforming dimension nonconforming or create a new nonconformity but shall require relief under this section and a dimensional variance by the Board of Appeals, except that, for those buildings which existed prior to April 6, 2015 and are required by the Building Commissioner to be elevated in accordance with FEMA Regulations, new setback non-conformities and intrusions further into an existing non-conforming setback area created by exterior access/egress structures which are increased in size due to the building being elevated may be approved by Special Permit from the Board of Appeals, provided that the criteria is simply that the extension, alteration or change is not substantially more detrimental than the existing nonconforming situation.
4. Pre-existing nonconforming uses may be extended, altered or changed only upon the issuance of a Special Permit by the Board of Appeals and only if all of the criteria under G.L. c.40A, §6, ¶1 and only if all of the criteria set forth under Zoning By-law §5222 and §5300 are satisfied.
5. Once changed to conformancy, no structure or use shall be permitted to revert to nonconformancy. Any extension of a nonconforming structure shall have a continuous foundation and floor plan with said structure.

3115 Demolition and Reconstruction – A nonconforming structure and/or use may be demolished and reconstructed, and/or reestablished by Special Permit and in accordance with the following provisions:

1. Reconstruction of said premises shall commence within two years after such demolition.
2. Structures(s) as reconstructed shall be located within the same footprint as the original nonconforming structure and shall be only as great in building scale or area as the original nonconforming structure, unless as approved under Section 3110.
3. The use of said premises shall be reestablished within one year of the issuance of the certificate of occupancy.

3120 Restoration Any legally nonconforming building or structure may be reconstructed if destroyed by fire or other accidental or natural cause if reconstruction is begun within one year and completed within two years from the date of the catastrophe, or else such reconstruction must comply with this By-Law.

3130 Abandonment A nonconforming use which has been abandoned, or discontinued for a period of two years, shall not be re-established, and any future use of the premises shall conform with this By-law.

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.

3220 General Sign Regulations

3221 No sign shall be erected or maintained unless its subject matter relates exclusively to the premises on which it is located, or to products, accommodations, services, or activities on those premises. No "off premises" billboard signs or other off premises advertising device shall be permitted.

3222 No sign shall be attached to a roof or extend above the top or beyond the end of the wall to which it is attached, or protrude beyond any lot line of the premises.

3223 No ground sign shall exceed 12 feet in height as measured from the ground level to the top of the sign.

3224 Neon, gas-filled tube type illuminated or internally illuminated signs shall not be permitted on the exterior of a building or structure. Neon, gas-filled tube type illuminated or internally illuminated signs that are visible from the outside of a building or structure in a manner that attracts the attention of a person, who is located outside of the building or structure at the premises, for any reason to the premises or to any product offered for sale may be permitted internally within storefront windows not to exceed a maximum of 50% of the window surface area. No sign shall be projected upon a building, street or walkway. No sign shall produce glare, flash, move or have activated lights or elements.

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

3226 Effective April 30, 1987, no chalkboards or menu boards shall be allowed in any zoning district with the following exception: one (1) glass-covered menu board either freestanding or attached and no larger than a total external dimension of nine (9) square feet including any frame or other decoration. A menu board is an external fixed display of a menu or menus for the information of the public in addition to allowed signs as specified in these By-Laws.

3227 Effective April 1, 1990 in Zoning Districts TCC and GC, a business or non-profit organization which offers live theatrical entertainment and which has been duly licensed and/or inspected shall be entitled to a permit for one (1) glass-covered marquee for the purpose of describing the entertainment only.

Said marquee may be either free-standing or attached and must be no larger than a total external dimension of nine (9) square feet including any frame or other decoration. The permit shall be issued by the Inspector of Buildings for a period of one calendar year.

3230 Sign Size

The Basic Maximum Sign Area for exterior building signs is as follows:

Residential District Res1	2 sq. feet
Residential District Res2	2 sq. feet
Residential District Res3, ResB	16 sq. feet
Commercial District TCC	16 sq. feet
Commercial District GC	16 sq. feet
Properties with greater than 200 ft of street frontage	32 sq. feet
Other Districts (S-Seashore, M-Municipal Use)	16 sq. feet

3240 Multiple Signs The maximum number of signs or display structures allowed a business or location is two (2). The area of the two signs combined may not exceed the Basic Maximum Sign Area specified in Section 3230 with the following exceptions:

- a. A business or location having 300' or more frontage along a single street or highway may have a maximum of two signs, each of which may have the Basic Maximum Sign Area.
- b. Directional signs not exceeding one square foot in area may be used without limitation where needed.

- c. Any business or location located on a corner lot may use three signs having total area not exceeding the Basic Maximum Sign Area.
- d. Any business or location having frontage on parallel streets may have two signs located on each street, totaling up to the Basic Maximum Area for each street.
- e. In addition to any other allowable signs, one Directory Sign shall be allowed for a group of three or more businesses with a remote entrance on a private way, with directory listings in letter sizes not to exceed three inches, or aggregate sign size not over six square feet.
- f. In addition to any signs previously referred to, a business may have non-illuminated and non-projecting signs erected at the side or over the door of a store or show window of the business establishment which announces the name of the proprietor and the nature of the business conducted therein, which sign shall not exceed six square feet.
- 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 four and a half (4½) square feet.
 - 2. Such signs shall advertise only the property on which the sign is located.
 - 3. A maximum of one (1) such sign 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. Signs shall 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 10 feet, except when a building is not set back 10 feet from the lot line in which case such sign may be erected on the building or in the ground against the building.

3250 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.

Section 3260 "Open For Business" To encourage commerce in the Town of Provincetown, any licensed business recognized by the Town of Provincetown is permitted to display (1) one "Open For Business" or "Welcome" flag, not to exceed 3' x 5'. Placement shall not impede the flow of public traffic.

Section 3400 Environmental Controls

3410 Nuisances No building or premises shall be erected, altered or used in any district for any purpose injurious, noxious or offensive to a neighborhood by reason of the emission of odor, fumes, dust, smoke, vibration, noise or other cause.

3420 Outside Display In all districts of town there shall be no mechanical display or exhibit, or display of any type of merchandise or wares, for the purpose of advertisement, sale, barter, or exchange, or as an inducement thereof, outside of, upon, or against any building or screened or open porch, or booth, or cart, or contiguous land, or premises unless a Special Permit for said display is first granted by the Board of Zoning Appeals, or specifically excepted as hereinafter provided. Effective April 1, 1990, all exterior displays or exhibits must have a Special Permit from the Zoning Board of Appeals.

A Special Permit for Outside Display may be issued for a period of three calendar years after filing an application with the Board of Zoning Appeals and a copy thereof with the Town Clerk. The Special Permit shall specify the number and generic type (e.g. clothing, children's toys, newspapers and magazines, lawn care machinery, etc.) of items to be displayed and the location thereof indicated on a drawing or plan; any change in content (i.e. different generic items) shall require a new Special Permit.

The Special Permit may be granted by the Board of Zoning Appeals only if it finds all of the following:

- a. The proposed display does not create any adverse effect due to hazard or congestion;
- b. The proposed display is consistent with and does not cause any adverse impacts to the character of the surrounding neighborhood;
- c. The proposed display is an adjunct display to, and for representative merchandise or wares of, a retail sales, service or restaurant establishment located on the same premises;
- d. A majority of abutters within a 300 foot radius have not submitted a petition objecting to the proposed display; and
- e. The proposed display has not been opposed by a petition signed by 150 voters.

The Special Permit may be renewed for succeeding three-year periods, however violations may be considered as a basis for non-renewal.

Exceptions:

- A. Bazaars or functions for charitable purposes by organizations existing in Town for a minimum of one year may be excepted for periods not exceeding one week in any one year by any one applicant provided that application is made to the Board of Selectmen and a license for said activity is granted.
- B. The sale of art produced by working artists at the time and point of sale, including caricatures and portraits, provided that application is made to the Licensing Board and a license for said activity is granted.
- C. This By-Law shall not apply to artists working in public and shall not be construed as to prohibit an artist from selling work in progress, subject to Licensing Board approval.
- D. 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. 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.

3430 Illumination

3431 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.

3432 Standards Unless all the following are met, it will be presumed that the above performance requirements are not satisfied:

- a. Internally illuminated signs on the premises collectively total not more than 200 watts unless not exceeding 15,000 lumens.
- b. Externally illuminated signs employ only shielded lights fixed within three feet of the surface they illuminate.
- c. Exterior lighting fixtures other than signs are mounted not more than 15 feet high.
- d. Building floodlighting totals not more than 2,000 watts unless not exceeding 50,000 lumens.

3433 Special Permit The Board of Appeals may grant a Special Permit for lighting which does not comply with these specifications if it determines that the performance standards of the first paragraph will still be met, and if the applicant documents that brightness of any sign or building element will not exceed 50 foot lamberts in Commercial Districts or 200 foot lamberts in other districts.

Article 4 – Special Regulations

Section 4000. Site Plan Review (SPR)

Section 4001. Transitional Provision The revised site plan provisions adopted by the October 21, 2013 Town Meeting under Article 16 shall not apply to any site plan approval decision or any special permit decision that was approved and in effect as of October 21, 2013, with "in effect" to mean either that the site plan or special permit decision granting favorable relief was duly filed with the Town Clerk's Office on or before October 21, 2013 and had not expired or lapsed or that the site plan or special permit decision denying relief was duly filed with the Town Clerk's Office by October 21, 2013 and the denial then was timely appealed and then overturned on appeal and a grant of favorable relief was perfected.

4005. Purpose

The purpose of this section is to provide for comprehensive review of projects as described below which represent an impact to either the Town as a whole, and/or one or more of its neighborhoods, so as to protect the health, safety, convenience, and general welfare of the inhabitants of the Town of Provincetown.

The location and development of all buildings, structures, and site improvements affect the economic, social and environmental resources of the Town of Provincetown and that many developments, due to their magnitude and character, may cause significant alterations to the natural and built environments of the Town; that authority is rightfully vested in our Municipal government to regulate the location, character and impact of developments which may substantially affect the quality of life in Provincetown.

The SPR process regulates the use of land and structures to minimize adverse impact on the natural environment and the Town Character and protect the health, safety and general welfare of the people and to ensure the following:

- a. The safety and convenience of pedestrian and vehicular movement internal to the site, and in relationship to abutting properties and rights-of-way;
- b. The consideration of the protection of the use and enjoyment of the property of abutters;
- c. The protection of the historic character of the community in a manner consistent with the Local Comprehensive Plan;
- d. The protection of natural features and environmental resources.

The bylaw establishes the application procedure and requirements for site plan review for such uses and structures in order to further the intent of the Zoning By-laws and the Local Comprehensive Plan and to ensure that new development and redevelopment which may have significant impacts upon abutting land, the Town, or any neighborhood, is designed in a manner that complies with the Zoning By-laws and addresses other community needs.

4010. Administrative Site Plan Review

4011. Projects requiring Administrative Site Plan Review by the Planning Board. Except as exempted by Section 4012 or requiring review under Section 4015, all exterior structural alteration, structural relocation, addition of parking, change in use of any building or land shall require Administrative Site Plan Review.

4012. Projects exempted from Administrative Site Plan Review

- a. The construction or enlargement of any residential building(s) on a parcel so long as said parcel contains no more than one or two principal dwelling units, or building accessory to such dwelling unit(s), including Accessory Dwelling Units.
 - 1) except where such dwellings are located in the High Elevation District; or
 - 2) except where the development of such dwellings requires the excavating or grading of an area greater than the minimum lot size in the zone in which the parcel is located.
- b. Any construction or alteration which has no effect on the footprint of an existing residential building or accessory structures, and does not add parking.
- c. Any construction or alteration which has no effect on the footprint of an existing commercial or mixed use building (s) or accessory structures, and does not add parking, except if the alteration of premises containing such uses is greater than 50% ;of the floor area for developments of more than 2000 square feet of total commercial space, interior and exterior.
- d. Any use specifically exempted from regulation pursuant to the Massachusetts General Laws c.40A §3.

4015. Site plan Review by Special Permit

- a. The following developments shall require Site Plan Review by Special Permit by the Planning Board:
 - 1) Developments consisting of an increase of residential units that will result in three or more residential units on any parcel;
 - 2) Developments consisting of more than 2,000 square feet of new commercial area;
 - 3) Development of properties consisting of an existing or proposed drive-through facility or raised loading dock;
 - 4) Development of commercial properties that have curb cuts greater than 25% of their existing or proposed street frontage;
 - 5) All new construction or additions or any excavation, land removal or earth moving of more than 750 cubic yards that will alter the topography from natural grade, whether or not subject to a building permit;
- b. The Planning Board may, at its discretion, require a surety to guarantee completion of the elements and conditions of plan approved by Site Plan Special Permit.

4020. Procedure

- a. Pre-application review process. Any prospective applicant shall arrange for a pre-application conference with the professional staff of the Community Development Department. One or more coordinated review meetings may be scheduled prior to application submission for the purpose of reviewing alternative schematic plans, and to give technical feedback before the applicant makes a significant investment in the project. The prospective applicant may also request the review of schematic plans with the Planning Board on an informal basis.
- b. Application submission. An applicant for a site plan review shall submit to the Community Development Department copies of a site plan containing the information required by the Planning Board as described below, together with an application form and fee prescribed. The official date of receipt of such plans shall be the day such plans are deemed complete and stamped in the Community Development Department. The applicant may be required to amend the application or provide additional information prior to being deemed complete.
- c. Public Hearing. Within 65 days of submission, the Planning Board shall hold a public hearing to review the site plan.
- d. Decision. Within 30 days of the conclusion of the public hearing, the Planning Board shall either approve, approve with conditions, or disapprove the application with a statement of reasons.

- (1) Administrative Site Plan: action on an administrative site plan requires a majority vote of the Planning Board.
- (2) Special Permit Site Plan: action on a special permit site plan requires a super-majority vote of the Planning Board.
- e. Site Plan Approval Conditions. Where the Planning Board approves a site plan “with conditions”, the conditions imposed by the Planning Board will be incorporated into the issuance of a Building Permit-
- f. Modifications. No deviation from an approved site plan shall be permitted without modification of the Site Plan utilizing the process set forth in Section 4020(b)-(e).
- g. Extension of Time Limits. The applicant may request and the Planning Board may grant an extension of the time limits set forth herein. Failure by the Board to act in the time specified shall be considered approval of the site plan. Failure of the applicant to submit the necessary information may be grounds for denial. The decision of the Planning Board shall be in writing. The Planning Board shall notify the Town Clerk and the applicant within seven days of action taken by the Board.

