

THE PROVINCETOWN GENERAL BYLAWS

Reorganized General By-Laws (Annual Town Meeting April 1998)
Provincetown By-Law Revision Committee

Chapters

1. Interpretation and Adoption
2. Penalties and Enforcement
3. Public Documents
4. Town Meeting and Town Elections
5. Town Boards
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7. Domestic Partnerships
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14. Water Use Restriction Bylaw
15. Local Historic District
16. Trees
17. Climate Policy

Last Updated: August 18, 2021

Town of Provincetown General By-Laws

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1. INTERPRETATION AND ADOPTION

1-1. General provisions.

1-1-1. Previous bylaws superseded with exceptions. The following provisions constitute “The Provincetown General Bylaws” and supersede all bylaws previously enacted except the Zoning Bylaws (including the Sign Code) and the Compensation Plan of the Town of Provincetown.

1-1-2. Repealed or superseded bylaws not to be revived. No bylaw previously repealed or superseded by these bylaws shall be revived by the repeal of any of these bylaws.

1-1-3. Invalidity of any section not to invalidate other sections. The invalidity of any section or provision of these bylaws shall not invalidate any other section or provisions thereof.

1-2. Definitions.

For the purpose of these bylaws, the following terms shall be defined as stated below to the extent that the context of a bylaw permits, unless otherwise defined in a bylaw:

1-2-1. Vote of the town. “Vote of the town” means a motion duly approved by a Town Meeting.

1-2-2. Town employee. “Town employee” means a person who is elected or appointed to a town office in accordance with the General Laws of the Commonwealth, the Town Charter or these bylaws.

1-2-4. Town board. “Town board” means any town board, commission, committee, council, or agency.

1-2-5. Person. “Person” means any individual or group of individuals, or any association, partnership, corporation, company, profit or non-profit business organization, trust, or estate, to the extent permitted under the laws of the Commonwealth of Massachusetts; and the United States and the Commonwealth of Massachusetts, their political subdivisions, administrative or regulatory agencies, public or quasi-public corporations or bodies, and any other legal entity thereof, including their legal representatives, agents and assigns, insofar as may be permitted by the laws of the Commonwealth of Massachusetts or of the United States.

1-3. Adoption of bylaws.

1-3-1. Adoption of a proposed bylaw. A proposed bylaw may be adopted by a majority vote of those present and voting at any Town Meeting.

1-3-2. Amendment of a bylaw. Any bylaw other than a zoning bylaw, may be repealed or amended by a majority vote of those present and voting at any Town Meeting.

2. PENALTIES AND ENFORCEMENT

2-1. Fines for violation of a bylaw.

The violator of any of these bylaws and other state and local regulations, shall be subject, for each offense, to the penalty specified in Schedule A to these bylaws, but not exceeding the maximum penalty authorized by M.G.L. c.40, 21, as amended.

2-2. Criminal complaint.

Whoever violates any provision of these bylaws may be penalized by indictment or on complaint brought in the District Court. Except as may be otherwise provided by law and as the District Court may see fit to impose, the maximum penalty for each violation or offense shall not exceed the maximum penalty specified in M.G.L. c. 40, §21, as amended.

2-3. Non-criminal disposition.

Alternative method of enforcement. Any duly adopted bylaw of the Town of Provincetown or Rule or Regulation of its boards, commissions and committees and officers, the violation of which is subject to a specific penalty, may at the discretion of the town employee who is the appropriate enforcing person, be enforced by the method provided in M.G.L. c.40, §21D.

2-3-1-1. Any rule or regulation of the Provincetown Public Pier Corporation duly enacted shall be deemed a regulation of the Select Board. Violation of such rules or regulations may be enforced by any available means in law or equity, including but not limited to non-criminal disposition pursuant to M.G.L. c.40, §21D, and Sections 2-3-1 through 2-3-3 of the General By-laws. For the purposes of this by-law, the following officials shall be enforcing persons: the Harbormaster and his designees and any police officer of the Town of Provincetown.¹

Non-criminal dispositions. Whoever violates any provision of these bylaws, the violation of which is subject to a specific penalty, may be penalized by a non-criminal disposition as provided in M.G.L. c.40, §21D. The non-criminal method of disposition may also be used for violations of any Rule or Regulations of any municipal officer, board or department which is subject to specific penalty. Each day on which any violation exists shall be deemed to be a separate offense.

2-3-2-1. Violations of the Provincetown Public Pier Corporation Regulations (attached as Appendix 1 to Schedule A): 1st offense, \$100.00; 2nd offense, \$200.00; 3rd and subsequent offenses, \$300.00²

2-3-3. Enforcing person. “Enforcing person,” as used in this chapter shall mean any Selectman or any police official of the Town of Provincetown with respect to any offense; and the town official in charge of the Airport and his designees, Shellfish Constable and his designees, the Conservation Officer and his designees, the Harbormaster and his designees, the Health Agent and his designees, the Licensing Agent and his designees, sealer of Weights and Measures and his designees and the Zoning Enforcement Officer and such other officials as the Select Board may from time to time designate, each with respect to violation of bylaws and rules and regulations within their respective jurisdictions. If more than one official has jurisdiction in a given case, any such official may be an enforcing person with respect thereto.

¹ Approved April, 2004 STM Article 24/Amended April, 2016 ATM Article 15

² Approved April, 2004 STM Article 24/Amended April, 2016 ATM Article 15

3. PUBLIC DOCUMENTS

3-1. Seal of the town.

The Seal of the Town of Provincetown shall be circular in form and shall bear upon its face a scroll with the words thereon “Compact - Nov. 11, 1620” and “Birthplace of American Liberty;” around the scroll the words “Town of Provincetown Incorporated 1727;” and beneath the scroll the words “Precinct of Cape Cod 1714.”

3-2. Custody of legal documents.

Except as otherwise provided by law, the Town Manager shall have custody of bonds, deeds, contracts, insurance policies and other similar documents owned or held by the town; except that the bond that may be required to be given by the Town Manager shall be held in the custody of the Select Board.

3-3. Publication of certain documents.

The Select Board, or the Town Manager with the approval from the Select Board, shall determine the form in which town documents shall be published. Such documents shall include, but not be limited to, the Assessor’s valuation list; General, Zoning, and other bylaws; and rules and regulations of town bodies.

4. TOWN MEETING AND TOWN ELECTIONS

4-1. Annual town meeting.

4-1-1. Date. The Annual Town Meeting shall be held on the first Monday in April of every year and shall be called to order at 6:00 p.m.³ for the purpose of transacting all business of the Annual Town Meeting except the election of such officers and the determination of such matters as are required by law to be elected or determined by ballot.

4-1-2. Copies of the warrant to be made available to voters. At each session of each Town Meeting, the Select Board shall make available to each voter a copy of the warrant for the meeting and a copy of the Finance Committee's recommendations.

4-2. Motion at town meeting.

4-2-1. Order of motions. Procedural motions shall be received and shall have precedence in order as follows:

1. to adjourn to a date and time certain
2. to adjourn
3. to lay on the table
4. to move the question
5. to postpone to a time certain
6. to commit, recommit or refer
7. to amend
8. to postpone indefinitely

4-2-2. Motion to be decided without debate. Procedural motions to adjourn, to lay on the table and to move the question shall be decided without debate.

4-2-3. Motions moving the question. A majority of two-thirds of those present and voting is required to carry a motion moving the question. A simple majority is sufficient to carry every other procedural motion.

4-2-4. Motions in writing. Every motion proposing the expenditure of money shall be presented in writing and shall not exceed the sum specified in the warrant article. Other motions shall be in writing if the Moderator, or a majority of those present and voting so directs.