4025. Required contents of site plan

4026. The Planning Board may require that all site plans be signed and bear the stamp of a professional engineer when such plans require the design of drainage improvements. Otherwise, the review authority may require plans prepared by a professional land surveyor, registered architect, or registered landscape architect. The Planning Board may require that all plans showing property lines and/or dimensions from structures to property lines shall bear the stamp of a professional land surveyor.

4027. All site plans shall be on standard 18" x 24" or 24" x 36" sheets, or otherwise as deemed appropriate by the review authority, and shall be prepared at a standard engineering scale appropriate to the size of the site, and the level of detail required. At least one set of drawings shall be provided at 11" x 17". All drawings at this size shall also include a graphic scale. Plans in an acceptable electronic format shall also be provided. Separate plans shall be provided for following:

- a. Existing condition including contours, utilities and vegetation
- b. Proposed Grading (2' contours, max.) Layout (fully dimensioned),
- c. Proposed Utilities
- d. Proposed Landscaping

4028. The Planning Board may require the following information in connection with site plan review. In deciding which requirements will apply to a specific application, the review authority shall consider the size and intensity of the use, and the unique circumstances of each application.

- a. Name of the project, locus, boundaries, North arrow, date, and scale of the plan;
- b. Key Map at a scale of 1" = 500', depicting the property with reference to surrounding properties, roads, and zoning district lines;
- c. Name and address of the owner of record, developer, and professional seal and certification of the certifying professional;
- d. Names and addresses of all owners of record of all abutting property owners;
- e. Existing lot lines, easements, and rights-of-way;
- f. The location, dimensions, and use of all existing and proposed structures within the site;
- g. Location and identification of all existing and proposed site improvements;
- h. General location and identity of all present and proposed utility systems;

- i. Erosion and sedimentation control measures;
- j. Grading Plan with existing and proposed topography at two-foot contour intervals, only if new, or expanded parking and/or drainage structures are proposed, including the volume and area of graded or excavation material if expected to exceed greater than 750 cubic yards or an area greater than the minimum lot size in the zone in which the parcel is located;
- k. Floodplain District boundary, base flood elevation, and existing and proposed lowest floor elevation, pursuant to Section 2330, as applicable;
- l. A landscape plan, depicting existing and proposed vegetation; including the identity and location of trees four inches in diameter or greater; and the location, size and type of proposed landscaping, conforming to the landscaping and buffering standards of this section;
- m. The location of wetlands pursuant to Local and State Wetlands Regulations as applicable and the illustration of the 100 and 50 foot wetland buffers.
- n. A Zoning Table, demonstrating compliance with the dimensional requirements of this chapter.
- o. Abutting land uses and the location and use of structures and appurtenant improvements on abutting properties;
- p. Location and identification of all existing and proposed site improvements, including public and private ways, parking areas, driveways, sidewalks, ramps, curbs, including traffic directional arrows and paintstripping; fences and buffers for screening purposes; paths; outdoor lighting fixtures; walls; service areas; refuse, and other waste disposal containers; standard specifications and typical cross-sections shall be provided, as appropriate;

4030 Waiver

Any applicant for site plan review may request a waiver of any requirements of this section. Waiver requests shall be made in writing to Planning Board. The Planning Board may waive any such requirements which it determines are unnecessary in its judgment in order to make a finding that the review objectives and performance standards have been met. In granting such waivers, the Planning shall document for the record their reasons for each such waiver, and such waivers shall be approved by a majority vote of the Board present and voting. Before any waiver request is voted upon by the Planning Board, that the waiver request be publically posted and the abutters be notified via certified letter.

4035 Review Criteria

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

- a. That the plan is in accordance with the Provincetown Zoning By-Laws and is consistent with the goals of the Local Comprehensive Plan.
- b. That the plan meets the design requirements outlined in Section 4163.
- c. That the plan shall address the requirements of Section 5331.
- d. Protection of public amenities and abutting properties through the mitigation of any detrimental impacts of any proposed use;
- e. Protection of unique, natural, scenic, or historic features of the site,
- f. The safety and convenience of pedestrian and vehicular movement within the site, and in relation to rights-of-way and properties in proximity to the site;
- g. Protection of the public health and safety within and adjacent to flood hazard areas;
- h. That the plan shall conform to the Illumination Standards of Section 3430 Illumination.

4040 Amendments and Minor Modifications to a Site Plan An amendment, modification, or clarification to an approved Site Plan that does not represent a substantive change of the findings or conditions of approval of the project may be administered by a notation to the file based on a finding by a majority vote of the Planning Board at a public meeting. Any amendment, modification, or clarification that represents a substantive change of the findings or conditions of approval of the project shall require a new Site Plan Review with notice to abutters pursuant to MGL c40A § 11.

4053 Commercial Design Standards In its review of the site plan the Planning Board shall consider the design standards in Section 4163. In addition to the requirements of 4163, the following shall apply to Commercial Business (retail, wholesale, service, warehousing) and Industrial Developments:

1. Access and Traffic Impact:

- a. Access and egress must comply with Section 2474 in Zone GC. In all other zones, curb cuts shall be limited to two per business (clearly marked 'entrance' and 'exit') limited to 18' in width each.
- b. A Traffic Impact Assessment shall be prepared including: a detailed assessment of the traffic safety impacts of the proposed project on the carrying capacity of any adjacent road, a plan to minimize any such impacts, adequate pedestrian and bicycle access including sidewalks to provide access to adjacent properties and between individual businesses within a development.

2. Landscaping:

- a. In Zone GC: A landscaped buffer strip at least 10' wide continuous except for approved driveways shall be established adjacent to any public road to visually separate parking and other uses from the road and which shall be planted with medium height plant materials set back a sufficient distance at intersections to prevent any traffic visibility hazard.
- b. In Zone TCC: 5% of the front and/or side setback area shall be permanently landscaped.
- c. Large parking areas shall be subdivided with landscaped islands so that no paved surface shall extend more than 80' in width. At least one (minimum 2" caliper) trees per 35 parking spaces shall be provided.
- d. Exposed storage areas, machinery, service areas, truck loading areas, utility buildings and structures and other unsightly uses shall be screened from view from neighboring properties and streets using dense evergreen plantings, earthen berms or tight fences with evergreen plantings.
- e. All landscaped areas shall be properly maintained. Shrubs or trees which die shall be replaced within one growing season.

3. Appearance/Architectural Design:

Architectural design shall be compatible with historic character and scale of buildings in the Town (including compliance with Article 3 section 3300 of these By-laws) through use of appropriate building materials, screening, breaks in roof and wall lines and other architectural techniques. Variation in detail, form and siting shall be used.

4. Erosion Control:

- a. Exposed or disturbed areas shall be permanently stabilized within six months of (permanent or final) occupancy of a structure.
- b. During construction runoff shall be trapped on site.

5. Infrastructure:

The applicant must demonstrate that the proposed development will not overburden public water, septage or solid waste facilities (as indicated in Section 5331).

4120 Density Schedule The total lot area must equal at least the square feet/unit as derived from the following schedule: (Provided however, that building permits issued prior to April 1, 1986 shall be governed by *(editor’s note: old numbering Article III, Section 3110)* Article 4, Section 4120 prior to amendment of this section at the 1986 Annual Town Meeting)

Dwelling Units	Number of Units Proposed	Number of Square Feet/Unit Required
First	1-8	1,500
For the next	9-15	2,500
For the next	16-25	3,000
Beyond 25	26 or more	4,500

Commercial Accommodations ¹	Number of Units Proposed	Number of Square Feet/Unit Required
First	1-10	500
For the next	11-20	750
For the next	21-30	1,000
For the next	31-40	1,500
For the next	41 units and beyond	2,000

Footnotes

1. May be waived by Special Permit from the Planning Board.

4130 Yards No hotel, motel or inn structure shall be erected closer to the street line than thirty (30) feet. Side and rear yards abutting or crossing a district boundary for a district not permitting hotels, motels and inns shall be twice that otherwise required.

4140 Lot Coverage Buildings shall not cover more than 40% of the total lot area.

4150 Green Area A minimum of 30% of every lot, regardless of size, shall be reserved for green areas. This requirement may be altered or waived by Special Permit from the Planning Board.

4163 Residential Design Standards In its review of the site plan, the Planning Board shall require that the following minimum standards be met if applicable. The Planning Board may waive any design standard which would be unreasonable to enforce due to the peculiarities of the site or size of the development.

1. Ways within the site shall not intersect another way without the site or street outside the site at less than sixty degrees.
2. Curb radii at street intersections shall not be less than twenty-five feet.
3. The minimum width of traveled surface within the site shall not be less than eighteen feet.
4. Where unusual topographical conditions exist, the Board may permit center line grades to be up but not greater than twelve percent.
5. All storm water drainage is to be contained within the site in a manner acceptable to the Planning Board.
6. In new construction utility service shall be underground.
7. Surfaces of parking area should be suitable for the purpose planned.

4164 Utilities The Developer shall also provide a communal sewerage treatment and disposal system which must be approved by the Provincetown Board of Health. The Developer shall also

provide within multi-family or commercial accommodation developments a water distribution system which shall be approved by the Provincetown Water Commission.

4165 Auto Reception For hotels, motels, or inns a reception area not otherwise earmarked for parking shall be provided, of sufficient area to enable an automobile to enter while awaiting the assignment of quarters and parking space related thereto; so that such vehicles will not be required to increase congestion upon the public roads.

Section 4180 Inclusionary and Incentive Zoning Bylaw

1. Purpose and Intent The primary purpose of this bylaw is to:

- a. Encourage the creation of a range of housing opportunities for households of all incomes, ages and sizes in order to support a strong, stable and diverse year-round community and a viable and healthy local workforce and to prevent the displacement of Provincetown residents;
- b. Mitigate the negative impact of residential development on the availability and cost of housing;
- c. Protect the long-term affordability of such housing through appropriate, enforceable restrictions that run with the land;
- d. Provide a mechanism by which residential development can contribute in a direct way to increasing the supply of Affordable and Community Housing in exchange for a greater density or intensity of development than is otherwise allowed as a matter of right and to the exclusion of the protections that are varied or waived that would normally be afforded under the Zoning Bylaw;
- e. Support the goals of Provincetown's December 2006 Affordable and Community Housing Action Plan and its January 2014 Update.

A secondary purpose is to create dwelling units eligible for inclusion in the Town's Chapter 40B Subsidized Housing Inventory as maintained by the Department of Housing and Community Development (DHCD).

2. Definitions

- a. The term "Housing Fund" as used in this section of the Zoning Bylaw shall refer to any affordable or community housing trusts or funds that have been duly established by the Town to promote Affordable or Community Housing at the time that a Payment in Lieu of providing Affordable or Community Housing units or fractional units as described hereunder is made. The Board of Selectmen shall determine which fund shall receive the Payment in Lieu.
- b. The term "Affordability Gap" shall be defined as the difference between the average assessment of all one and two-bedroom condominiums in Provincetown and the sale price of a one or two-bedroom housing unit affordable to a 2-person household at 80% of HUD AMI for Barnstable County, and shall be calculated and posted annually in July by the Town Planner, using the most recent HUD and Provincetown Assessor data available.

3. Applicability

This inclusionary bylaw shall apply in all zoning districts to the following uses:

- a. Any development that results in a net increase of two or more dwelling units, whether by new construction or alteration, expansion, reconstruction, or change of existing residential or non-residential space or use, except as identified under Section 3(b) below;
- b. Any health care-related development that results in a net increase of six or more independent living units.

4. Mandatory Provision of Affordable or Community Housing for Development of New Residential Units In order to contribute to the local stock of Affordable and Community Housing, any residential development identified in Sections 3(a)-(b) above shall provide a

percentage of the dwelling units as deed restricted Affordable and/or Community Housing units. This Affordable/Community Housing requirement shall be one-sixth (16.67%) of the new dwelling units developed and shall be made a condition of a Special Permit. The applicant shall meet the requirement in accordance with the following:

- A. Development of 2 to 5 new dwelling units shall require the granting of a Special Permit by the Planning Board and a Payment in Lieu of providing a fractional unit to be made to the Housing Fund to fulfill the Affordable/Community Housing requirement.
- (1) Payment shall be made in accordance with the following formula, so that the Affordable/Community Housing requirement is equal to the total number of new dwelling units multiplied by 16.67%, and based on 1/3 or 1/2 of the affordability gap, as follows:
 - For 2-3 new dwelling units, the Payment in Lieu=
(total # of new dwelling units)x(16.67%)x(affordability gap)x(33%)
 - For 4-5 new dwelling units, the Payment in Lieu=
(total # of new dwelling units)x(16.67%)x(affordability gap)x(50%)
 - (2) The Payment in Lieu shall be made at and upon the sale or certificate of occupancy of each unit, whichever occurs sooner.
 - a. Year-round rental unit development: When the development consists of year-round rental units, a lien shall be filed against the property which states that the Payment in Lieu shall be deferred until such time as the year-round rental use ceases, with the full balance due upon change of use.
 - b. The developer shall enter into a binding written agreement with the Town of Provincetown, before the issuance of the first Building Permit and with appropriate payment surety arrangements, to provide the required payment(s) to the Housing Fund, and with a notice of the required payments to be recorded against the property before any Certificate of Occupancy is issued if full payment has not been made at the time an application is filed for a Certificate of Occupancy.
 - (3) Developments of 2-5 units may opt to exceed the 16.67% Affordable/Community Housing requirement and construct or rehabilitate an Affordable or Community Housing unit or units, either on or off-site, instead of making a Payment in Lieu, and would then be eligible to take advantage of the incentives in accordance with Section 5 below.
- B. Development of 6 or more new dwelling units shall require the granting of a Special Permit by the Planning Board and at least one-sixth (16.67%) of the new units created shall be established as Affordable or Community Housing units in any one or combination of methods provided for below:
- (1) The Affordable or Community Housing units shall be constructed or rehabilitated on the site subject to the Special Permit, in accordance with Section 7; or
 - (2) The Affordable or Community Housing units shall be constructed or rehabilitated on a site other than the one subject to the Special Permit, in accordance with Section 7, provided justification is provided that on-site development of units is not feasible and off-site development of units is beneficial to the Town, and Special Permits are granted contemporaneously for both developments; or
 - (3) A Payment in Lieu of providing Affordable or Community Housing units shall be made to the Housing Fund. Payment shall be made accordance with the following formulas, so that the Affordable/Community Housing requirement is equal to the total number of new dwelling units multiplied by 16.67%, and based on either 67% or 100% of the affordability gap, as follows:
 - a. For 6-9 new dwelling units, the Payment in Lieu =

(total # of new dwelling units)x(16.67%)x(affordability gap)x(67%)

- b. For 10 or more new dwelling units, the Payment in Lieu =
(total # of new dwelling units)x(16.67%)x(affordability gap)
- c. A Payment in Lieu of providing affordable or community housing units shall not allow an applicant to take advantage of any of the incentives in Section 5 below;
or
- (4) A Land Donation in Lieu of providing Affordable or Community Housing units shall be provided to the Provincetown Affordable Housing Trust or a non-profit housing development organization approved by the Planning Board, provided that:
- The receiving organization agrees in writing to accept the land; and
 - The applicant demonstrates to the Planning Board's satisfaction that the land serves the future development of Affordable and/or Community Housing; and
 - The value of donated land shall be equivalent to or greater than the value of a Payment in Lieu. The Planning Board may require, prior to accepting land as satisfaction of the requirements of this bylaw, that the applicant submit an appraisal of the land in question that was prepared by a licensed appraiser using professionally accepted methods, as well as other data relevant to the determination of equivalent value, and the Planning Board may obtain expert peer review of the appraisal at the applicant's expense; and
 - Closing on the land donation shall occur before the issuance of the first building permit.
 - Land Donation in Lieu of providing Affordable or Community Housing units shall not allow an applicant to take advantage of any of the incentives in Section 5 below.