4-2-5. Division of motions. If a motion be susceptible of division into separate parts, votes must be taken on each part if ten (10) or more voters so request.

4-2-6. Amendments involving sums of money. On any proposed motion involving a sum or sums of money, the larger or largest amount shall be voted on first. An affirmative vote on the larger or largest amount shall be a negative vote on any smaller amount.

4-2-7. Motion to dissolve. No motion that would cause the dissolution of the meeting shall be in order until every article in the warrant therefore has been duly considered and acted upon, but this shall not prevent the postponement of consideration of any article to an adjournment of the meeting at a stated time and place.

4-3. Speeches at town meeting.

4-3-1. Limitation on speeches. No person shall speak more than once on any question to the exclusion of any other person who may desire to speak thereon, nor more than twice without first obtaining leave of the meeting, except, in either case, in response to questions asked through

³ Revised April, 2002 ATM 57 & Acts of 2002 Chapter 358

the Moderator or for the brief correction of an error in or misunderstanding of a previous statement.

4-3-2. Limitation on duration of speeches. No person shall speak for more than three (3) minutes on any question unless the time shall be extended by vote of the meeting.⁴

4-3-3. Disclosure of employment as agent or attorney for another. Any person employed to speak as agent or attorney for another shall disclose the fact of such employment before addressing the meeting. If the agent or attorney is not a voter of the Town, a majority of those present and voting must give consent before that person is permitted to speak.

4-3-4. Speeches by nonvoters. A nonvoter wishing to address a Town Meeting shall be allowed to do so if no voter objects. Should any voter object, the matter shall be determined by a majority vote of those present and voting.

4-3-5. Petitioner to speak first. The petitioner moving an article shall be allowed to make his/her presentation on said article prior to Town Meeting hearing the recommendation of the Finance Committee.⁵

4-3-6. Finance Committee and Select Board should use the microphones on floor when speaking as private citizens, and podium when presenting and speaking as Board members or on articles on behalf of the Board.⁶

4-4. Voting at town meeting.

4-4-1. Determination of votes. When a question is put, the sense of the meeting shall be determined by the voices of the voters, and the Moderator shall declare the vote as it appears to him; provided that no vote shall be taken when the balcony is open to the general public. If the Moderator is unable to decide the vote by the sound of voices, or if his decision is immediately questioned by seven (7) or more voters, the Moderator shall distinctly state the question; and those voting in the affirmative and negative, respectively, shall, as the Moderator directs, raise one hand or rise and stand until counted. No person shall be counted who does not comply with the request to occupy a seat, if seats in the hall are available; but if seats are not available, those standing shall be counted separately by a show of hands.

4-4-2. Appointment of tellers and voting from the balcony. No person not a registered voter of the town (except Town Counsel and any one permitted to speak, under Section 3-3-4 of this Chapter) shall be allowed on the floor of Town Hall at any town meeting. The balcony of Town Hall shall be open to the general public if the Moderator deems there is sufficient seating capacity to accommodate all voters on the floor of Town Hall; otherwise, the balcony shall be open only to registered voters. The stage may be occupied by voters if the space is needed and if the Moderator approves. If the balcony be open to the public, every registered voter who wishes to vote must be present on the floor to Town Hall or in such area of Town Hall as the Moderator may direct.

4-4-3. Reconsideration of votes.

4-4-3-1. Written notice of intention to reconsider. No vote of the meeting shall be reconsidered unless written notice of intention to reconsider shall have been signed by ten (10) or more registered voters of the Town and given to the Moderator within one hour after the vote to which such notice relates has been passed. When a motion for reconsideration is decided, that decision shall not be reconsidered, and no question shall be reconsidered more than once.

⁴ Amended May, 2018, Article 14

⁵ Added by April 5, 1999 STM

⁶ Added October 2015, Article 19

4-4-3-2. Prohibited reconsideration. No vote on a motion to adjourn, to lay on the table, or to move the question shall be reconsidered.

4-4-4. Votes by secret ballot.

4-4-4-1. Majority of voters may order a secret ballot. A majority of those present and voting may order that the vote on any motion be taken by a secret ballot.

4-4-4-2. Vote regarding the Compensation Plan. A vote shall be taken by secret ballot on proposed changes affecting payment for services covered by the Compensation Plan of the Town.

4-4-4-3. Town clerk to provide ballot forms. The Town Clerk shall provide sufficient forms for all votes to be taken by secret ballot.

4-5. Date of town elections.

4-5-1. Annual election. Beginning at 7:00 a.m. and ending at 7:00 p.m. on the second Tuesday in May of every year, there shall be held that part of the Annual Town Meeting devoted to the election of officers and to such other matters as, by law, must be determined by a ballot.

4-5-2. Special election. For any special town election, the polls shall be open during the hours of 7:00 a.m. to 7:00 p.m. on the date called by the Select Board.

5. TOWN BOARDS

5-1. The Select Board.

5-1-1. Dates of meetings. The Select Board and the Town Manager shall meet in Town Hall on the second and fourth Monday evenings of each month and at such other times as the Board may decide. If the second and fourth Monday of a month be a holiday, the Board and the Town Manager shall meet on the following evening. Unless it be in executive session, every meeting of the Select Board shall be open to the public and to the press.

5-1-2. Public statements at meetings. The agenda of a public meeting of the Select Board, shall provide for statements by members of the public no later than the second item on that agenda.

5-1-3. Official representatives of the Town. The Chairman of the Select Board shall be the official representative of the Town at all official functions. If the Chairman be unable or unwilling to serve as such on a specific occasion, the Select Board shall appoint an official representative in the following order of precedence: another member of the Select Board, the Town Manager, the Town Moderator, or some other person.

5-1-4. Stipend for Selectmen. Each member of the Select Board shall receive an annual stipend of \$2,000, except the Chair who shall receive \$2,500.⁷

5-2. The Finance Committee.

5-2-1. Hearings and recommendations on warrant articles. The Select Board, immediately after drawing up the warrant for a Town Meeting, shall refer to the Finance Committee all articles contained therein. The Finance Committee shall arrange and hold public hearings, so that citizens interested in any article may be heard. The Finance Committee, after due consideration, shall report in writing to the Town Meeting on each article that may affect the town's financial status. In each case, it shall make such recommendation as it feels best serves the interests of the town.

5-2-2. Review of proposed expenditures. The Finance Committee shall annually review town expenditures for previous years and those proposed for the year ensuing. To facilitate such review, all persons having budgetary responsibility shall submit data for review in such form and in such detail as the Finance Committee shall prescribe. The Finance Committee shall provide for each account under review the amount it recommends be appropriated and shall add thereto such explanation and suggestion as it deems desirable and appropriate.

5-2-3. Access to financial records. The Finance Committee shall have access to all records needed for the discharge of its duties. Such records shall include all books in which Town accounts are kept and all bills and vouchers upon which money has been, or may be, paid from the town treasury. Upon request from the Finance Committee, every person responsible for the keeping of town records and accounts shall provide such facts, figures and records as the Committee may require.

5-3. Council on Aging.

5-3-1. Programs. The Council on Aging shall initiate, conduct and coordinate programs designed to meet problems of the aging and to do so in accord with applicable laws and regulations.

⁷ Added by April, 2000 ATM, Article 23/Amended April 2016 ATM 14

5-3-2. Officers. The Council shall elect from among its members, at the conclusion of each Annual Town Meeting, the following officers: chairman, vice-chairman, treasurer and secretary.

5-3-2-1. Term of office. Each officer shall hold office until a successor has been elected.

Each office shall be eligible for re-election to the same, or to any other office.

5-3-2-2. Vacancies. If an office should become vacant, the Council, without delay, shall elect a successor to fill the vacancy.