5. Incentives for the Construction or Rehabilitation of Affordable or Community Housing Units Any residential development project that meets or exceeds the minimum one-sixth (16.67%) Affordable/Community Housing requirement through the on-site or off-site construction or rehabilitation of the required number of Affordable or Community Housing units may, at the discretion of the Planning Board and in accordance with Special Permit criteria, take advantage of any or all of the incentives as set forth below. Incentives shall not be applied to projects that meet the Affordable/Community Housing requirement through a Payment in Lieu or Land Donation in Lieu of constructing Affordable or Community Housing units.

A. Density Bonus

(1) The allowable density for an eligible project:

- Located in the Res2, Res3, ResB, TCC and GC Zoning Districts; or
- Located in the Res1 Zoning District where the lot size is 60,000 square feet or greater; and
- Of which a minimum of 10% of the total dwelling units (after the density bonus is applied) are Affordable or Community Housing units may be increased above the number of dwelling units allowed on the parcel beyond the maximum number allowed under this Zoning Bylaw, as follows:
 - For every deed restricted unit of Affordable Housing constructed or rehabilitated either on or off-site, two market rate dwelling units may be added as a density bonus.
 - For every deed restricted unit of Community Housing constructed or rehabilitated either on- or off-site, one market rate dwelling unit may be added as a density bonus.

(2) The allowable density for an eligible project:

- Located in the Res2, Res3, ResB, TCC and GC Zoning Districts; or

- Located in the Res1 Zoning District where the lot size is 60,000 square feet or greater; and
 - Of which 20% or more of the dwelling units are Affordable or Community Housing units (after the density bonus is applied) may be based on the number of bedrooms able to be served by a non-varianced septic system contained on the same parcel, so that the project may have up to as many dwelling units as bedrooms that can be supported.
- (3) To facilitate the objectives of a density bonus, the Planning Board shall have the authority to modify or waive any lot or dimensional regulations, multiple buildings per lot regulations, and parking regulations as appropriate and necessary to accommodate the additional unit(s) on the site as part of the Special Permit relief; except that no lot shall have less than 25% of the minimum lot area required for its zoning district.
- B. Building Height/Third Story Bonus**
- (1) The maximum building height for an eligible project:
- Located in any Zoning District, but not in the High Elevation Protection Overlay District; and
 - Of which 20% or more of the dwelling units are Affordable or Community Housing units may be up to an additional five (5) feet above the maximum building height than would otherwise be allowed under this ZBL, and kneewalls may be five (5) feet, rather than the three (3) feet otherwise allowed under this ZBL, to allow for the creation of a full third story while maintaining the character of a 2½ story structure.
- (2) The Planning Board may require that the third story be stepped back to minimize the appearance of mass from the street.
- C. Fee Reduction Bonus**
- (1) Building permit fees reduced for Affordable and Community housing units
- a. Building permit fees shall be reduced by 50% for the Affordable and Community Housing units within a project, where up to one-sixth of the units are Affordable or Community Housing units.
 - b. Building permit fees shall be reduced by 75% for the Affordable and Community Housing units within a project, where up to between one-sixth and one half of the units are Affordable or Community Housing units.
 - c. Building permit fees shall be waived for the Affordable and Community Housing units within a project, where at least half of the units are Affordable or Community Housing units.
- D. Streamlined Permitting Process Bonus**
- (1) When an applicant needs permits from both the Planning Board and the Conservation Commission, the two hearings shall be held jointly
- 6. Submission Requirements and Procedures**
- a. Special Permit application, review and decision procedures shall be in accordance with the Provincetown Zoning Bylaw and the Planning Board's rules and regulations.
 - b. Affordable and Community Housing units created in accordance with this bylaw shall use deed restrictions that require the units to remain income restricted in perpetuity or the longest period allowed by law and for so long as the unit or project does not conform to the otherwise applicable underlying zoning requirements and any such restriction shall be held by the Town and be released only by a vote of Town Meeting as provided for by state law. Such restriction shall also grant the Town a right of first refusal to purchase a unit in the event that a subsequent qualified purchaser cannot be located, which the Town

shall have the right but not the obligation to exercise and shall not release the deed restriction if a qualified purchaser cannot be located.

- c. No Building Permit shall be issued for any units in the development until the Planning Department receives evidence that the Affordable Housing restriction has been approved by DHCD, or the Community Housing restriction has been approved by Town Counsel.
- d. No Certificate of Occupancy shall be issued for any units in the development until the Planning Department receives evidence that the housing restriction has been executed and recorded at the Barnstable County Registry of Deeds.

7. Provisions Applicable to Affordable and Community Housing Units Located On-Site and/or Off-Site

- a. Affordable and Community Housing units shall be integrated with the rest of the development or with the off-site location, and shall be comparable to and indistinguishable from market rate units in exterior design, including appearance, construction and quality of materials, and in energy efficiency.
- b. The number of bedrooms in each Affordable or Community Housing unit shall be made a part of the Special Permit and shall be based on local need as determined by the Planning Board in consultation with the Community Housing Counsel.
- c. Owners and tenants of Affordable and Community Housing units and market rate units shall have the same rights and privileges to access and use any of the development's amenities and facilities.
- d. The development of Affordable and Community Housing units shall take place at the same rate and timeframe as the development of market rate units.
 - (1) Building Permits for any phase shall be issued at a ratio of five (5) market rate units to one (1) Affordable/Community Housing unit. Building Permits for subsequent phases shall not be issued unless all the required Affordable and/or Community Housing units in the preceding phase are constructed and the deed restrictions recorded. The last unit permitted, constructed and occupied shall be a market rate unit.
 - (2) The project may also be constructed in its entirety with all permits issued at once, provided that the occupancy permits are issued at a ratio of five (5) market rate units to one (1) Affordable/Community Housing unit. The last certificate of occupancy to be issued shall be for a market rate unit and shall not be issued unless and until all Affordable and/or Community Housing units are occupied.

8. Distribution of Affordability Distribution of affordability for rental or ownership units as Affordable Housing or Community Housing shall be determined by the Planning Board in consultation with the Community Housing Council and set as follows, being made a condition of the Special Permit under this Bylaw:

- a. When the number of the Town's Subsidized Housing Inventory (SHI) eligible affordable housing units is below 10%, the units created shall be Affordable Housing units, unless otherwise approved by the Planning Board if adequate justification is provided that the development of Affordable Housing units is not feasible and it is beneficial to the Town that Community Housing units are provided instead, and the exception is made a part of the Special Permit.
- b. When the number of the Town's SHI eligible affordable housing units is at or above 10%, it is encouraged that units created be Community Housing units.

9. Maximum Incomes and Selling Price; Affordable and Community Housing Inventory

Maximum incomes and sales prices and rents shall be as set forth in Article 1, Definitions, of this Zoning Bylaw.

10. Segmentation Developments shall not be phased or segmented to avoid compliance with conditions or provisions of this bylaw. "Segmentation" shall be defined as subdividing one parcel of land into two or more parcels of land in such a manner that each parcel can support only a

single dwelling unit or phased development that cumulatively results in a net increase of two or more dwelling units above the number existing thirty-six (36) months earlier on any parcel or set of contiguous parcels held in common ownership or under common control on or after the effective date of this Section 4180.

11. Conflict with Other Bylaws The provisions of this bylaw shall be considered supplemental of existing zoning bylaws. To the extent that a conflict exists between this bylaw and others, the more restrictive bylaw, or provisions therein, shall apply.

12. Severability If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of Provincetown's zoning bylaw.

4190 Time Share or Related Use

The following:

- (1) conversion of existing commercial accommodations to any form of use where the ownership of a structure or portion thereof is held by different persons for different intervals of time or where a corporate or business trust entity holds title to the premises and grants rights to particular units by means of proprietary leases or similar arrangements including, but not limited to, any use known as 'time sharing' or 'interval ownership' (see below); or
- (2) the construction of any new commercial accommodations or dwelling units for, or the conversion of existing dwelling units to, any use known as 'time sharing', interval ownership' or otherwise whereby a unit in which the exclusive right of use, possession or ownership circulates among various owners or lessees thereof in accordance with a fixed or floating time schedule on a periodically recurring basis, whether such use, possession or ownership is subject to either:
 - (a) a time-share estate, in which ownership or leasehold estate in property is devoted to a time-share fee (time-span ownership, interval ownership) and a time-share lease; or
 - (b) time-share use, including any contractual right of exclusive occupancy which does not fall within the definition of 'time-share estate', including, but not limited to, a vacation license, club membership, limited partnership or vacation bond, are prohibited unless, prior to such conversion or construction, the owner complies with the following conditions:
 - i. Obtains a Special Permit from the Board of Appeals, which may require a Development Impact Statement as specified in Article 5, Section 5331.
 - ii. Obtains a finding of compliance with Title V of the State Sanitary Code, as determined by the Board of Health, such compliance to be certified by a Registered Engineer.
 - iii. In the case of new construction, the first unit of such a development shall require a minimum of land area equal to the lot requirement of the lot area (number of square feet) as specified in Article 4, Section 4120.
 - iv. In the case of conversion, the project must comply with the provisions of Article 4, Section 4100.
 - v. None of the above shall relieve the applicant of complying with the provisions of these By-Laws in general.

Section 4200 Cluster Development

The Planning Board may grant a Special Permit for cluster development on parcels of five acres or more as authorized by Section 9 of Ch. 40A M.G.L. Such Special Permit may authorize

smaller lot area, lot frontage or yards than required by Section 2560, provided that open buildable land is reserved in an amount which, when added to the area of the building lots, totals at least as much land area as normally required for the number of lots or dwelling units proposed. Buildable land for cluster zoning compliance shall be land other than wetlands as allowed in Section 40, Ch. 131, M.G.L. No cluster development shall be allowed in Zoning District Res1 or Res2.

Section 4300 Manufactured Homes and Recreational Vehicles

4310 Permitted Occupancy Manufactured homes may be occupied only in a campground or manufactured home park and subdivision. Recreational Vehicles may be occupied only within a licensed campground.

4320 Manufactured Home Parks Manufactured home parks and subdivisions shall conform to the following minimum requirements:

- a. Lot area minimum of 10 acres, but not less than 4,000 square feet per manufactured home.
- b. Each manufactured home plot shall have an area of not less than 2,500 square feet.
- c. Manufactured homes shall not be closer to each other or other structures than ten feet end to end, or twenty feet laterally.
- d. Each plot shall be serviced with water and sanitary sewerage suitable for permanent connection.
- e. No manufactured home shall be placed within 100 feet of a street line or 40 feet of any other lot line.
- f. Minimum lease shall be for not less than one month.

4330 Campgrounds Campgrounds shall conform to the following minimum requirements:

- a. Lot area minimum of 10 acres, but not less than 7,500 square feet per campsite.
- b. Each rental plot shall have an area of not less than 2,500 square feet and a width of not less than 40 feet in its smallest dimension.
- c. If each plot is not serviced with water and sanitary drainage, common sanitary facilities shall be provided.
- d. No unit for overnight occupancy shall be placed within 100 feet of a street line or 40 feet of any other lot line.

Section 4400 Home Occupation

Home occupations are permitted within a dwelling if no more than 30% of the habitable floor area of the residence is used for the occupation or occupations, not more than one person not a member of the household is employed on the premises in the occupation or occupations, there is no exterior display or visible storage, there is no noise, vibration, dust, odors, heat, glare, or other disturbance discernible from other properties, there is no hazard, there is no retail sale on the premises, traffic generated does not exceed that normally expected in a residential neighborhood, and all parking required to service the occupation is provided for off-street other than within a required front yard.

Section 4500 Inland Wetland Areas

4510 Purpose The purpose of this By-Law is to preserve and maintain the purity of inland waters and the various ecosystems they support, to preserve the amenities of the Town and to conserve natural conditions, wildlife and open space for the education and general welfare of the public.

4520 Applicability This By-Law shall apply to land under and adjacent to wetlands of two hundred square feet or greater including but not limited to swamps, bogs, unused bogs, dry bogs, streams, ponds or banks bordering such inland wetland areas, these areas being delineated by following a contour line of two (2) feet above the outer (upland) wetland boundary of such areas as defined by M.G.L. Chapter 131, Sec. 40.

4530 Allowed Uses All inland wetlands and waters shall be held in a state of conservation against pollution and contamination. Therefore, permitted uses include conservation of water, plants and wildlife; all other uses are prohibited, including landfill, dumping, buildings or structures. If the Building Inspector is uncertain as to the exact location of any contour line bounding such inland wetland areas, the submission of sufficient topographical data may be required in order to establish the precise location of said lines on any lot affected hereby before issuing a Building Permit for any building or structure to be located thereon.

Section 4600 Street Trees

To improve the visual character of the Town and to assist in improving and maintaining air quality, persons developing any nonresidential property or constructing any residential street servicing more than three lots, including those streets approved but not constructed as of the date of this By-Law, or constructing any residential property with two or more dwelling units shall plant street/shade trees at a ratio of not less than one 2" caliper tree for every 50 feet of street frontage for residential developments or one 2" caliper tree for every 50 feet of road frontage and for every 50 feet of driveway frontage for commercial developments.

For the purpose of this By-Law "Shade Trees" shall exclude pitch pine (*Pinus rigida*) and ornamentals which do not normally attain a height of at least 20 feet at maturity in this environment, except that where overhead utility services exist, flowering ornamentals of less than 20 feet mature height may be substituted with the prior permission of the Tree Warden.