5-4. Notification of appointment to town positions.

5-4-1. Filing of notices of appointments. All appointive authorities of the town shall file with the Town Clerk a copy of each notice of appointment to a town office or town Board, or any rescinding of appointment thereto.

5-4-2. Oath of office and notice of mandate of position. Persons appointed to a town office or town board shall take the oath of office from the Town Clerk, at which time the Town Clerk shall provide to such persons written notification of the mandate of the town regarding the position, the names of other persons similarly mandated, and the time allowed for the completion of the work mandated.

5-5. Overlapping terms of membership on town boards.

Appointments to town boards which have three or more members who are appointed for terms of three or more years shall be made by the appointive authority in such manner that, as nearly as can be, the terms of one-third of the members of such a board shall lapse each year, but nothing in this section shall prohibit the appointive authority from renewing the term of a member whose term has lapsed.

5-6. Places of meetings.

All town boards shall hold all meetings in Town Hall or other town-owned buildings. This provision shall not prohibit on-site inspection when necessary for the proper conduct of town business.

5-7. Vacancies on appointed town boards.

5-7-1. Vacancies caused by absences from meetings. If a member of an appointed town board be absent, without just cause, for three consecutive, duly-scheduled meetings, the remaining members of the body may declare the post vacant.

5-7-2. Appointive authority to appoint successor. When a vacancy occurs on an appointed town board, the remaining members of the body shall, without delay, ask the appointive authority to appoint a successor.

5-8. Records of doings and accounts.

Records of the official activities and accounts of all town employees, town authorities, and the town bodies shall be kept in the manner and form as shall be prescribed by the General Laws, the Town Charter or these bylaws, or, as may be authorized thereby, the Select Board or the Town Manager.

5-8-1. Records to be open to public inspection. Records shall be open to public inspection under the supervision of the custodian of the records.

5-8-2. Security of records. Records shall be kept secure in Town Hall or other authorized locations and shall not be removed without proper authorization and custodianship.

5-9. Dissolution of committee for failure to make reports.

All committees shall report as directed by the Town Meeting, but if no report is made within one year after its appointment, a committee shall be discharged unless the Town Meeting shall have granted an extension of time.

5-10. Annual reports and recommendations.

Each town employee and each town board shall submit annually to the Select Board a report of activities, together with any recommendation relative to those activities, for inclusion in the Annual Reports of the town; and such reports shall be submitted on or before a date specified by the Select Board.

5-11. Reports requiring town meeting action.

A vote of the Town Meeting accepting a report shall in no way imply endorsement of any recommended action. Any action recommended in a report must be clearly stated in an article (or articles) in the warrant for a Town Meeting.

5-12. Public hearings on proposed rules and regulations.

Unless otherwise specified by the General Laws, the Town Charter bylaw, any new or revised rule or regulation proposed by a town authority shall not be put into effect until the following actions have been taken:

5-12-1. Notification of public hearing. A public hearing shall have been held. At least fourteen (14) days in advance of the hearing, the text of proposed new or revised rule or regulation and the date, time and place of the hearing shall have been published in a newspaper of general circulation in the town and posted on the bulletin board in Town Hall; and

5-12-2. Determination and advertisement of final text. The town authority shall have determined the final text of the new or revised rule or regulation, shall have recorded the fact of such determination, and shall have published the text and effective date thereof in a newspaper of general circulation in the town.

5-13. Identification of sources.

No town board or committee shall accept as testimony, evidence or attestation, nor cause to be read into the public record or minutes of any meeting, any correspondence in which no identification is given of the author of such correspondence or of the author's place of residence. This is not to exclude the right of the author to have the board/committee withhold the name and/or address upon request.

5-14. Community Preservation Committee By-Law⁸

5-14-1. Membership of the Committee. There is hereby established a Community Preservation Committee, consisting of nine (9) voting members pursuant to the provisions of M.G.L. c. 44B, §5. The composition of the committee, the appointing authority and the term of office for the committee members shall be as follows: one member of the Conservation Commission as designated by said Commission; one member of the Historical Commission as designated by said Commission; one member of the Planning Board as designated by said Board; one member of the Recreation Commission, as designated by the Commission; one member of the Provincetown Housing Authority as designated by said Authority; one member of the

⁸ Approved April, 2004 STM Article 1/Amended April, 2007 STM Article 3

Provincetown Community Housing Council (PCHC) as designated by said Council; one member of the Open Space Committee as designated by said Committee; and two individuals to be appointed by the Select Board. Each member of the Committee shall serve for a term of three years or until the person no longer serves in the position or on the board or committee as set forth above, whichever is earlier. Should any of the officers and commissions, boards, or committees who have appointing authority under this bylaw be no longer in existence for whatever reason, the Select Board shall appoint a suitable person to serve in their place. Any member of the Committee may be removed for good cause in accordance with Section 10-2-1 of the Town Charter.

5-14-2. Duties

5-14-2-1. The community preservation committee shall study the needs, possibilities and resources of the town regarding community preservation. The committee shall consult with existing municipal boards, including the conservation commission, the historical commission, the planning board, the department of public works, and the housing authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the committee shall hold one annual public informational hearing, or more at its discretion, on the needs, possibilities and resources of the town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the town.

5-14-2-2. The community preservation committee shall make recommendations to the Town Meeting for the acquisition, creation and preservation of open space, for the acquisition and preservation of historic resources, for the acquisition, creation and preservation of land for recreational use, for the creation, preservation and support of community housing and for rehabilitation or restoration of such open space, historic resources, land for recreational use and community housing that is acquired or created as provided in this section. With respect to community housing, the community preservation committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.

5-14-2-3. The community preservation committee may include in its recommendation to the Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with community preservation.

5-14-2-4. In every fiscal year, the community preservation committee must recommend either that the legislative body spend, or set aside for later spending, not less than 10% of the annual revenues in the Community Preservation Fund for open space (not including land for recreational use), not less than 10% of the annual revenues in the Community Preservation Fund for historic resources; and not less than 60% of the annual revenues in the Community Preservation Fund for community housing.⁹

5-14-3. Requirement for a quorum and cost estimates. The community preservation committee shall comply with the provisions of the open Meeting Law, M.G.L. c. 39, §23B. The committee shall not meet or conduct business without the presence of a majority of the members of the community preservation. The community preservation committee shall approve its actions by majority vote. Recommendations to the Town Meeting shall include the committee's anticipated costs.

⁹ Amended November, 2008 STM Article 1/Amended April, 2014 Article 21

5-14-4. Amendments. This by-law may be amended from time to time by a majority vote of the Town Meeting, consistent with the provisions of M.G.L. c. 44B.

5-14-5. Severability. In case any section, paragraph or part of this by-law is for any reason declared invalid or unconstitutional by any court, every other section, paragraph or part shall continue in full force and effect.

5-14-6. When effective. Provided that the Community Preservation Act, M.G.L. c. 44B, is accepted at the 2004 Annual Town election, this section shall take effect upon approval by the Attorney General of the Commonwealth and after all requirements of M.G.L. c. 40, §32 have been met. Each appointing authority shall have thirty (30) days after the effective date to make its appointments.

5-15. Economic development permits¹⁰

1. The Select Board is hereby authorized to issue economic development permits. The Board shall adopt guidelines, hereinafter referred to as "Permit Guidelines," for such economic development. Applications for an economic development permit shall be filed in the Office of the Select Board. The Board shall consider its guidelines with respect to each permit application. Economic development permits may be used to qualify for such preferences and permits as may be established by the Town or its boards or officers by guidelines, regulations or bylaws having as their purpose fostering year-round economic development. Each property for which an economic development permit is granted shall be deemed a public service use under Section 3 of Chapter 15 of the Acts of 2000. Economic development permits may require the execution of an agreement, a covenant or other recordable instrument that ensures the continued use of the property in question for purposes consistent with the Permit Guidelines and the conditions pursuant to which the economic development permit was issued.