Trees may be grouped to provide esthetics interest or to avoid curb openings, drainage structures or other utilities, but should occur not less than 8 feet nor more than 30 feet from pavement limits for streets and not less than 5 feet nor more than 30 feet from pavement limits for driveways.

The provisions of this section shall be enforced by the Building Inspector who shall not issue any permanent occupancy permit until it has been certified by the Tree Warden that the required plantings have been made.

Article 5 - Administration

Section 5100 Enforcement

5110 Responsibility This By-Law shall be enforced by the Inspector of Buildings, who shall take such action as may be necessary to enforce full compliance with the provisions of this By-Law and of permits and variances issued hereunder, including notification of noncompliance and request for legal action through the Town Manager and the Town Counsel.

5120 Compliance Certification Buildings, structures, or signs may not be erected substantially altered, moved or changed in use, and land may not be substantially altered or changed in principal use without certification by the Inspector of Buildings that such action is in compliance with then applicable zoning or without review by him regarding whether all necessary permits have been received from those governmental agencies from which approval is required by federal, state or local law.

The Inspector of Buildings may require of applicants such information as is necessary to determine compliance with this By-Law, including Assessor's plot plans, site plans and elevation information. In any case where the interpretation of this By-Law is not clearly obvious, the Inspector of Buildings is authorized and directed to submit to the Zoning Board of Appeals for expression or opinion as to the meaning of relevant By-Laws before taking further action.

5130 Conformance Construction or operations under a Building or Special Permit shall conform to any subsequent amendment of this By-Law unless the use or construction is commenced within a period of six months after the issuance of the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

5140 Penalty Any person violating any of the provisions of this By-Law, any of the conditions under which a permit is issued, or any decision rendered by the Board of Appeals shall be fined up to the maximum permitted by the General Laws for each offense. Each day that such violation continues shall constitute a separate offense.

Section 5200 Board of Appeals

5210 Establishment The Board of Appeals shall consist of five members and not less than two nor more than four associate members who shall be appointed by the Selectmen, and shall act in all matters under this By-Law in the manner prescribed by Chapters 40A, 40B and 41 of the Massachusetts General Laws.

5220 Powers The Board of Appeals shall have and exercise all the powers granted to it by Chapters 40A, 40B and 41 of the General Laws and by this By-Law. The Board's powers are as follows:

5221 To hear and decide applications for Special Permits for cases authorized by this By-Law.

5222 To hear and decide appeals or petitions for variances from the terms of this By-Law, including variances for use, with respect particular land or structures. Such variance shall be granted only in cases where the Board of Appeals finds all of the following:

- a. A literal enforcement of the provisions of this By-Law would involve a substantial hardship, financial or otherwise, to the petitioner or appellant.

- b. The hardship is owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located.
- c. Desirable relief may be granted without either:
 - 1) substantial detriment to the public good; or
 - 2) nullifying or substantially derogating from the intent or purpose of this By-Law.

5223 To hear and decide other appeals. Other appeals will also be heard and decided by the Board of Appeals when taken by:

- a. Any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative official under the provisions of Ch. 40A, G. L.; or by
- b. The Cape Cod Commission; or by
- c. Any person including any officer or Board of the Town of Provincetown or any abutting town, if aggrieved by any order or decision of the Inspector of Buildings or other administrative official, in violation of any provision of Ch. 40A, G. L.; or this By-Law.

5224 To issue Comprehensive Permits. Comprehensive Permits for construction may be issued by the Board of Appeals for construction of low or moderate income housing by a public agency or limited dividend or non-profit corporation, upon the Board's determination that such construction would be consistent with local zoning, building, health or subdivision requirements as authorized by Sec. 20-23, Ch. 40B G. L.

5225 To issue withheld Building Permits. Building permits withheld by the Inspector of Buildings acting under Sec. 81Y, Ch. 41, G. L., as a means of enforcing the Sub-division Control Law may be issued by the Board of Appeals where the Board finds practical difficulty or unnecessary hardship, and if the circumstances of the case do not require that the building be related to a way shown on the sub-division plan in question.

5230 Public Hearings The Board of Appeals shall hold public hearings in accordance with the provisions of the General Laws on all appeals and petitions brought before it.

Section 5300 Special Permits

5310 Special Permit Granting Special Permit applications shall be heard and decided by the Board of Appeals 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 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 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 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 three years 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.

5350 Amendments and Minor Modifications to a Special Permit An amendment, modification, or clarification to an approved Special Permit that does not represent a substantive change of the findings or conditions of approval of the project may be administered by a notation to the file based on a finding by a super majority vote of the Special Permit Granting Authority at a public meeting. Any amendment, modification, or clarification that represents a substantive change of the findings or conditions of approval of the project shall require a new Special Permit with notice to abutters pursuant to MGL c40A § 11.

Section 5400 Other Regulations

This By-Law shall not interfere with or annul any by-law, rule, regulation, or permit, provided that unless specifically excepted, where this By-Law is more stringent it shall control.

Section 5500 Validity

The invalidity of any section or provision of this By-Law shall not invalidate any other section or provision hereof.

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 year-round economic 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 310 C.M.R. 15.203 (2) through (6), and Board of Health Regulations Part 7 Local Title V Supplements) as determined by the Health Agent.
2. No building permit shall be issued for a new structure or for the enlargement, reduction, renovation or alteration of an existing structure and no occupancy permit shall be issued for any new use or any reduction, expansion, change or alteration of an existing use for which no building permit is required; until and unless:
 - (a) The Health Agent determines the amount, if any, by which Title 5 Design Flow will increase or decrease as a result of the proposed structure or use. In making determinations of Title 5 Design Flow, the Health Agent shall apply the definitions of Fixed Standing and Seats as defined in Article 1, where applicable; and
 - (b) In the event the Health Agent determines the amount of Title 5 Design Flow will increase, the property owner obtains a Growth Management Allocation Permit sufficient to allow the increase.
3. If the Health Agent determines under Section 6200-2a that a decreased Title 5 Design Flow will result, then during a two-year period following the issuance of the building permit or occupancy permit, whichever is earlier, for such structure or use, no Growth Management Allocation Permit will be required for any subsequent change in such structure or use that increases its Title 5 Design Flow up to and including the Title 5 Design Flow amount so determined by the Health Agent prior to the decrease in Title 5 Design Flow, unless the owner has abandoned the prior use or intensity of use. Such abandonment shall occur by wholly changing such use to a different principal use, or by issuing a written statement or covenant to the Town expressly abandoning the prior use or intensity of use.
4. This Growth Management Zoning By-law shall not apply to:
 - a. Municipal Uses;

- b. approved Laundromats;
- c. construction of a single-family dwelling, one per lot, upon a vacant lot by the 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 c;
- d. 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;
- e. health care related uses 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 received 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 and/or Community Housing Permits awarded by the Provincetown Community Housing Council (PCHC) or Economic Development Permits awarded by the Board of Selectmen. 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 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, after completion of the annual growth management review by the Board of Selectmen, in the order that the completed applications have been received, and after the Department has had 30 days to review the completed application.
4. Affordable Housing Permits and/or Community Housing Permits will be authorized on a priority basis as established by the PCHC, using criteria including but not limited to housing quality standards, quality of design, degree of affordability in terms of cost, and financial feasibility of the proposal. No Affordable Housing Permit and/or Community Housing Permit shall be issued without prior authorization of the PCHC. Each property in which 100% of the dwelling units are Affordable Housing and/or Community Housing, and for which an Affordable Housing Permit or a Community Housing Permit is granted, shall be deemed a public service use under Section 3 of Chapter 157 of the Acts of 2000.”
5. Discontinued and Abandoned Uses.
 - a. Discontinued. The Health Agent shall, two years after a determination of decreased Title 5 Design Flow pursuant to section 6200.2(a), provided that such Title 5 Design Flow has not increased during the two year period, or two years after actual discontinuance of use pursuant to a growth management allocation permit, assign the difference in gallonage

between the prior, higher Title 5 Design Flow and the current Title 5 Design Flow back to the corresponding General Use Category.

- b. Abandoned. In the event a property owner abandons the prior use or intensity of use pursuant to Section 6200-3, the Health Agent shall immediately assign the difference in gallonage between the prior, higher Title 5 Design Flow and the new Title 5 Design Flow back to the corresponding General Use Category.

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

- 1a. Affordable Housing Units
- 1b. Median Income Community Housing Units
- 1c. Middle Income Community Housing Units

GENERAL USE CATEGORY 2

2. The non-affordable/community housing components of project consisting of:
 - 2a1 Multi-family dwellings projects that consist of 50%-99% affordable housing and/or community housing
 - 2a2 Two-family dwellings projects that consist of 50%-99% affordable housing and/or community housing
 - 2a3 Single-family dwelling projects that consist of 50%-99% affordable housing and/or community housing
 - 2b1 Multi-family dwelling projects that consist of 33%-49.9% affordable housing and/or community housing
 - 2b2 Two-family dwelling projects that consist of 33%-49.9% affordable housing and/or community housing
 - 2b3 Single-family dwelling projects that consist of 33%-49.9% affordable housing and/or community housing
 - 2c The creation of any deed-restricted, year-round rental unit or units, including accessory units
 - 2d Any project that consists of 10%-32.9% affordable and/or community housing units granted under the Inclusionary and Incentive Zoning Bylaw.

GENERAL USE CATEGORY 3

- 3a. Expansions or alterations to existing residential structures or uses that result in increased Title 5 flow, not to exceed the Title 5 Design Flow pursuant to 310 CMR 15.203(2). A total of 330 gallons per year will be reserved for one bedroom per year per applicant.
- 3b. Single-family dwelling on one lot;
- 3c. Two-family dwelling on one lot; two single-family dwellings on one lot;
- 3d. All other market rate residential projects without affordable housing components that result in increased Title 5 flow, except that no one applicant may gain access to 65% of allowable growth within this category within any given year.

GENERAL USE CATEGORY 4

- 4a Projects that receive an Economic Development Permit

- 4b Non-Profit or Community Service Uses which meet a critical community need as determined by the Board of Selectmen
- 4c Boarding, Lodging or Tourist Homes, Hotel, Motel, Inn, Camp, Cabin, Dormitory Housing
- 4d All other non-residential 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. Annually, during the Growth Management Review, the Board of Selectmen may allocate up to 1650 gpd to General Use Category 1, 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 1 to distribute the 1650 gallons amongst the Use Categories 1a, 1b, and 1c, based on the recommendation of the PCHC within the Annual Growth Management Report.

All unassigned gallonage remaining at the end of each calendar year for General Use Category 1a, 1b and 1c shall remain available for assignment in the next calendar year for those same categories, respectively Use Category 1a, 1b, and 1c.

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

(a) Annually, during the Growth Management Review, the Board of Selectmen may allocate up to 1,100 gpd to General Use Category 2, 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. All unassigned gallonage remaining at the end of each calendar year for General Use Category 2 shall remain available for assignment in the next calendar year for General Use Category 2.

(b) Annually, during the Growth Management Review, the Board of Selectmen may allocate up to 1,870 gpd to General Use Category 3, except that in 2015, the Board of Selectmen may allocate up to 2,530 gpd to General Use Category 3, 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. Within this allocation, 330 gpd shall be reserved for General Use Category 3a (expansions to existing residential structures). All unassigned gallonage remaining at the end of each calendar year for General Use Category 3 shall remain available for assignment in the next calendar year for General Use Category 3.

(c) Annually, during the Growth Management Review, the Board of Selectmen may allocate up to 3,750 gpd to General Use Category 4, except that in 2019, the Board of Selectmen may allocate an additional amount of up to 10,000 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 the 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 31st, 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 therefor. 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.

Section 6700 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.

Article 7 - Wireless Telecommunication Towers and Facilities

Section 7010 Legislative Intent/history

It is the Town's intention to preserve and protect historic and scenic vistas as well as the environmental, natural or man-made resources of the community in order to safeguard the welfare of the residents and visitors to the community, and to protect the local economy and local property values. Provincetown (along with Nantucket) has been listed as #1 out of the top 10 Massachusetts towns with the greatest density of state-listed rare species (*Our Irreplaceable Heritage* by Massachusetts Natural Heritage and The Nature Conservancy, published Fall, 1998). Provincetown also has been an internationally recognized artist colony and tourist destination since the turn of the century and is historically significant as the first landing place of the Pilgrims. Provincetown's economy is now almost solely dependent on tourism and, because of this, it is crucial to protect its aesthetic and environmental attributes.

Section 7020 Purposes

The purposes of this Telecommunications Towers and Facilities Article are to:

- A. Preserve the character and appearance of Provincetown while allowing adequate telecommunications services.
- B. Protect the scenic, historic, environmental, natural and man-made resources of Provincetown.
- C. Provide standards and requirements for regulation, placement, appearance, camouflaging, construction, monitoring, design, modification and removal of Telecommunications Facilities.
- D. Provide a procedural basis for action within a reasonable period of time on requests for authorization to place, construct, operate or modify or remove Telecommunications Facilities.
- E. Locate towers and/or antennas in a manner that protects property values, as well as the general safety, welfare and quality of life of the citizens of Provincetown and all those who visit this community.
- F. Minimize the total number and height of Towers throughout Provincetown.
- G. Locate Towers and Telecommunications Facilities so that they do not have negative impacts, such as, but not limited to, attractive nuisance, noise, light and falling objects.
- H. Require owners of Towers and Telecommunications Facilities to design and site them so as to minimize and mitigate the adverse visual effects of the Towers and Facilities.
- I. Require Tower sharing and the clustering of Telecommunications Facilities, where possible, consistent with safety and aesthetic considerations.

Section 7030 Consistency with Federal Law

These regulations are intended to be consistent with state and federal law and, in particular, The Telecommunications Act of 1996 in that:

- A. They do not prohibit or have the effect of prohibiting the provision of Personal Wireless Services, and
- B. They are not intended to be used to unreasonably discriminate among providers of functionally equivalent Services; and

- C. They do not regulate Personal Wireless Services on the basis of the environmental effects of radio frequency emissions to the extent that the regulated Services and Facilities comply with the FCC's regulations concerning such emissions.
- D. If the Planning Board, following the close of a public hearing held under this Article, finds, by majority vote, that a particular provision of this Article would, as applied in the particular instance, prohibit or have the effect of prohibiting personal wireless services in violation of the federal Telecommunications Act of 1996, then the Board may waive that provision in the particular instance. If the Planning Board so waives a provision, then the Board shall expressly identify each specific provision being waived and set forth every reason for each waiver.

Section 7040 Definitions and Word Usage

As used in this Telecommunications Towers and Facilities Article, the following terms shall have the meanings indicated. The word "shall" or "will" indicate mandatory requirements; "may" is advisory and indicates recommendations that are not mandatory.