2. The Select Board may acquire in the name of the town by gift or grant, or by purchase with funds that may be appropriated or otherwise available for such purpose, covenants with respect to real property, for such term of years as the Selectmen deem appropriate, the purpose of which is to ensure that said property shall be used for purposes consistent with the Permit Guidelines and the conditions pursuant to which the economic development permit was issued. Such agreements or covenants shall be enforceable by the Select Board, which may amend or release any such agreement or covenant if the Select Board deems such amendment or release to be in the best interest of the Town.

3. The Town's remedies shall include, without limitation, revocation of an Economic Development Permit by order of the Board of Selectmen, which order may be made 30 days after the date notice is given by mail to the property owner if the Selectmen's determination, after a public hearing, that the owner has failed to continuously maintain the approved use, or that the owner has commenced a use on the premises other than, or in addition to, the approved use, unless an additional use is otherwise permitted under the Town zoning bylaws and is merely de minimus in nature, whereupon all rights arising from this Economic Development Permit shall be forfeited, including without limitation, any Growth Management Permit or increased sewage flow allocation that may have been granted with respect to the premises, notwithstanding that the premises may have been assessed a betterment or special assessment relating to the increased sewage flow allocation and the allowed use shall be deemed to be expressly abandoned by the property owner, pursuant to Section 6200-3 of the Growth Management Bylaw of the Town.

¹⁰ Approved November 2005, STM Article 3/Amended April, 2018 ATM Article 28

4. A non-criminal disposition penalty will be assessed on any holder of an Economic Development Permit if found to not continuously maintain the approved use of the premises for which the permit was sought, or if found in violation of the conditions of the permit, in the amount of one hundred dollars (\$100) for the first offense, two hundred dollars (\$200) for the second offense and three hundred dollars (\$300) for the third offense. Each violation shall be deemed to be a separate offense. Repeat violations may be deemed a failure by the holder to continuously maintain the approved use and therefore may be grounds for revocation of the permit.

6. FINANCE, EMPLOYMENT, AND FEES

6-1. Town accounts.

6-1-1. Accounting methods. The Town Manager shall prescribe the methods and forms to be used in recording and reporting the financial transactions of the town. Such methods and forms shall conform to the requirements of the General Laws of the Commonwealth and any rules or regulations made thereunder.

6-1-2. Notice of unpaid bills. Each town authority shall submit to the Town Manager notice of all financial obligations of such authority that may or will be outstanding on June 30 of each year. Such notice shall be submitted by a date to be specified by the Town Manager.

6-1-3. Audit of town accounts. An audit of town accounts shall be made annually. This audit shall be conducted under the supervision of the responsible Commonwealth authority and shall be in accord with applicable statutes and regulations.

6-2. Employment.

6-2-1. Solicitation of candidates. No employee shall be hired by any agency of the Town without there first being solicitation of candidates for the position in a newspaper of general circulation in the Town for at least two consecutive weeks. Except, however, where the Town Manager determines that one or more internal candidates exist who exhibit qualifications, ability, and reliability, and are worthy of consideration and promotion then an internal posting of the vacancy for a minimum of seven (7) working days shall be posted in a conspicuous place listing the pay, duties and qualifications. Interested employees shall apply in writing to the Town Manager within the seven (7) working day period.

6-2-2. Temporary appointment to continue essential function. This bylaw is not applicable to temporary appointments of not more than six-week duration, made for the purpose of continuing an essential function while the solicitation-selection process proceeds under this bylaw.

6-2-3. Temporary appointment to provide coverage. This bylaw is not applicable to temporary appointments of not more than six-week duration, made for the purpose of providing coverage during periods of vacation, sickness and other leaves of absence.

6-2-4. Substitute on-call relief employees. This bylaw is not applicable to substitute on-call relief employees selected from established lists of same, for employment of not more than two-week duration. All substitute on-call relief personnel shall be initially selected in the manner set forth in Section 6-2-1.

6-2-5. Suspension during emergency. This bylaw may be suspended in the event of emergency involving a threat to the public safety or a clear and present danger to life or property as determined by the Commissioner of Public Safety and/or his delegates.

6-3. Compensation for work performed for the town.

No town employee or salaried employee of the town, or any agent thereof, shall receive any compensation for work performed for the town other than the salary or fee allowed or mandated by the General Laws, the Town Charter, or bylaws without written authorization by the Board Selectmen, which authorization shall be recorded, together with the reasons therefore, in the minutes of the meetings of the Select Board.

6-4. Contracts, sales and leases.

6-4-1. Contracts. Unless otherwise provided by a vote of a Town Meeting, the Select Board or chief procurement officer designated pursuant to M.G.L. c. 30B is authorized to enter into any contract for the exercise of the town's corporate powers, on such terms and conditions as are deemed appropriate. Notwithstanding the foregoing, the Select Board or chief procurement officer shall not contract for any purpose, on any terms, or under any conditions inconsistent with any application provision of any general or special law.

6-4-2. Purchases of services and supplies. The procurement of all town supplies and services shall be in accordance with M.G.L. c. 30B.

6-4-3. Acquisition or disposal of real estate. The acquisition or disposal of any interest in real property by the town, including any leasehold interest, shall be in accordance with M.G.L. c. 30B.

6-4-4. Limitation on duration of contracts. No contract shall be entered into by any town authority for a period of more than 10 years, except as provided by law or by a vote of a majority of those present and voting at a Town Meeting.

6-4-5. Conflict of interest. If any officer, agent or employee of the town has any degree of financial interest, direct or indirect, in a firm or corporation that may enter into a contract with the town, that person shall not make, pass upon, or participate in making or passing upon any provision of the contemplated contract.

6-4-6. Disposition of town-owned personal property. The Select Board by a majority vote may authorize the disposition of town-owned personal property after receiving certification in writing from the town department head responsible for said property and the Town Manager that said personal property is no longer required for public purposes.

6-4-7. Anti-discrimination Policy. It is the policy of the Town of Provincetown to uphold the human rights of all persons in Provincetown and the free exercise and enjoyment of any and all rights and privileges secured by the Constitution, Law, Bylaws and Regulations of the United States, the Commonwealth of Massachusetts, and the Town of Provincetown. As such, actions that may deny or tend to deny or intend to deny to an individual equal access or opportunity in matters of housing, employment, education, municipal services, contracts, purchasing or public accommodations on the basis of age, ancestry, color, disability, family status, gender identity or expression, military status, marital status, national origin, race, religion, sex or sexual orientation, are hereby prohibited. No lease or contract for services or public works and public building construction contracts shall be entered into by any Town authority without an anti-discrimination certification signed by the contractor as follows:

The contractor hereby certifies that the Contractor will not discriminate against any employee or applicant for employment on the basis of age, ancestry, color, disability, family status, gender identity or expression, military status, marital status, national origin, race, religion, sex or sexual orientation. The contractor has taken and will continue to take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to age, ancestry, color, disability, family status, gender identity or expression, military status, marital status, national origin, race, religion, sex or sexual orientation. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination.

6-5. Application of dedicated funds or property.

6-5-1. Funds voted by the town for specific uses. No money voted by the town for a specific use shall be applied to any other use without a vote of the town.

6-5-2. Funds given to the town for specific uses. No money given or willed to the town for a specific use, and accepted by a vote of the town or by a duly-authorized town authority, town official or town body, shall be applied to any other use.

6-5-3. Property offered to the town for general or specific uses. No property offered or willed to the town shall be accepted without a vote of the town, and no property offered or willed to the town for a specific use, and so accepted, shall be applied to any other use.

6-6. Setting of fees.

6-6-1. Authorization to set fees. Fees for town services, license, permits, inspections, or use of town property shall be set, from time to time, by the Select Board, (or other authorized town authority) except for such fees as may be mandated, permitted or limited by the General Laws, the Town Charter, these bylaws, or a vote of the town.

6-6-2. Enactment of fees. No fee for town services, licenses, permits, inspection or use of town property, nor any rule or regulation connected therewith, shall be put into effect by any town authority prior to completion of each of the following steps:

6-6-2-1. Public hearing of proposed fees. A public hearing shall have been held on any proposal for imposition, revision, or revocation of a fee, and notice of such a public hearing shall have been made by advertisement in a newspaper of general circulation within the town at least fourteen (14) days prior to the public hearing.

6-6-2-2. Advertisement of fees. Following a public hearing, the town authority shall have made a final determination of the fee to be imposed, revised, or revoked and notice of such determination shall have been made by advertisement in a newspaper of general circulation within the town before becoming effective.

6-6-3. Changes in fees. A duly enacted fee shall not be changed more than once in any calendar year.

6-6-4. Specific fees not to be included in bylaws. The specific dollar amount of a fee shall be included in the rules and regulations of the town, but shall not be included in the text of any bylaw that authorized the imposition of a fee.

6-6-5. Transitional provision. Any fee or fee schedule, enacted under a previous bylaw and in effect on the date that these bylaws become effective, shall continue in full force and effect until amended in accordance with the provisions of these bylaws.

6-7. Fees for use of harbor front facilities.

6-7-1. Fees for docking space.

6-7-1-1. Fees for docking space to be required. Fees shall be required for the use of docking space at MacMillan Wharf and at any other town-owned or town-operated docking facility. Such fees shall be charged to each vessel (including, but not limited to boats, barges and floats) attached directly or indirectly to the Wharf or other facility or to any portion thereof.

6-7-1-2. Establishment of fees. Fees shall be established by the Select Board in accordance with the provisions of this Chapter.

6-7-1-3. Fees for transient vessels. Fees shall be paid by the owner of a transient vessel or the agent thereof for docking. Such fees shall be collected for each 242-hour midnight-to-midnight period or portion thereof. Such fees and collections shall be established by the Select Board.

6-7-1-4. Exemption from fees for loading and unloading. No fee shall be charged to any vessel for docking to load or unload cargo or supplies for one period of up to two hours in any 24-hour midnight-to-midnight period.

6-7-1-5. Emergencies. With the permission of the Town Manager, or the delegate thereof, no fee shall be charged a vessel that docks at a town-owned or town-operated docking facility for emergency reasons.

6-7-1-6. Lease of specific docking spaces. The Select Board may lease specific docking space at town-owned or town-operated docking facilities.

6-7-1-7. Methods of record keeping and payment of fees. The Town Manager shall establish methods and procedures for the keeping of records and the payment of fees associated with docking and docking space at town-owned or town-operated docking facilities.

6-7-2. Fees for temporary mooring permits issued under M.G.L. c. 91, §10A.

6-7-2-1. Fees for temporary mooring permits to be required. Fees shall be required for the issuance of all permits for temporary mooring of rafts or floats in Provincetown Harbor issued pursuant to M.G.L. c. 91, §10A.

6-7-2-2. Establishment of fees. Fees under the preceding section shall be established by the Select Board in accordance with the provisions of section 6-6.

6-8. Special assessments for water pipes.

The Select Board of the Town of Provincetown is authorized to levy special assessments as provided for in the General Laws to meet the whole or part of the cost of laying new pipes, as distinguished from replacements, in private and public ways for the conveyance or distribution of water to the inhabitants of the Town of Provincetown.

6-9. Interest on unpaid water bills.

Interest on town water bills which remain unpaid after their due dates shall accrue at the same rate of interest as may be charged on tax bills under the provisions of .L. c. 59, §57. Effective July 1, 1991, interest shall accrue from the due date or July 1, 1991, whichever is later, until the date of payment.

6-10. Revolving Funds.¹¹

6-10-1. There are hereby established in the Town of Provincetown pursuant to the provisions of G.L. c.44, §53E½, the following Revolving Funds:

| Program or Purpose | Representative or Board Authorized to Spend | Department Receipts |
|--|---|---|
| Small Scale Climate Change Resiliency Revolving Fund to provide materials and equipment (such as rainwater collection barrels, composters, shade trees, bat houses and other pollinator-encouraging equipment) for resale and to provide grants to residents and businesses wishing to | Town Manager and Director of Public Works | Receipts from resale of materials and equipment |

¹¹ Amended April, 2019 ATM Article 22

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| | | |
|--|---|--|
| make small scale changes on their property to prepare for climate change like rain gardens and other storm water drainage solutions. | | |
| Preservation of Town Hall Auditorium for repair, updating, refurbishing, operations and maintenance of the Town Hall auditorium | Town Manager and Select Board | Rental and custodial fees charged for the public use of Town Hall Auditorium |
| Shellfish Grants for shellfish seeding and cultivation on public shellfish areas | Shellfish Warden and Harbormaster | Receipts from Shellfish Grants and Recreational Shellfish Licenses |
| B-Street Garden for the repair, updating and maintenance of the B-Street Garden | Town Manager and Conservation Commission | Receipts from the annual community garden membership fees charged for the public use of the community garden |
| Fuel Reimbursement for the purchase of fuel | Town Manager and Director of Public Works | Receipts from the sale of fuel |
| Council on Aging Transportation for transportation costs | Town Manager and Director of the Council on Aging | Receipts from donations |
| Affordable Housing for costs associated with the administration, management and support of affordable housing in the Town, including, without limitation, cost of marketing and conducting lotteries | Town Manager and Housing Specialist | Fees received by the Town from the sale and resale of affordable housing dwellings, fees paid for monitoring services provided by the Town, fees paid to ensure compliance with affordable housing restrictions and agreements and donations earmarked for affordable housing purposes |
| Facilities and Grounds Rental for janitorial hired staffing and other costs related to rental costs | Town Manager | Receipts from the rental and custodial fees charged for the public use of Town-owned facilities and grounds |
| Council on Aging Meal Programs for meal program costs | Town Manager and the Director of the Council on Aging | Receipts from donations |
| Tree Fund for planting of trees on public lands and in the public way and other costs related to rental costs | Town Manager | Receipts from fines from violations of the Tree Bylaw |

6-10-2. Expenditures from each revolving fund set forth herein shall be subject to the limitation established annually by Town Meeting or any increase therein as may be authorized in accordance with G.L. c.44, §53E½.

6-11. Town's Policy Regarding Climate Change and Natural Resource Protection. It shall be the Town's Policy that all considerations within Town governance shall include an evaluation of the effect that climate change, coastal resiliency and natural resource protection will have on those decisions, policies and projects.¹²

¹² Added May, 2021 ATM Article 18

7. DOMESTIC PARTNERSHIPS

7-1. Chapter 7, Domestic Partnership

7-1 Chapter 7, Domestic Partnership, is hereby deleted, provided, however, that the rights and benefits of domestic partnerships that existed under Chapter 7 of the General Bylaws that was in effect prior to November 8, 2010, shall continue for any individuals who filed a Domestic Partnership Registration as of the effective date of this bylaw.¹³

¹³ Amended November 8, 2010 STM Article 8

8. LICENSING AND REGULATION OF BUSINESSES

8-1. Limitation of licensing authority.