ACT - The Telecommunications Act of 1996.

ADEQUATE CAPACITY - Capacity is considered to be "adequate" if the Grade of Service is p.05 or better for at least 50% of the days in a preceding month, prior to the date of Application, as measured using direct traffic measurement of the telecommunications facility in question, where the call blocking is due to frequency contention at the antenna(s).

ADEQUATE COVERAGE □ For traditional cellular service or PCS service, coverage is considered to be "adequate" within that area surrounding a Base Station where the predicted or measured median field strength of the transmitted signal is greater than -90 dBm. It is acceptable for there to be holes within the area of Adequate Coverage where the signal is less than -90 dBm, as long as the signal regains its strength to greater than -90 dBm further away from the Base Station. For the limited purpose of determining whether the use of a Repeater is necessary or desirable, there shall be deemed not to be Adequate Coverage within said holes. The outer boundary of the area of Adequate Coverage, however, is that location past which the signal does not regain strength of greater than -90 dBm. For services other than traditional cellular service or PCS service, SPGA will determine what is adequate coverage from time to time based on the evidence presented, which may include but shall not be limited to then-current industry standards and government regulatory standards or materials.

ANTENNA - A device for transmitting and receiving electromagnetic waves, which is attached to a Tower or other structure. Examples include, but are not limited to, whip, panel, and dish antenna(s).

AVAILABLE SPACE - The space on a Tower or structure to which Antennas of a Telecommunications Provider are both Structurally Able and Electromagnetically Able to be attached.

BASE STATION - The primary sending and receiving site in a wireless telecommunications network. More than one Base Station and/or more than one variety of Telecommunications Providers can be located on a single Tower or structure.

BULLETIN 65 - Published by the FCC Office of Engineering and Technology specifying radiofrequency radiation levels and methods to determine compliance.

CAMOUFLAGED FACILITY - A telecommunications facility that is disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure is considered "camouflaged".

CHANNEL - The segment of the radiation spectrum from an antenna, which carries one signal. An antenna may radiate on many Channels simultaneously.

COLLOCATION □ The use of a single mount on the ground by more than one carrier (vertical collocation), and/or several mounts on an existing structure by more than one carrier.

COMMUNICATION EQUIPMENT SHELTER - A structure located at a facility designed principally to enclose equipment used in connection with Telecommunications transmissions.

DATA MAPPING - Data Mapping is defined as depicting on a map, by graphical (colors, shading or symbols) means, to show actual or predicted values of signal-coverage parameters in order to establish adequacy of service.

dBm - Unit of measure at the input of a receiver, given its antenna system gain at a particular frequency, expressed as decibels (dB) above one milliwatt. Signal predictions with this measure are valid at one particular frequency, and ambiguous unless all receivers and antenna combinations are identified.

dBu - Unit of measure of the field intensity of an electromagnetic signal, expressed as decibels (dB) above one microvolt per meter, an absolute measure for describing and comparing service areas, independent of the many variables (see dBm) introduced by different receiver configurations. This unit of measure should be used for coverage prediction plots.

DRIVE TESTING - Drive Testing is defined as testing in which reception results, obtained by driving through an area using a vehicle-mounted receiver, are recorded for analysis. Preliminary drive tests may be made of existing-facility coverage and/or the propagation characteristics of transmission from a possible facility location (using a temporary antenna and low-power transmitter); follow-up drive testing may be used after cell turn-on and in conjunction with cell tuning.

DWELLING UNIT As defined in Provincetown By-law.

ELECTROMAGNETICALLY ABLE - The determination that the proposed antenna(s) meet manufacturers minimum separation recommendations, given the location and operating parameters of existing and proposed antenna(s).

ELEVATION The elevation at grade or ground level shall be given as Above Mean Sea Level (AMSL). The height of the wireless service facility shall be given as Above Ground Level (AGL). AGL is a measurement of height from the natural grade of a site to the highest point of a structure. The total elevation of the wireless service facility is AGL plus AMSL.

EMF Radiofrequency emissions or radiation which is produced by wireless transmitters.

ENVIRONMENTAL ASSESSMENT (EA) □ An EA is the document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a wireless communication facility is placed in certain designated areas such as wetlands and other sensitive habitats.

ERP - Effective Radiated Power

FACILITY SITE - A property, or any part thereof, which is owned or leased by one or more telecommunications providers and upon which one or more telecommunications facility (ies) and required landscaping are located.

FALL ZONE The area on the ground within a prescribed radius from the base of a wireless communications tower. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

FCC - Federal Communications Commission, The government agency responsible for regulating telecommunications in the United States.

GHZ - Giga-hertz: A measure of electromagnetic radiation equaling one billion hertz.

GRADE OF SERVICE - A measure of the percentage of calls which are able to connect to the Base Station during the busiest hour of the day. Grade of Service is expressed as a number, such as p.05 - which means that 95% of callers will connect on their first try. A lower number (p.04) indicates a better Grade of Service.

HEIGHT OF TOWER - The vertical distance between the highest point of the structure, including any device attached, and the grade.

HERTZ - One hertz is the frequency of an electric or magnetic field that reverses polarity once each second, or one cycle per second.

LICENSED CARRIER - A company authorized by the FCC to construct and operate a Wireless Communications facility.

LOCATION - References to site location as the exact longitude and latitude to the nearest tenth of a second with bearing or orientation referenced to true North.

MAJOR MODIFICATION OF AN EXISTING FACILITY - Any change or proposed change in power input or output, number of Antenna(s), change in Antenna type or model, repositioning of Antenna(s), or change in number of Channels per Antenna above the maximum number approved under an existing Special Permit.

MAJOR MODIFICATION OF AN EXISTING TOWER - Any increase or proposed increase in dimensions of an existing and permitted Tower or other structure designed to support Telecommunications transmission, receiving and/or relaying antenna(s) and/or equipment.

MHz - Megahertz: A measure of electromagnetic radiation equaling one million hertz.

MONITORING - The measurement, by the use of instruments in the field, of non-ionizing radiation exposure at a site.

MONITORING PROTOCOL - The testing protocol, such as the Cobbs Protocol (or one substantially similar, including compliance determined in accordance with the National Council on Radiation Protection and Measurements, Reports 86 and 119), which is to be used to monitor the emissions and determine exposure risk from existing and new telecommunications facilities upon adoption of this article. As the technology changes, the Special Permit Granting Authority (SPGA) may require by regulation the use of other testing protocols. A copy of the monitoring protocol shall be on file with the Board of Selectman and the Town Clerk..

MONOPOLE - A single self-supporting vertical pole with no guy wire anchors, usually consisting of a galvanized or other unpainted metal, or a wooden pole with below grade foundations. (See Tower)

NON-IONIZING RADIATION - defined as any electromagnetic radiation, including the radiofrequency radiation, incapable of producing ions directly or indirectly.

PERSONAL WIRELESS SERVICES - Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services. These services include: cellular services, Personal Communications Systems (PCS), specialized mobile radio services, and paging services.

PERSONAL WIRELESS SERVICE FACILITY - All equipment (including Repeaters) with which a Personal Wireless Service Provider broadcasts and receives the radiofrequency waves that carry their services, and all locations of said equipment or any part thereof. Said Facility may be sited on one or more Towers or structure(s) owned and permitted by another owner or entity.

PERSONAL WIRELESS SERVICE PROVIDER - An entity regulated by the FCC providing Personal Wireless Services to individuals or institutions.

RADIAL PLOTS - Radial plots are the result of drawing equally spaced lines (radials) from the point of the antenna, calculating the expected signal, and indicating this graphically on a map. The relative signal strength may be indicated by varying the size or color at each point being studied along the radial; a threshold plot uses a mark to indicate whether that point is strong enough to provide adequate coverage - i.e., the points meeting the threshold of adequate coverage. The drawback is the concentration of points close to the antenna and the divergence of points far from the site near the ends of the radials.

RADIATED-SIGNAL PROPAGATION STUDIES OR COVERAGE PLOTS - Computer-generated estimates of the signal emanating from antenna(s) or repeater(s) sited on a specific tower or structure, and prediction of coverage. The height above ground, power input and output, frequency output, type of antenna, antenna gain, topography of the site and its surroundings are all taken into account to create these estimates, which are the primary tools for determining whether a site will provide adequate coverage for the telecommunications facility proposed for that site.

RADIO FREQUENCY ENGINEER - An engineer who specializes in the design, review, and monitoring of radio frequency technologies.

REPEATER - A low-power receiver/relay transmitter generally of less than 20 watts output designed to provide service to areas which are not able to receive Adequate Coverage directly from a Base Station.

SCENIC VIEW -A scenic view is a wide angle or panoramic field of sight and may include natural and/or manmade structures and activities. A scenic view may be from a stationary viewpoint or be seen traveling along a roadway, waterway, or path, and may be to a far away object or a nearby object.

SECURITY BARRIER -A locked, impenetrable wall, fence or berm, which completely seals an area from unauthorized entry or trespass.

SEPARATION -The distance between one carrier's array of antenna(s) and another carrier's array of antenna(s).

SITE - The land area that is, or will be, temporarily or permanently altered during construction and/or use of any telecommunications tower or facility. Alterations include all construction activities, fencing, landscaping, screening, structures, parking facilities, etc. Access roads and utility lines shall not be considered to be part of the site, except where specified in these regulations.

SPECIAL PERMIT GRANTING AUTHORITY (SPGA) -The Planning Board shall be the Special Permit Granting Authority for the purposes of this Article

STRUCTURALLY ABLE - A determination that a Tower or structure is capable of carrying the physical load imposed by the proposed new Antenna(s) under all reasonably predictable conditions as determined by a professional structural engineering analysis.

TELECOMMUNICATIONS - Commercial Mobile Services, unlicensed wireless service, and Personal Wireless Services. Said services include cellular services, personal communications services (PCS), Specialized Mobile Radio Services, Broadcast and Paging Services. The FCC regulates services.

TELECOMMUNICATIONS FACILITY - All equipment (including any Repeaters) with which a Telecommunications Provider broadcasts and receives the radio frequency waves which carry their services and all locations of said equipment or any part thereof. This Facility may be sited on one or more Towers or structures owned and permitted by another owner or entity.

TELECOMMUNICATIONS PROVIDER - An entity, licensed by the FCC to provide Telecommunications Services to individuals or institutions.

TELEPORT - A facility using satellite dishes of greater than 2.0 meters in diameter, which are designed to up-link to communications satellites.

TILED COVERAGE PLOTS - Tiled plots result from calculating the signal at uniformly spaced locations on a rectangular grid, or tile, of the area of concern. Unlike radial plots, tiled plots provide a uniform distribution of points over the area of interest, usually the same grid will be used as different sites are examined, and it is not necessary that the transmitter site be within the grid or area of interest. As with radial plots, the graphic display or plot can be either signal strength or adequate threshold. This method requires substantially more topographic data and longer (computer) execution time than radial plots but is preferable for comparative analysis.

TOWER -A support structure intended to support antenna(s) and associated equipment. This includes:

Monopole Tower: The type of mount that is self-supporting with a single shaft of wood, steel, fiberglass, or concrete, and a platform (or racks) for panel and whip antennas arrayed at the top.

Guyed Tower: A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

Lattice Tower: A type of mount that is self-supporting with multiple legs and cross bracing of structural steel.

Section 7050 Exempted Wireless Telecommunications Uses

The following wireless telecommunications facilities are exempted from this Article: police, fire, ambulance and other emergency dispatch, citizen band radio, AM and FM broadcast, and amateur radio towers used exclusively by a federally licensed amateur radio operator. No Telecommunications Facility or Repeater shall be exempt from this Article for any reason, including a Facility or Repeater, which is proposed to share a Tower or other structure with designated exempt uses.

Section 7060 Prohibition of Teleports

There shall be no Teleport(s), as defined in this Article, within the Town of Provincetown.

Section 7070 General Requirements

A. Access Roads and Above Ground Utilities: Where new telecommunications towers and facilities require construction of, or improvements to, access roads, said roads, to the extent practicable, shall follow the contour of the land and be constructed or improved in a manner which creates minimum environmental and aesthetic harm. Utility or service lines shall be designed and located so as to protect, and minimize or prevent debasement of, the scenic character or beauty of the area. The SPGA shall request comments from the Chiefs (or their designees) of Fire, Police and other Emergency services regarding the adequacy for emergency access of any planned drive or roadway to the site.

B. Setbacks for New Towers: new Towers shall have a fall zone set back of at least one (1) times the height of the Tower, plus 50', from all boundaries of the site on which the Tower is located. This set back requirement is intended to create a fall zone in the event of a tower collapse. Towers also shall be subject to the buffer zone setback set forth in Section 7070, subsection L, below.

C. Camouflage and Landscape Screening: A Telecommunications Facility and Tower shall be designed so as to be camouflaged to the greatest extent possible, including, but not limited to, use of compatible buildings materials and colors, screening, landscaping and placement within trees, and use of alternative design mounting structures to conceal the presence of antenna(s) or tower(s). Screening shall be required at the perimeter of the Site. If Telecommunications facilities are not camouflaged from public viewing areas by existing building or structures, buffers of dense tree growth and year-round visual buffer shall surround them. Ground-mounted Telecommunications facilities shall be provided with a vegetated buffer of sufficient height and depth to effectively screen the facility. Trees and vegetation may be existing on the subject site or installed as part of the proposed facility or a combination of both. The SPGA shall determine the types of trees and plant materials and depth of the buffer based on site conditions. If the Facility or Tower Site is in a wooded area, a vegetated buffer strip of undisturbed trees shall be retained for at least 50 feet in width around the entire perimeter except where the access drive is located. Applicant shall post a bond at a local bank to cover the cost of the remediation of any damage to the landscape, which occurs during the clearing of the Site.

D. Fencing and Signs: Adequate warning signs and fencing shall be installed as needed to protect the public and at a minimum shall meet federal requirements. The visual impact of any fencing shall be minimized, consistent with intended safety of the fencing.

E. Communication Equipment Shelters and Accessory Buildings: Said shelters and buildings shall be designed to be architecturally similar and compatible with each other, and shall be no more than 12 feet high. The buildings shall be used only to house equipment related to this particular site. Whenever possible, the buildings shall be joined or clustered so as to appear as one building. Equipment shelters for telecommunication facilities shall be designed to be consistent with traditional Cape Cod architectural styles and materials, with a recommended roof pitch of at least 10/12 and wood clapboard or shingle siding; or equipment shelters shall be camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building, and/or wooden fence. The SPGA shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood.