No provision of this bylaw shall be construed so as to grant to the Licensing Board any licensing authority that is not available to the town under the General Laws of the Commonwealth.

8-2. Notification of intent to commence business.

No corporation, foreign or domestic, (and no person, partnership or association not required by law to obtain a license for the conduct of its business) shall within the Town of Provincetown conduct any retail or wholesale business involving the sale or rental of goods, without first having registered annually with the Licensing Agent.

8-3. Public hearing and notification requirements.¹⁴

The granting of all new and all modifications or expansions of seasonal and annual licenses issued pursuant to G.L. c. 138, §12, G.L. c.140, §2 or G.L. c. 140, §183A, and G.L. c 94G, respectively, including common victualer, innholder, retail package store, entertainment and food vendor licenses, shall be subject to the following conditions:

1. That the application be considered at a public hearing advertised for two weeks in a newspaper of general circulation in Provincetown, the first publication to be at least 14 days prior to the hearing date, and that said notice be appropriately posted in Town Hall;
2. That the application shall include a plan showing the specific area of the proposed usage;
3. That the abutters be notified by certified mail of the application or modification within 3 days of the first publication date;
4. That the licensing authority consider whether 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; and
5. That the costs of the application, hearing, and notification process be covered by the application fee.

8-4. Issuance of licenses, permits and approvals.

The Licensing Board and other town boards, committees, commissions and officers and other town authorities who are authorized to issue licenses, permits and approvals shall not issue any license, permit or approval until satisfied that the requirements of Federal law, the laws of the Commonwealth, the Provincetown Charter, these bylaws and duly promulgated rules and regulations have been met; nor shall such authorities issue licenses, permits or approvals until is determined that the proposed activity for which permission is sought will not be detrimental to the welfare or safety of the inhabitants of the town.

8-5. Licenses and permits of delinquent taxpayers.

8-5-1. List of delinquent taxpayers. The tax collector or other municipal official responsible for the records of all Provincetown taxes, assessments, betterments and other municipal charges, hereinafter referred to as the tax collector, shall annually, and may periodically, furnish to each department, board, committee, commission or division, hereinafter

¹⁴ Amended April, 2019 ATM Article 23

referred to as the licensing authority, which issues licenses or permits, including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

8-5-2. Denial of license. The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the tax collector; provided, however, that written notice is given to the party and the tax collector, as required by applicable provisions of the law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The tax collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the licensing authority receives a certificate issued by the tax collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to Provincetown as the date of issuance of said certificate.

8-5-3. Payment agreements. Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

8-5-4. Waiver of denial. The Board Selectmen may waive such denial, suspension or revocation it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in §1 of c. 268 in the business or activity conducted in or on said property. This section shall not apply to the following licenses and permits: open burning; §13 of c. 48; bicycle permits; §11A of c. 85; sales of articles for charitable purposes; §33 of c. 101; children work permits; §69 of c. 149; clubs, associations dispensing food or beverage licenses; §21E of c. 140; dog licenses; §137 of c. 140; fishing, hunting, trapping licenses; §12 of c. 131; marriage licenses; §28 of c. 207 and theatrical events, public exhibition permits; §181 of c. 140.

8-6. Possession of licenses, permits and approvals.

(This by-law was deleted by a vote of the April 5, 1999 ATM, Art. 34.)

8-7. Annual inspection and filings.

Following registration, all premises shall undergo an annual inspection scheduled by the Licensing Agent, conducted by the Department of Municipal Inspections, and are subject to all registration fees and inspection fees, and will have filed a current certificate of good standing or a certificate of corporate legal existence, and will have filed a copy of articles of organization attesting to the corporate status of the registrant.

8-8. Conducting business without proper license(s).

No business licensed by the Licensing Board shall open without having obtained and paid for the appropriate license.

8-9. Hours of retail business operation.

No retail business shall be carried on between the hours of 1:00 a.m. and 4:00 a.m. without written permission from the Licensing Board. A non-criminal disposition penalty will be assessed on any establishment licensed by the Licensing Board or any establishment required to be licensed by the Licensing Board, or any establishment required to be registered, operating between the hours of 1:00 a.m. and 4:00 a.m. in the amount of one hundred dollars (\$100) for the first offense, two hundred dollars (\$200) for the second offense and three hundred dollars (\$300) for the third offense. Each violation of the hours of retail business operation shall be deemed to be a separate offense.¹⁵

8-10. Prohibit brown bagging.

No common victualer or inn holder or any other premises licensed to sell alcoholic beverages under M.G.L. c. 138 shall allow any patron to bring alcoholic beverages onto the premises except in an unopened and sealed bottle which remains unopened and sealed while the patron is on the premises.

8-11. Outside display.¹⁶

8-11-1. In all districts of the 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 approved by the Zoning Enforcement Officer, or specifically excepted as hereinafter provided.

An applicant shall provide a sketch plan of the property showing the street, the property line, and the proposed outside display. The approval shall specify the precise number and generic type (e.g. clothing, children's toys, newspapers and magazines, lawn care machinery, etc.) of items to be displayed and the exact location thereof indicated on a drawing or plan; any change in content (i.e. different or additional items) or placement shall require an approval. Under no circumstances shall outdoor display be allowed on any public sidewalk, within the Town's public way or on any other Town-owned property, unless approved by the Select Board, in writing. A menu board or A-frame sign may be permitted under this section. There shall be no mechanical display or exhibit.

Approvals may be granted only if: (a) the proposed display does not block legal egress or pedestrian paths nor create any adverse effect due to hazard or congestion; (b) 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; (c) the permit holder demonstrates a legal right of access to the proposed outdoor space through either ownership, lease or written permission of the owner.

¹⁵ Amended by April 5, 1999 ATM, Article 35

¹⁶ Amended by April 5, 1999 ATM, Article 36 and May 2021, ATM, Article 19.

Authorization will expire if not exercised for a full year or if the scope of the approval changes in a substantive way, including change of business or change of ownership.

8-11-2. Exceptions. This bylaw shall not apply to the following:

1. 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 Select Board and a license for said activity is granted.
2. the sale of food and/or beverages served at table with seating provided for patrons provided that application is made to the Select Board and a license for said activity is granted.
3. 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 Select Board and a license for said activity is granted.
4. artists working in public while not engaged in commercial activity. Further this shall not be construed as to prohibit an artist from selling work in progress. And be it resolved that the Select Board will develop and institute a licensing policy for sidewalk artists consistent with the licensing of other vendors in Provincetown.

8-12. Occupancy limits.

All places of assembly that are licensed by the Licensing Board under General Laws, Chapter 138, are subject to occupancy load limits for places of assembly that are established by the Building Inspector; all other places of assembly licensed under the General Laws or these bylaws are subject to either the occupancy load limits for places of assembly established by the Building Inspector, or the septic capacity limits established by the Board of Health, whichever are more restrictive. Occupancy limits will be posted in a conspicuous place in each assembly area rated under this bylaw. In addition to any action taken pursuant to said Chapters 138 and 140, a non-criminal disposition penalty will be assessed on any establishment licensed by the Licensing Board for each person found in excess of the posted occupancy limits for any particular place of assembly in the amount of five dollars (\$5) per person for the first offense, ten dollars (\$10) per person for the second offense, and fifteen dollars (\$15) per person for the third and subsequent offenses in any given licensed period. Each violation of the posted occupancy limit shall be deemed to be a separate offense, provided, however that no fines imposed under this section shall exceed three hundred dollars (\$300) per offense.¹⁷

8-13. Regulating closing out sales.

Regulating closing out sales to conform with Massachusetts General Laws, Chapter 93, Section 28A and Chapter 262, Section 34, Clause 69, in that a business shall file a complete inventory list with the Town Clerk, and pay a fee in accordance with the above stated laws, at least three days prior to the sale.

8-13-1. Removal sale. “Removal sale” shall include, but not be limited to, any sale by any person, at any store/shop of foods, wares, or merchandise under the designation of “lost our lease,” “forced out,” “must vacate” or any designation signifying the cessation of the business by such person only at the sale location within the town.

¹⁷ Added April, 1999 ATM, Article 37

8-13-2. Termination sale. “Termination sale” shall include, but not be limited to, any sale by any person at a store/shop of foods, wares or merchandise under the designation of “closing out,” “going out of business,” “discontinuing business,” “selling out,” “retirement sale” or any designation signifying cessation of business by such persons at all locations within the town.

8-14. Purchasing second-hand goods.

Each shop owner or dealer who purchases second-hand merchandise for resale must keep a record of all purchases of such merchandise. Each such purchase must be recorded in a book, which shall be available for police inspection, with a description of the merchandise, the date and time of purchase, and an identification of the seller.

8-15. Hours of entertainment and amusement operation.

Unless otherwise restricted, no holder of an entertainment license issued by the Town of Provincetown pursuant to Massachusetts General Laws, Chapter 140, Sections, 177A, 181, 183A, shall permit activity licensed thereunder to be conducted between the hours of 1:00 a.m. and 8:00 a.m.¹⁸ A non-criminal disposition penalty will be assessed on any holder of an entertainment license found to be operating between the hours of 1:00 a.m. and 8:00 a.m. in the amount of one hundred dollars (\$100) for the first offense, two hundred dollars (\$200) for the second offense and three hundred dollars (\$300) for the third offense. Each violation of the hours of entertainment or amusement operation shall be deemed to be a separate offense.¹⁹

8-16. Hours of alcoholic beverage service.

Unless otherwise restricted, no holder of an alcohol beverage license issued by the town of Provincetown pursuant to Massachusetts General Laws Chapter 138, shall permit activity licensed thereunder to be conducted between the hours of 1:00 a.m. and 8:00 a.m. weekdays and between 1:00 a.m. and 10:00 a.m. Sundays, the last Monday in May and on Christmas Day or on the day following when said day occurs on Sunday. Except the Licensing Board may vote to extend pouring licenses until 2:00 a.m. on New Year’s Eve. A non-criminal disposition penalty will be assessed on any holder of an alcohol license found in violation of this section in the amount of one hundred dollars (\$100) for the first offense, two hundred dollars (\$200) for the second offense and three hundred dollars (\$300) for the third offense. Each violation of the hours of entertainment or amusement operation shall be deemed to be a separate offense.²⁰

¹⁸ Added April, 1998 ATM, Article 35

¹⁹ Amended April, 1999 ATM, Article 38

²⁰ Added November 8, 2010 STM, Article 7

9. LICENSING AND REGULATION OF CERTAIN BUSINESSES

9-1. Food for sale.

No person shall offer food for sale to the public unless licensed as a common victualer or an inn holder under the provisions of Chapter 140 of the General Laws or licensed for retail sales (either as a transient vendor or as defined in Provincetown General By-laws 8-2) along with the appropriate Board of Health food service permit(s).²¹

9-2. Vending machines.

9-2-1. Licensing vending machines. Any person or business entity who offers any beverages for sale by one or more vending machines as described in M.G.L. c. 140, §21A, shall be licensed by the town and have the machine or machines inspected annually before the machines are placed in use and pay a fee of \$25.00 which will cover the costs of licensing and inspection.²²

9-2-2. Regulations. No vending machine shall be allowed for “open air” operation outside of, or on, or against any building unless located a minimum of fifteen (15) feet from any public street, way or sidewalk. Any vending machine operator shall provide adequate refuse disposal receptacles immediately adjacent to the machine. No internally illuminated vending machines shall be allowed in “open air” operations.

9-2-3. Cigarette vending machines. All sale of cigarettes by machine is prohibited.

9-3. Commercial solicitation on public property.

9-3-1. Registration required. No organization or person upon public property or a public way, or upon private property or a private way without permission of the owner or owners thereof, shall solicit or canvas persons upon any public property or public way to enter into a commercial transaction, including the purchase of any merchandise or any type or real estate, time share, interval ownership and/or other property without first registering with the Police Chief or his designee and obtaining identification which shall be prominently displayed upon the person.

9-3-2. Regulation and fees. The Select Board shall develop and institute regulations for the speedy administration of the registration process hereunder and shall formulate a fee schedule.

9-3-3. Refusal to register. The Police Chief or designee shall refuse to register an organization or individual who refuses to provide any of the information reasonably required to register said person organization pursuant to this bylaw or any rules or regulations promulgated hereunder:

who has been convicted of the crime of murder/manslaughter, rape, robbery, assault, battery or kidnapping, within the preceding ten years;
who has been determined by the Police Chief to be a fugitive from justice; or
whose registration has been revoked for violation of this bylaw within the previous two-year period.

9-3-4. Acting on application. The Police Chief or designee shall act upon a registration application within 10 days after the filing of the same.

9-3-5. Appeal. Any person aggrieved by a reason of his inability to register or obtain identification for commercial solicitation from the Police Chief or designee, or by a reason of

²¹ Amended by April, 1999 ATM, Article 39

²² Amended by April, 1999, Article 40

revocation of his registration, may, within 5 days, appeal such decision or failure to timely act in writing to the Select Board. The Select Board shall hear and determine said appeal within 20 days after filing or the written notice of appeal. If the Select Board shall not act upon such appeal within said 20 days, the Police Chief or his designee shall register or reinstate said person or organization and issue said identification.

9-3-6. Daily notification. It shall be the duty of every organization employing solicitors or canvassers to notify the Police Department daily as to the area(s) of the town in which they will be operating.

9-3-7. Prohibited activities. It shall be unlawful for a solicitor or canvasser to do any of the following:

falsely represent, directly or by implication, that the solicitation or canvassing is being done on behalf of a governmental organization.

solicit or canvass before 8:00 a.m. or after 9:00 p.m.

solicit or canvass in any manner which has been found, after investigation by a police officer, to have been conducted in a threatening, abusive, or harassing fashion.

continue to directly solicit or canvass towards any person who expresses his or her unwillingness to continue to be solicited or canvassed.

forcibly detain or impeded any person who has expressed his or her unwillingness to be solicited or canvassed.

9-3-8. Revocation. Any person or organization who is convicted of any crime described in section 3(ii), who violates any provision of this bylaw or the regulations promulgated hereunder, or who knowingly provides false information on the registration application, or any person who is determined by the Police Chief to be a fugitive from justice, shall have his, her or its registration revoked by the Chief of Police by written notice delivered to the holder of the registration in person or sent to the holder by certified mail at the address set forth in the application.

9-3-9. Fines. Any person or organization violating any of the provisions of this bylaw or any of the rules or regulations promulgated hereunder shall be subject to a fine. This bylaw may be enforced by any police officer of the Town of Provincetown.

9-3-10. Exemptions. This section shall not apply to persons holding licenses issued by the Town of Provincetown for peddlers, or to persons holding permits or licenses to expose for sale merchandise upon public property, streets or sidewalks within the Town of Provincetown acting within the scope of their permits or licenses or who are engaged in an activity expressly exempted by special or general laws from such licenses or permits.

9-4. Street Performances.

9-4-1. Purpose. The existence in Provincetown of street performers provides a public amenity that enhances the character of the town, and the town seeks to encourage such performances to the extent that they do not interfere with the reasonable expectations of (1) residents to the enjoyment of peace and quiet in their homes or (2) business owners to public access to their businesses. The bylaw seeks to balance the interests of the performers with those of the residents of the town.