F. Tower Finish and Tower Heights and Tower Types:

1. Tower Finish: New Tower(s) shall have a galvanized finish unless otherwise required. The SPGA may require the Tower(s) to be painted or otherwise camouflaged to minimize their adverse visual impact.
2. Towers shall be a maximum of 150 feet in height.
3. Tower(s) must be of a type that potentially can be used for collocation. Monopoles shall be the preferred type of Tower. Where another type of tower is requested, applicant must demonstrate why monopoles would not be sufficient. (Monopoles are preferred because recent studies have shown that monopoles have a lesser number of bird kills when compared to other types of towers. Provincetown supports a large number of migratory birds. Provincetown was recently listed as one of the top ten Massachusetts towns with the greatest density of rare species).

G. Minimizing the number of required tower(s)/antenna(s): The use of repeater(s) to assure Adequate Coverage, or to fill holes within areas of otherwise Adequate Coverage, shall be permitted and encouraged. An applicant who has received a Telecommunications Facility Special Permit under this Article may install, with at least thirty (30) days written notice to the SPGA, the Board of Health, Conservation Commission, Building Inspector and Town Clerk, one or more additional Repeater(s) by right. Site Plan Review before the SPGA shall be required. Applicant shall detail the number, location, power output, and coverage of any proposed Repeater(s) in its systems and provide engineering data to justify their use. Abutters must be notified in accordance with Site Plan Review application procedures contained in the Provincetown Zoning By-laws.

H. Commercial Advertising: Commercial advertising shall not be allowed on any Antenna, Tower, or Accessory Building or Communication Equipment Shelter.

I. Lighting of Towers: Unless required by the Federal Aviation Administration (FAA), no lighting of tower(s) is permitted. In any circumstance where a tower is determined to need obstruction marking or lighting, applicants must seek the visually least obtrusive marking and/or lighting scheme in their FAA applications. Emergency, safety or security lighting may be utilized when there are people at the site.

J. Hazard to Air Navigation: No tower or telecommunication facility is permitted that would be classified as a hazard to air navigation, as defined by the Federal Aviation regulations (Title 14 CFR).

K. Noise: Telecommunications facilities shall minimize the impact of sound, staying within ambient levels at the perimeter of the Site.

L. Special Permit Standards for Siting of 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 Tower shall be sited as far away as possible, and in no event closer than five hundred (500) feet horizontally, from dwelling units, schools (public or private), municipal water supply towers, child care facilities, and housing for the elderly or infirm
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 non-residential 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.
5. No new Telecommunication Facility shall be located on residential property or properties that contain residential uses.

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.

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 Telecommunication Facilities shall be encouraged to be sited, where possible, off ridge lines, 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** from structural failure, ice accumulation and discharge and electromagnetic 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 issuing a special permit to site a new Tower or a new Telecommunications Facility shall be considered:

- a) Shared use of existing telecommunications facilities 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 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. Limited Number of 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 number of Tower(s), Antenna(s) and Repeater(s) which is technically and economically feasible.

N. Environmental Standards:

1. Telecommunication facilities shall not be located in wetlands.
2. No hazardous waste shall be discharged on the site of any telecommunications facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.
3. Stormwater run-off shall be contained on-site.

O. Primary Coverage Outside Provincetown: If primary coverage (greater than 50%) from a proposed Tower/Telecommunications Facility is outside Provincetown, permit may be denied unless the Applicant can demonstrate that it is unable to locate within the Town or area outside of Provincetown which is primarily receiving service from the proposed Facility.

Section 7080 Application Requirements

Special Permit: No tower or Telecommunications Facility shall be erected, constructed, installed, or modified without first obtaining a Special Permit from the SPGA in accordance with this Article and the requirements of M.G.L. Chapter 40A. A Special Permit shall not be granted for a Tower or Telecommunications Facility to be built on speculation. A special permit shall not be granted for a tower or telecommunications facility unless the applicant or the co-applicant is a Telecommunications Provider which will be using the tower or facility.

B. Pre-Application Conference and Pre-application Filing Requirements:

Prior to the submission of an application for a Special Permit under this regulation, the applicant is strongly encouraged to meet with the SPGA at a public meeting to discuss the proposed telecommunications facility in general terms and to clarify the filing requirements. The SPGA shall meet with an applicant under this regulation within twenty-one (21) days following a written request submitted to the SPGA and the Town Clerk. The date, time and location of this public meeting shall be advertised at 7 and 14 days in advance of the meeting date in two (2)

newspapers in the Town of Provincetown, *The Provincetown Banner* and *The Advocate*, which have a general circulation in the town of Provincetown. If the SPGA fails to meet with an applicant who has requested such a meeting within twenty-one (21) days of said request, and said meeting has not been postponed due to mutual agreement, the applicant may proceed with a special permit application under this regulation without need for a pre-application conference. The purpose of the conference is to inform the SPGA as to the preliminary nature of the proposed telecommunication facility. As such, no formal filings are required for the pre-application conference. However, the applicant is encouraged to prepare sufficient preliminary architectural and/or engineering drawings to inform the SPGA of the location of the proposed facility, as well as its scale and overall design.

C. Evidence of Need - Adequate Coverage; Adequate Capacity:

1. Existing coverage: Applicant shall provide written documentation demonstrating that all existing or proposed Tower/Telecommunication Facility Sites in Provincetown, in abutting towns, and within 15 miles of the proposed site cannot reasonably be made to provide adequate coverage and/or adequate capacity to the Town of Provincetown. For each proposed Tower/Telecommunication Facility Site, an identified applicant shall demonstrate with written documentation that said Tower/Telecommunication Facility Sites are not already providing, or cannot reasonably be made to provide by modifications or adjustments to the Site, Adequate Coverage and/or Adequate Capacity to the Town of Provincetown. Said documentation shall include, for each Tower/Telecommunication Facility Site listed, the exact location (in longitude and latitude, to degrees, minutes and seconds), ground elevation, height of tower or structure, type of antenna(s), antenna gain, height of antenna(s) on tower or structure, output frequency, number of channels, power input and maximum power output per channel. Potential adjustments to these existing Tower Telecommunication Facility Sites, including changes in antenna type, orientation, gain, height or power output shall also be specified. Radial or Tiled Coverage Plots from each of these Tower/Telecommunication Facility Sites, as they exist, and with adjustments as above, shall be provided as part of the application, along with relevant Drive Testing and Data Mapping.
2. Repeater(s): Applicant shall demonstrate with written documentation that it has analyzed the feasibility of Repeaters in conjunction with all Tower/Telecommunication Facility Sites listed in compliance with Section 7080, subsection C, numbers 1 and 5 to provide Adequate Coverage and/or Adequate Capacity to the Town of Provincetown. Radial or tiled coverage plots of all Repeaters considered for use in conjunction with these Tower/Telecommunication Facility Sites shall be provided as part of the Application.
3. Indirect Service: Applicant shall demonstrate which portion of a proposed tower or structure and which antenna(s), if any, are to reduce or eliminate reliance on land-lines, or otherwise provide communications capability to the applicant, as distinct from to providing direct service to customers. Such provision of Indirect Service may be considered if reasonable alternatives are not available and the incremental effect is consistent with the purposes set forth in Section 7130 of this Article. Indirect Service is defined as services which are ancillary to direct-to-subscriber channels that are the primary services of the provider, and which are generally possible through alternate means. Examples of indirect service include microwave transmission links between facilities that replace the use of landlines, and transmission equipment for use on other frequency bands and primarily to communicate with or page (alert) provider personnel.

4. Three Year Plan: All applications shall be accompanied by a written three-year plan for use of the proposed facilities. This plan should include justification for capacity in excess of immediate needs, as well as plans for any further development within the Town.
5. The SPGA may deny a Special Permit if the SPGA (a) finds that adequate coverage for the Town can be provided by any existing or proposed tower facility sites outside the Town with or without the use of repeater(s), or can reasonably be provided by modification or adjustments to said sites, or (b) the town already has adequate coverage from this provider.

D. Required Legal and Technical Documentation for all Applicants:

1. Copies of all submittals and showings pertaining to: FCC licensing, Environmental Assessments and Environmental Impact Statements, FAA Notice of Construction or Alteration, Aeronautical Studies, and, all data, assumptions and calculations relating to service coverage and all pertinent calculations and measurement data related to non-ionizing radiation, emissions and exposure regardless of whether categorical exemption from Routine Environmental Evaluation under the FCC rules is claimed.
2. Copies of all information submitted in compliance with requirements of Massachusetts Department of Public Health. 105 CMR 122 FIXED FACILITIES That GENERATE ELECTROMAGNETIC FIELDS IN THE FREQUENCY RANGE of -300 kHz TO 100 GHZ AND MICROWAVE OVENS or any revisions thereof as the Department of Public Health may, at any time adopt.
3. The exact legal name, address or principal place of business and phone number of the applicant. If not a natural person, an applicant also shall disclose the state under which it was created or organized.
4. The names, title, address and phone number of the person to whom correspondence or communications in regard to the application are to be sent. Notice orders and other papers may be served upon the person so named, and such service shall be deemed to be service upon the applicant
5. Name, address, phone number, and written consent to apply for a permit, of the owner of the property on which the proposed Tower is to be located, or of the owner(s) of the Tower or structure on which the proposed Facility is to be located.
6. Details of proposed method of financial surety as required in Sections 7120 and 7130.
7. Applicant shall provide a written, binding commitment, valid for the duration of the existence of the Tower/Telecommunication Facility, to rent or lease Available Space to other Telecommunication Providers for collocation on its proposed Tower at fair-market prices and terms, without discrimination.
8. Any applicant intending to collocate on any existing Tower/Telecommunications Facility shall provide a copy of its existing written, binding commitment with the Telecommunications Provider.
9. Any physical plant plans required by this by-law shall be prepared, stamped and signed by a Professional Engineer (PE) licensed to practice in Massachusetts. (Note: survey

plans shall also be stamped and signed by a Land Surveyor registered in Massachusetts.) Plans shall be on 24" x 36" sheets and on 11" x 17" sheets, on as many sheets as necessary, and at scales which are no smaller (i.e. no less precise) than listed in Section 7080 above. Each plan sheet shall have a title block indicating the project title, sheet title, sheet number, date, revision dates, scale(s), and original seal and signature of the PE and other professionals who prepared the plan. Signal propagation and radio frequency studies, plots and related material, facility engineering plans should be prepared, clearly identified, and signed by a qualified radio-frequency engineer.

10. The applicant shall provide the following plans and maps:

- a. Location Map: Copy of a portion of the most recent U.S.G.S Quadrangle map, at a scale of 1:24,000 or 1:25,000, and showing the area within at least two miles from the proposed tower/telecommunications facility site. Indicate the tower/telecommunications facility location and the exact latitude and longitude (degrees, minutes and seconds).
- b. Vicinity Map at a scale of 1" = 200' (1:2400) with contour intervals no greater than 10 feet (3 meter) showing the entire vicinity within a 2000' radius of the tower/telecommunications facility site, and including the topography, public and private roads and driveways, buildings and structures, bodies of water, wetlands, landscape features, historic sites, habitats for endangered species. Indicate the property lines of the proposed tower/telecommunications facility site parcel and of all abutters within 300' of the tower/telecommunications facility site parcel, (from assessors' maps or available surveys). Include the names and addresses of all abutters within 300' of the tower/telecommunications facility site parcel. Indicate any access easement or right of way needed for access from a public way to the tower/telecommunications facility site and the names of all abutters or property owners along the access easement or who have deeded rights to the easement.
- c. Existing Conditions Plan: A recent survey of the tower/telecommunication facility site at a scale no smaller than 1" = 40' (1:480 or metric equivalent 1:500) with topography drawn with a minimum of 2' (0-6 meter) contour intervals, showing existing utilities, property lines, existing buildings or structures, stone walls or fence lines, wooded areas, individual trees with diameters greater than 12" within a 200' radius from the base of the proposed Tower (labeled with their current heights). Show the boundary of any wetlands or floodplains or watercourses, and of any bodies of water included in the Watershed Protection District within 300' from the Tower or any related facilities or access ways or appurtenances. A Professional Land Surveyor must have completed the survey plan, on the ground, within one year prior to the application date. (This time requirement reflects the historically documented unusual degree of topographical changes that have occurred frequently in Provincetown, and also the proliferation of the construction of new homes.)
- d. Proposed Site Plans: Proposed tower/telecommunications facility site layout, grading and utilities at the same scale or larger than the Existing Conditions Plan.
 - 1) Proposed tower/telecommunications facility location and any appurtenances, including support and guy wires, if any, and any accessory building (Communication Equipment Shelter or other). Indicate property boundaries and

setback distances to the base(s) of the tower/telecommunications facility and to the nearest corners of each of the appurtenant structures to those boundaries, and dimensions of all proposed improvements. Where protective fencing is proposed, indicate setback distances from the edge of the fencing.

- 2) Indicate proposed spot elevations at the base of the proposed tower/telecommunications facility and at the base of any guy wires, and the corners of all appurtenant structures.
 - 3) Proposed utilities, including distance from source of power, sizes of service available and required, locations of any proposed utility or communication lines, and whether underground or above ground. Detailed plans for emergency power generation, including:
 - A. Demonstration of percent of electrical demands being proposed in event of loss of commercial power.
 - B. Type of fuel, storage method, and expected means and frequency of fuel delivery to the site for power generation.
 - C. Amount of generator time based on historical power reliability for the area of the facility, proposed frequency and duration of tests, and description of muffler system and methods for noise abatement.
 - D. Feasibility of wind and/or solar power in conjunction with storage batteries.
 - 4) Limits of areas where vegetation is to be cleared or altered, and justification for any such clearing or alteration.
 - 5) Any direct or indirect wetland alteration proposed, which must be reviewed by the Conservation Commission.
 - 6) Detailed plans for drainage of surface and/or sub-surface water; plans to control erosion and sedimentation both during construction and as a permanent measure.
 - 7) Plans indicating locations and specifics of proposed screening, landscaping, ground cover, fencing, etc. and any exterior lighting or signs.
 - 8) Plans of proposed access driveway or roadway and parking area at the tower/telecommunications facility site. Include grading, drainage, and traveled width. Include a cross section of the access drive indicating the width. Depth of gravel, paving or surface materials.
 - 9) Plans showing any changes to be made to an existing facility's landscaping, screening, fencing, lighting, drainage, wetlands, grading, driveways or roadways, parking, or other infrastructure as a result of a proposed modification of the facility.
- e. Proposed Tower and Appurtenances:
- 1) Plans, elevations, sections and details at appropriate scales but no smaller than 1" = 10'
 - 2) Two cross sections through a proposed tower drawn at right angles to each other and showing the ground profile to at least 100 feet beyond the limit of clearing, and showing any guy wires or supports. Show dimension of the proposed height of tower

- above average grade at tower base. Show all proposed antenna(s), including their location on the tower.
- 3) Details of proposed tower foundation, including cross-sections and details; also all ground attachments, specifications for anchor bolts, and other anchoring hardware.
 - 4) Identify proposed exterior finish of the tower.
 - 5) Indicate relative height of the tower to the tops of surrounding trees as they presently exist.
 - 6) Illustrate the modular structure of the proposed tower indicating the heights of sections which could be removed or added in the future to adapt to changing communications conditions or demands.
 - 7) Written description by a Professional Structural Engineer of the proposed Tower structure and its capacity to support additional Antenna(s) or other Communications facilities at different heights and the ability of the Tower to be shortened if future communications facilities no longer require the original height.
 - 8) A description of Available Space on the tower, providing illustrations and examples of the type and number of Telecommunications Facilities which could be mounted on the structure.
- f. Proposed Communications Equipment Shelter:
- 1) Floor Plans, elevations and cross sections at a scale of no smaller than $1/4" = 1'$ (1: 48) of any proposed appurtenant structure.
 - 2) Representative elevation views, indicating the roof, facades, doors and other exterior appearance and materials.
- g. Proposed Equipment Plan:
- 1) Floor plans, elevations, sections and details at appropriate scales but no smaller than $1" = 10'$.
 - 2) Number of Antenna(s) and Repeater(s), as well as the exact locations, of Antenna(s) and of all Repeaters (if any) located on a map as well as by degrees, minutes and seconds of latitude and longitude.
 - 3) Mounting locations on Tower or structure, including height above ground.
 - 4) Antenna type(s), manufacturer(s), model number(s).
 - 5) For each Antenna, the Antenna gain and Antenna radiation pattern.
 - 6) Number of channels per Antenna, projected and maximum.
 - 7) Power input to the Antenna(s).
 - 8) Power output, in normal use and at maximum output for each antenna and all antenna(s) as an aggregate.
 - 9) Output frequency of the Transmitter(s).
 - 10) A recent survey of the facility site at a scale no smaller than $1" = 40'$ (1:480 or metric equivalent 1:500) showing horizontal and radial distances of antenna(s) to the nearest point on the property line, and to the nearest dwelling unit.
 - 11) Appearance shown by at least two photographic superimpositions of the Telecommunications Facility with the subject property. The photographic superimpositions shall be provided for the antenna mounts, equipment shelters, cables as well as cable runs and security barriers, if any, for the total height, width and breadth.
- h) Visibility Maps/Photographs/Sight Lines:
- 1) A minimum of eight (8) view lines in a zero (0) to two (2) mile radius from the site, shown beginning at True North and continuing clockwise at forty- five degree intervals

- 2) A plan map of a circle of two (2) miles radius of the Facility Site on which any visibility of the proposed Tower from a public way shall be indicated.
- 3) Applicant shall utilize the U.S.G.S. Quadrangle map, at a scale of 1:24,000 or 1:25,000, and submit profile drawings on a horizontal scale of 1"= 400', with a vertical scale of 1"= 40'. Trees shall be shown at existing heights.

i) Noise Filing Requirements:

The applicant shall provide a statement listing the existing and maximum future projected measurements of noise from the proposed Telecommunications facilities, measured in decibels, for the following:

- 1) Existing or ambient: the measurements of existing noise.
- 2) Existing plus proposed Telecommunications facilities: maximum estimate of noise from the proposed Telecommunications facility plus the existing noise environment. Such statement shall be certified and signed by an acoustical engineer and state that noise measurements are accurate and meet the Noise Standards of this Bylaw.

j. Balloon Test and Crane Test:

Within forty-two (42) days of submitting an Application, Applicant shall arrange to fly, or raise upon a temporary mast, a three foot diameter brightly colored balloon at the maximum height at the location of the proposed Tower, and/or shall arrange to raise a temporary mast, which may involve the use of a crane, to the maximum height at the location of the proposed Tower. The dates (including a second date, in case of poor visibility on the initial date), times and location of this balloon test shall be advertised by the Applicant at 7 and 14 days in advance of the first test date in two newspapers in the Town of Provincetown, *The Provincetown Banner* and *The Advocate*, which have a general circulation in the town of Provincetown. The Applicant shall inform the SPGA and any abutting property owners, in writing, of the dates and times of the test at least 14 days in advance. This test shall occur for at least four consecutive hours sometime between 9:00 am and 5:00 p.m. of the dates chosen.

k. Visual Analysis:

The applicant shall develop and submit a written analysis of the visual impact of the proposed tower. This analysis shall include photographs of the balloon/crane test taken from at least ten (10) different locations designated by the SPGA within the town.

Section 7090 Approval Criteria and Required Findings

A. Permitting Procedures: In acting on the Special Permit Application, the SPGA shall adhere to the procedures and time lines established for Special Permits in the applicable regulations and Zoning By-laws of the Town.

B. Public Hearings: Special Permits shall only be issued following public hearing as prescribed by State law and the Provincetown Zoning By-laws.

C. Applicable Findings: Under the specific criteria and requirements specified in Section 7070 and other sections of this Article, the SPGA shall, in consultation with the Independent Consultant(s), selected in accordance with Section 7100, make all of the following applicable findings in writing, with reasons before granting the Special Permit:

- 1) That applicant is not already providing Adequate Coverage and/or Adequate Capacity to the Town of Provincetown; and

- 2) That applicant is not able to use or modify for use existing towers/facility sites located within or outside the town, either with or without the use of Repeaters, to provide Adequate Coverage and/or Adequate Capacity to the Town of Provincetown; and
- 3) That applicant has endeavored to provide Adequate Coverage and Adequate Capacity to the Town with the least number of towers and antennas which is technically and economically feasible; and
- 4) That applicant has agreed to rent or lease available space on the Tower, under the terms of a fair-market lease, with reasonable conditions and without discrimination to other Telecommunications Providers; and
- 5) That the proposed telecommunications facility or tower will not have an undue adverse impact on historic resources, scenic views, natural beauty, residential property values, natural or man-made resources; and
- 6) That applicant has agreed to implement all reasonable measures to mitigate the potential adverse safety and aesthetic impacts of the facilities; and
- 7) That the proposed Tower/Telecommunications Facility shall comply with current FCC standards (or other current applicable standard, if changed) regarding emissions of electromagnetic radiation and that the required Monitoring Protocol (as defined in Section 7040 above) is in place and shall be paid for by the applicant; and
- 8) That the proposed sites for facilities and towers have been camouflaged and screened to the greatest extent possible to minimize adverse visual impacts; and
- 9) That applicant has conclusively demonstrated that the proposed site for the service facility or tower is at the highest level, in the order of site acceptability, specified in Section 7070, subsection M, number 3; and
- 10) That no indirect services proposed could reasonably be provided by use of land lines or other non-radiating means; and that all other conditions and requirements of this by-law have been fulfilled by the applicant; and
- 11) That less than 50% of the primary coverage of the proposed site is outside of Provincetown.

D. Denial of Application: any decision by the SPGA to deny an Application for a Special Permit under this Article shall be in conformance with SEC. 332 [47 U.S.C. (7)(B)(iii) of the Act], in that it shall be in writing and supported by substantial evidence contained in a written record.

Section 7100 Provision of Independent Consultants

A. Upon submission of an Application for a Special Permit under this Article, the SPGA (The Planning Board) shall hire independent consultant(s), whose services shall be paid for by the Applicant(s) pursuant to the Towns Policies and Procedures. Said Consultant(s) shall be qualified professional(s) with a record of service to various types of customers including, but not limited to, government bodies and consumer groups, in one of the following fields appropriate for the issue being studied: a) telecommunications/radiofrequency engineering, b) structural engineering, c) assessment of electromagnetic fields, and (d) other consultants, if deemed necessary by the SPGA.

B. The SPGA shall select the Independent Consultant(s) from a list agreed upon in advance by the Board of Health and the Conservation Commission.

C. Upon submission of a complete application for a Special Permit under this Article, the SPGA shall provide its independent consultant(s) with the full application for their analysis and review.

D. Applicants for any Special Permit under this article shall obtain permission from the Owner(s) of the proposed property(s) or Facilities Site(s) for the Town's Independent Consultant(s), to conduct any necessary site visit(s).

Section 7110 Monitoring and Evaluation of Compliance

A. Pre-testing:

After issuance of a Special Permit and prior to commencement of transmission by a successful applicant's Telecommunications Facilities, said applicant shall pay for an Independent Consultant(s), hired by the SPGA, to Monitor the background levels of EMF radiation around the proposed Facility Site and/or any Repeater locations used for applicant's telecommunications facilities. The Independent Consultant(s) shall use the Monitoring Protocol. A report of the Monitoring results shall be prepared by the Independent Consultant(s) and submitted to the Board of Selectmen, the SPGA, the Board of Health, the DPW Director, the Building Inspector and the Town Clerk.

B. Post-testing:

Within fourteen (14) business days after transmission begins, the owner(s) of any telecommunications facility(s) located on any Facility Site shall pay for an Independent Consultant(s), hired by the Town, to conduct testing and monitoring of non-ionizing radiation emitted from said Site, and to report the results of said monitoring. Said monitoring of exposure shall be conducted on a semi-annual basis, using actual field measurement of non-ionizing radiation using the Monitoring Protocol. A report of the Monitoring results shall be prepared by the Independent Consultant(s) and submitted to the Board of Selectmen, the SPGA, the Board of Health, the DPW Director, the Building Inspector and the Town Clerk. Any Major Modification of Existing Facility, or the activation of any additional permitted channels, shall require new monitoring.

C. Excessive Emissions:

In the event that the monitoring of a Telecommunications Facility Site reveals that the Site exceeds the current FCC standard (or other current applicable standard if changed), the owner(s) of all facilities using that Site shall be so notified. Said owner(s) shall submit to the SPGA and the Inspector of Buildings within ten (10) business days of non-compliance a plan for reducing emissions to a level that complies with current FCC guidelines. Said plan shall reduce emissions to the standard within 15 days of initial notification of non-compliance. Failure to accomplish such reduction of emissions within 15 days of notification of non-compliance shall be a violation of this By-law and the Special Permit and may result in the imposition of fines in accordance with Section 5140, or revocation or the special permit, or both.

D. Structural Inspection:

The owner of a Tower/Telecommunications Facility shall comply with all state and local requirements for structural inspection and certification. In addition, all towers shall be inspected after sustained winds of 90 mph, in the event of unsafe conditions such as severe ice build-up, and in any event not less than every seven years. The owner shall grant its permission and the permission of any other relevant parties to carry out such inspections.

E. Unsafe Structure:

In the event that the inspection of any Tower reveal any structural defect(s) which, in the opinion of the Independent Consultant(s), render(s) that tower unsafe, the following actions must be taken: The owner(s) must be given notice of the unsafe condition, and, within ten (10) business days of notification, the owner(s) of the tower shall submit a plan to remedy the structural

defect(s). This plan shall be initiated within ten (10) days of the submission of the remediation plan, and completed as soon thereafter as reasonably possible. Failure to accomplish remediation of structural defect(s) within thirty (30) days of the original notice (or such shorter or longer period as may be determined to be reasonable in the circumstances in the event that the Inspector of Buildings determines that the tower poses a substantial and imminent threat to public safety shall be a violation of this By-law and the Special Permit and may result in the imposition of fines in accordance with Section 4140, or revocation of the special permit, or both. Such fines shall be payable to the Town of Provincetown by the owner(s) of the tower.

F. Compliance Enforcement Responsibility:

This bylaw shall be enforced by the Town's Inspector of Buildings, who shall take such action as may be necessary to enforce full compliance with the provisions of this by-law and of permits and variances issued hereunder, including notification of noncompliance and request for legal action through the Town Manager and the Town Counsel.

G. Compliance Certification:

Structures and antennas may not be erected, substantially altered, moved, or changed in use, and land may not be substantially altered or changed in principal use without certification by the Inspector of Buildings that such action is in compliance with applicable zoning or without review by him regarding whether all necessary permits have been obtained from governmental agencies from which approval is required by federal, state or local law. Structures and antenna(s) shall be constructed and routed to minimize detrimental effects on visual setting.

H. Expiration:

Special Permits shall lapse twenty-four (24) months following the issuance thereof (plus such time required to pursue or await the determination of an appeal referred to in MGL c. 40A, Section 17), if a substantial use thereof or construction has not sooner commenced.

Section 7120 Removal Requirements

A. Abandonment or Discontinuance of Use: Any Telecommunications Facility, which ceases to operate for a period of one year, shall be removed by the applicant or subsequent owner within ninety (90) days from the date of abandonment or discontinuation of use. Cease to operate is defined as not performing the normal functions associated with the telecommunications facility and its equipment on a continuous and ongoing basis for a period of one year. At the time of removal, the Facility Site shall be remediated so that all Telecommunications Facility improvements, which have ceased to operate, are removed. If all Facilities on a tower have ceased to operate, the tower shall also be removed, and the Site shall be re-vegetated. Existing trees shall only be removed if necessary to complete the required removal. Applicant shall, as a condition of the Special Permit, provide a financial surety payable to the Town of Provincetown and acceptable to the SPGA, to cover the cost of removal of the Telecommunications Facility and the remediation of the landscape, should the Facility cease to operate.

Section 7130 Indemnification, Insurance and Fees

A. Indemnification: The Town of Provincetown shall not enter into any lease agreement or otherwise authorize any tower or telecommunication facility siting by a telecommunication service provider until and unless the Town obtains adequate indemnification from such provider. This indemnification shall, at a minimum:

1. Indemnify and hold harmless the Town, its elected and appointed officers, agents, and

employees, from and against any and all claims, demands or causes of action whatsoever kind or nature, and the resulting losses, costs, expenses, reasonable attorneys fees, liabilities, damages, orders, judgments or decrees sustained by the Town or any third party arising out of or by reason of, or resulting from the negligent acts, errors or omissions of each telecommunication facility operators, agents, or employees; and,

2. Provide that the covenants and representations relating to the indemnification provision shall survive the term of any agreement and continue in full force and effect as to the responsibility of the party to indemnify.

B. Insurance:

The Town of Provincetown may not enter into any lease agreement or otherwise authorize a tower or telecommunication facility by any telecommunication service provider until and unless the Town obtains assurance that such operator (and those acting on its behalf) have adequate insurance against damage to persons or property, in which the Town shall be an additional insured, as determined by the Board of Selectmen. At a minimum the following insurance requirements shall be satisfied;

1. A telecommunications facility operator shall not commence construction or operation of the facility without obtaining all insurance required under this section and approval of such insurance by the Board of Selectmen, nor shall a telecommunications operator allow any contractor or sub-contractor to commence work on its contract or sub-contract until all similar insurance required of the same has been obtained and approved by the Board of Selectmen. The required insurance must be obtained and maintained for the entire period the telecommunications facility is in existence. If the operator, its contractors or subcontractors do not have the required insurance the Town may order such entities to cease operation of the facility until such insurance is obtained and approved.
2. Certificate(s) of such insurance, reflecting evidence of the required insurance shall be filed with the Board of Selectmen. For entities that are entering the market the certificate shall be filed prior to the commencement of construction and once a year thereafter, and as provided below in the event of lapse of coverage.
3. The certificate(s) of insurance shall contain a provision that coverages afforded under such policies shall not be canceled until at least thirty (30) days prior written notice has been given to the Town. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Massachusetts.
4. Where applicable, in the event that the insurance certificate provided indicates that the insurance shall terminate or lapse during the term of the lease agreement with the Town, then in that event the telecommunications facility operator, at least thirty (30) days prior to the expiration date of such insurance, shall furnish a renewal certificate of insurance as proof that equal and like coverage remains in effect for the balance of the lease term.
5. A telecommunications facility operator and its contractors and sub-contractors engaged in work on the operators' behalf, shall maintain minimum insurance in the amounts determined by the Board of Selectmen, to cover liability, bodily injury and property damage. The insurance shall cover the following exposures; premises, operations, and certain contracts. Such coverage shall be written on an occurrence basis and shall also be required under any lease agreement between the Town and the telecommunications facility operator.

C. Fees: The Board of Selectmen shall establish a schedule of fees for the permitting and renewal of permits for Towers and Telecommunications Facilities, any Monitoring of emissions

and inspection of structures, and any other fees deemed appropriate. This schedule may be amended from time to time.

Section 7140 Term of Special Permit

A Special Permit issued for any Telecommunications Facility or Tower shall be valid for three (3) years. At the end of that time period, the Telecommunications Facility or Tower shall be removed by the carrier unless a new Special Permit has been obtained.

Section 7150 Severability Clause

The invalidity of any section or provision of this Article shall not invalidate any other section or provision hereof.

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 filed 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.

Appendix A - Amendments

Article	Section	Contents
October 29, 2018 STM		
4	6600 (c)	Growth Management
8	Definitions	Definition of Public Utility
9	2560	Dimensional Schedule – Municipal Building Height
10	2300	Harborfront Overlay
11	4000	Site Plan Review
12	2560	Dimensional Schedule – Grandfathering for Res1
April 2, 2018 ATM		
30	Definitions	Delete definition of seats
31	2440, 2450, 2472, 4800 Definitions	Accessory Dwelling Units, delete Section 4800
32	6600	Growth Management
33	2312	Harborfront Overlay
34	2640	Building Scale
35	Definitions 2440	Commercial Accommodations
36	Definitions 2440	Marijuana Establishments, delete Medical Marijuana Treatment Center
37	4180	Inclusionary Bylaw
38	2560	Dimensional Schedule
39	2360 2440	Formula Business Overlay
September 13, 2017 STM		
2	Definitions	Natural Grade
3	2650	Surveys, height and foundation
April 3, 2017 ATM		
29	4180	Inclusionary Bylaw
29	4170	Delete Change of Use
30	Definitions	Seats
31	Definitions	Restaurant use
32	2440	Permitted uses, Accessory Dwelling Uses

Article	Section	Contents
33	4120	Density Schedule, Commercial Accommodations
34	3110	Nonconformancy
April 4, 2016 ATM		
27	2440	Permitted Principal Uses
28	2440	Permitted Principal Uses
29	2440	Permitted Principal Uses
30	6500	Growth Management Table of Use Categories
31		Definitions
October 26, 2015 STM		
2	2440	Permitted Principal Uses
3		Definitions
4	4028	Special Regulations
5	2320	High Elevation District
17	2440	Permitted Principle Uses
April 6, 2015 ATM		
21	2430, 2440	Accessory Dwellings in the Single Family Zone
28	Definitions, 3110	Building Height
29	6600	Growth Management
April 7, 2014 ATM		
23	2330 through 2338	Flood Plain District
24	6500	Growth Management
26	2320	High Elevation District
October 21, 2013 STM		
13	Definitions, 2440	Medical Marijuana Treatment Center
14	2472, 2474	Parking Requirements
15	6500	Growth Management Use Categories
16	2440, 4000	Permitted Principal Uses, and Site Plan Review

Article	Section	Contents
April 2, 2012 ATM		
21	Definitions	Story
22	Definitions, 3200, 3230	Sign, Sign Regulations (<i>Note: Last sentence in section 3224 passed in Town Meeting was removed by Attorney General "Signage on record..."</i>), Sign Size
October 24, 2011 STM		
10	2470	Parking Requirements
11	3200	Sign Regulations
12	6600	Growth Mgmt Growth Limitation Goal Allocations
13	7070	Definitions and Special Permit Standards for Siting New Telecommunication Facilities, Towers, Repeaters
14	2440,2450, Article 8	Permitted Principal & Accessory Uses, Adds new Article 8
April 4, 2011 ATM		
25	Definitions	Boarding, Lodging or Tourist Home
27	4170	Change of Use #1 and #2
28	6500, 6600	Table of Use, Growth Limitations
November 8, 2010 STM		
12	Definitions	Add Demolition; Changed Palletized Patio
13	2360	Formula Business Regulated District; Section 2440:Permitted Use Chart
14	2550	Multiple Buildings Per Lot
15	2610, 2620, 2630	Section 2600 Design Standards and Section 2560 Dimensional Schedule
16	2640	Building Scale
17	3115	Demolition and Reconstruction
18	3260	Open For business
April 2009 ATM		
26	6200	Growth Management By-Law
27	2330	Floodplain District Boundaries and Base Flood Elevation Data
April 2007 ATM		
16	2440	Permitted Principal Uses
April 2007 STM		

Article	Section	Contents
4	Throughout	Substituting Community Housing Council for Local Housing Partnership
7	6300(4)	Growth Management Affordable Housing and Community Housing
9	4170	Change of Use
10	4800	Affordable housing By-Law
November 2006 STM		
2	6600 sect. 3	Amend Growth Management Surplus Gallonage Pool
12	4100, 4164, 4165, 4170	Amend Growth Management Change of Use: Affordable Housing Requirement
April 2006 ATM		
21	6500	Amend Table of Use Categories and Priorities
22	6600	Amend Growth Limitation Goal Limitation Allocations
23	6600 sect. 3	Surplus Gallonage Pool
24	Definitions 2440	Add Animal Shelter to permitted use categories
November 2005 STM		
4	Definitions, 6100, 6200, 6300, 6500, 6600	Create a Growth Management Surplus Gallonage Pool available for reallocation for year-round economic development
5	3420	Outside Display
April 2005 ATM		
12	Definitions, 6300, 6600	Affordable and Community Housing Units – Provincetown Local Housing Partnership
13	4800	Extend Amnesty for Affordable Accessory Apartments
October 2004 STM		
3	2110, 2350, 2352, 2353, 2354, 2356, 6200	Health Care Overlay District Rezoning
12	2440, 2450	Adult Entertainment
April 2004 ATM		
7	4120	Adding Illumination Criteria to Site Plan Review Process
8	Definitions	Adding Dormitory Housing to Hotel/Motel Definition
9	2400	Parking Requirements
19	2440	Adult Entertainment
20	Definitions	Add Theater

Article	Section	Contents
22	2100	Masonic place Rezoning
23	2420	Outside Display
April 2004 STM		
2	4800	Add Affordable Housing By-Law
April 2003 ATM		
21	7030	Telecommunications Facility - Waiver
24	6500	Growth Management
25	6600	Growth Management
April 2003 STM		
6	2352	Highway Corridor Overlay District Re-Zoning
7	2351, 2353 2354, 2356	Highway Corridor Overlay District Uses & Dimensions
April 2002 ATM		
7	1100	Establishment of Districts
8	1110	Establishment
9	1110	Establishment, Zoning Map
10	1130	Purposes of Zoning Districts
11	3010, 3190 3650	Commercial Business, Dwelling Units, Harborfront Regulations
12	Definitions	Consolidation of Definitions
13	Definitions	Definitions, Deletions
14	Definitions	Definitions
24	Definitions	New Definition for Building
25	Definitions	New Definition for Change of Use
26	Definitions	New Definition for Natural Grade
27	Definitions	New Definition for Palletized Patio
28	Definitions	New Definition for Retaining Wall
29	Definitions	New Definition for Temporary Structure
30	Definitions	New Definition for Use
31	Definitions	Definition for Accessory Building or Use
32	Definitions	Artist's Studio

Article	Section	Contents
33	Definitions	Boarding, Lodging or Tourist Home
34	Definitions	Story
35	1320	Dimensional Scale
36	2430, 2450	Deletions from Environmental Controls
37	1500	Overlay District Section
38	7101	Roof Pitch
39	7101	Roof Configuration
47	6100	Growth Management By-Law, Purpose
48	6200	Renumbering Growth Management By-Law, Applicability
49	VI	Growth Management By-Law, Reference Change
50	VI	Growth Management By-Law, Deletion of Prior Zoning Board of Appeals Approval
52	6300	Growth Management By-Law, Procedure
53	6500	Growth Management By-Law, Table of Use Categories and Priorities
54	6600	Growth Management By-Law, Growth Limitation Goal Allocation
69	VI	Growth Management By-Law, Deletion of Expiration Criteria
70	VI	Growth Management By-Law, Reorganization and Renumber Zoning By-Laws
71	2450	Permitted Accessory Uses
72	2420	Outdoor Display
April 2002 STM		
2		Route 6 Highway Corridor Overlay District
3		Exemption from Growth Management By-Law, Non-Profit Health Care Related Use
4		Eliminate Water Resources District
April 2001 ATM		
9	Article V	Define Structure
10	Article V	Define Guest Unit
11	3151	Procedure
13, 14, 15	7102	Changes to the Scale By-law
16, 17, 18	Article VIII	Changes to the Growth Management By-law
April 2000 ATM		

Article	Section	Contents
8	VIII	Revised Growth Management By-law
9	1260	Adds Posted Occupant Load
10	V	Definition for Posted Occupant Load
14	2420	Refines wording to Outdoor Display
April 1999 ATM		
8	Entire Book	Replace Dept of Municipal Inspec. W/ Dept of Reg. Mgmt
9	1100	Adopts New Zoning Map and updates date of map.
10	1250	Adds: G13, Swimming Pool
12	2110	Adds: Alterations do not result in an increase in non-conformancy.
13	2450	Amends this section to conform with the General By-laws
14	3053	Change Article VIII to Article VII in Paragraph 3
18	7102	Exemption clause
20	VIII	Growth Mgmt: Change 28 to 23 building permits
21	X	New: Wireless Telecommunication Towers and Facilities
22	2200	Open For Business Flags
April 1998 ATM		
9	VIII	Growth Management Section C.1
11	3900	High Elevation Section C
12	7102	Section C. Procedure
13	V	Amend Definition of Story
15	3354	Minor Correction
16	2300	Exempt Art Galleries From Off-street Parking
17	1240 & V	Adult Establishments
18	New	Moratorium on Wireless Communication Facilities
April 1998 STM		
16	1240F	Facilitate Rebuilding After Fire & Other Natural Causes
April 1997 ATM		
10	X.B.6	New Section: Permits per site.

Article	Section	Contents
11	X.C.1.b	Affordable Units
13	X.D	Affordable Units permits
17	V	Floor Area
19	3150	Site Plan Review
20	3151	Procedure
21	VI	Delete Planned Growth By-law
22	IX	Delete Temp. Moratorium on Fast Food Establishments
23	XI	Delete Development
24	V	Definition Fast Food Establishment
26	2420	Amends BOS to Licensing
28	V	Definition Dwelling Units
31	3621	Amends d.
October 1996		
26	3621	Harbor Front Regs: Allowed Uses
April 1996		
30	V	Define: Dormer, Green Area, Half-story parking lots
31	V	Define: Story
32	3140	Green Area
33	3040	Green Area
34	1240	Annual Renewal of ZBA Sp for Paid Parking lots
35	1240	Carnivals, Festivals, Fairs
36	3630	Carnivals, Festivals, Fairs
37	1320	Add "Half-hip" & "Salt-box" Roofs
38	2420	Outside Display
39	3900	High Elevation Protection District
40	3300	Update Flood Zone Maps
41	2450	Sound Amplification/Compliance with General By-laws
April 1993		
37	1240	Fast Food Establishments

Article	Section	Contents
October 1993		
6	3151	Regulatory Compliance Sheet
7	8102	Building Scale
April 1992		
57	X	Growth Mgmt By-law, Change Allocation of Building Permit
58	1313	Isolated Lot Exemption
61	2110	Extensions to Nonconforming Structures
62	1320	Roof Heights
64	3054	Large Commercial Development Parking Req
66	4223	Cape Cod Commission
November 1992		
5	V	Define: Parking Space
6	3900	High Elevation Protection Dist
April 1991		
80	3720	Wetlands
84	IX	Fast Food Moratorium
85	3000	Large Commercial Development Site Plan Review, entire 3000
87	3900	High Elevation Protection District
90	4331	Development Impact Statement/Site Plan
91	XII	Water Protection Dist
92	2240g	Multiple Signs
March 1990		
59	3800	Street Trees
60	2320 2330	Parking Spaces for Office & Medical
61	IX	Fast Food Moratorium
62	2227	Theater Marquee
63	2420	Outside Display
March 1989		
4	X	Growth Management By-law

Article	Section	Contents
51	IX	Fast Food Moratorium
52	1240 V	Artist Studios Define Artist Studio
53	2226	Chalkboard menus
March 1987		
35	V 1240 3400,3410, 3420	Manufactured Homes
36	1260	Special Permit Req for Entertainment, Service of Food, or Service of Alcoholic Beverages
37	2212	Registration of Signs, delete the \$2.00 fee
42	2420	Outdoor Display, Effective Date
Spring 1986		
47	3180 4331	Time Share and Conversion Development Impact Statement
48	Mapping	
49	3110	Lot Area
50	3110	Lot Area
51	1240	Permitted Principal Use, Residential
52	1320 V	Dimensional Schedule, Max Building Hts, Definitions: Building Heights
53	1320 V	Dimensional Schedule, Definitions: Story
54	V	Definitions: Structure
55	V	Definitions: Lot Area
56	3700	Inland Wetland Areas: Purpose, applicability
58	1240	Business