9-4-2. Definitions.

9-4-2-1. Perform. Perform includes, but is not limited to, the following activities: acting singing, playing musical instruments, pantomime, juggling, magic, dancing, reading and reciting, conducted live and in person, but shall not include presentations of audio/visual reproductions of such activities.

9-4-2-2. Performer. Performer means a person who has obtained a permit pursuant to this bylaw.

9-4-2-3. Public areas. Public areas means public sidewalks, parks, playgrounds and all public ways in Provincetown.

9-4-3. Permit required. No person may perform in a public area without a permit issued pursuant to Section 9-4-4-1 of this bylaw.²³

9-4-4 Permits.

9-4-4-1. Issuance. A permit shall be issued by the Police Department to each applicant therefor in exchange for a completed application.

9-4-4-2. Form of application. A completed application for a permit, and the permit itself, shall contain the applicant's name, residence address and telephone number, and shall be signed by the applicant. The applicant's signature shall constitute a certification that she or he has received, read, and understood the text of this bylaw. If a performer has knowingly provided false information in the application for a permit or has not signed the application, any permit issued pursuant to such application shall be invalid.

9-4-4-3. Term of permit. A permit shall be valid from the date on which it is used through the end of that year.

9-4-4-4. Form of permit. A permit shall be non-transferrable, and shall contain the permit number of the applicant and the year in which the permit is valid.

9-4-4-5. Individual permits required. Each member of a group of performers who play together shall be required to obtain an individual permit.

9-4-4-6. Distribution of street performance bylaw. Upon issuing a permit, the Police Department shall also give the performers a copy of the street performance bylaw.

9-4-5. Display of permit. A performer shall clearly display his or her permit while performing, or have the permit on his or her person, and shall allow inspection of the permit by any Provincetown Police Officer upon request.

9-4-6. Permitted performances.

9-4-6-1. Location. Performances may take place in public areas except:

within one hundred (100) feet of an elementary and/or secondary school, library or religious facility while in session;

within one hundred (100) feet of a hospital at any time;

within one hundred (100) feet of Town Hall during business hours or any town-related meeting if any person transacting such business requests that a performance discontinue for the reason that such performance is hindering said business; and

public areas from which all performances have been excluded by vote of the Select Board after public hearing and notice thereon. Such notice shall be advertised at least once in a local newspaper no less than fourteen (14) days prior to the hearing.

9-4-6-2. Street fairs and public festivals. Performances may take place in public areas where an authorized street fair or public festival is being conducted, with the permission of the sponsor of such fair or festival.

9-4-6-3. Times. Performances may take place at the following times: seven days per week, between 11:00 a.m. and 11:00 p.m.

9-4-7. Undue interference. A performer may not create an undue interference with the passage of the public through a public area. If a performer attracts a crowd sufficient to obstruct the public way, such performer shall request that the crowd eliminate the obstruction. If such

²³ Amended by April, 1999 ATM, Article 41

efforts to eliminate the obstruction fail, a police officer shall ask the performer to stop the performance until that part of the crowd that is creating the obstruction dispenses. A police officer may dispense the portion of the crowd that is creating the obstruction.

9-4-8. Non-criminal disposition of violations. Whoever violates any provision of this bylaw may be penalized by a non-criminal disposition as provided in M.G.L. c. 40 §21D. For the purposes of this bylaw, the following officials shall be enforcing persons: Provincetown Police Officers. The penalty for each violation shall be fifty dollars (\$50), with each day the violation exists constituting a separate offense. A performer who has not applied for a permit shall be given one written warning by a police officer informing the performer of the bylaw and the requirement of a permit before any subsequent violations are issued.

9-4-9. Removed by November 13, 2006 STM Article 13 vote.

9-4-10. Removed by November 13, 2006 STM Article 13 vote.

9-4-11. Severability. The provisions of the sections of this bylaw are severable, and if any part of this bylaw should be held invalid by a court of competent jurisdiction, such invalidity shall not affect the remainder of this bylaw and the remainder of this bylaw shall stay in full force and effect.

9-5. Habitations for rent. This section, Habitations for Rent, eliminated in its entirety by April, 2009 ATM 22.

9-6. Use of town owned docking facilities.

Pursuant to the 20-year lease for the management of Macmillan Pier, the Provincetown Public Pier Corporation may permit or license persons, partnerships, corporations, or other entities for operation from float spaces at MacMillan Pier and/or from any other town-owned or town-operated berthing or docking facilities. The terms of all such licenses shall be as determined by the Provincetown Public Pier Corporation. Applications for new licenses, licenses which are not renewed, and licenses which are revoked shall be solicited by public bidding in accordance with Section 6-4 or utilized by the Provincetown Public Pier Corporation for economic development consistent with Section 6-4 or utilized by the Provincetown Public Pier Corporation for economic development consistent with Chapter 13 of the Acts of 2000 and Chapter 91 License 8621. The Provincetown Public Pier Corporation shall continue to license those entities which were licensed during the summer of 1986 provided that said entities have been properly licensed in each succeeding year since 1986, that complete applications are received by April 1 of the permit year and that said licensees shall have been and shall remain in good standing with all fees paid and in conformance with all applicable laws, bylaws, rules and regulations.²⁴

9-7. Prohibited businesses.

9-7-1. Rental of motorized, two-wheeled vehicles. No person shall rent or hire any motorized, two-wheeled vehicle.

9-7-2. Pay toilets. No pay toilet shall be permitted within the town.

10. SIGN REGULATIONS

Chapter 10 sign regulations deleted in its entirety by April 2, 2012 ATM Article 23.²⁵

²⁴ Amended by April, 2006 ATM Article 26

²⁵ Amended April, 2012 ATM Article 23

11. BUILDING REGULATIONS

11-1. Building permits and inspections.

11-1-1. Building permits. No person, without permit from the Building Inspector, shall erect, alter or add to any building.

11-1-2. Building inspections. The Building Inspector shall conduct periodic or special inspections of buildings and premises, as authorized or required by the General Laws, and State Building Code, the Town Charter, these bylaws, duly enacted rules and regulations or by direction of the Select Board or the Town Manager.

11-1-3. Advertisement of permits and applications. The office of the Building Inspector shall publish in a newspaper of general circulation, all applications for building permits, all approved permits and all substantial changes to existing permits defined as changes which would affect any or all of the following: lot coverage, number of dwelling units, occupancy or cost of construction by more than \$5,000. Advertising shall be placed within 14 days of the application date, date of approval or date of change. The cost of all such advertising shall be paid for by the applicant.

11-1-4. Advertisement of license. The Board of Health shall advertise for 14 days and notify abutters prior to issuing new licenses or making changes in any license renewal. Applicant shall pay for advertisement and notification.

11-1-5. Demolition delay permit.

11-1-5-1. Purpose.

The purpose of this ordinance is to protect from demolition historically significant buildings which reflect the historical, cultural or architectural heritage of the Town of Provincetown, and to encourage the owners of such buildings to explore and develop acceptable alternatives to demolition such as preservation, restoration, or relocation.

11-1-5-2. Definitions.²⁶

As used in this bylaw, the following words and terms, unless the context requires otherwise, shall have the following meanings:

2.1 “Building” any combination of materials forming a shelter for persons, animals or property.

2.2 “Commission” The Provincetown Historical Commission until such time as the Town of Provincetown adopts a local Historic District Commission pursuant to M.G.L. c. 40C, at which time the local historic district commission shall be the “Commission” as used in this bylaw.

2.3 “Building Official” Inspector of Buildings, Building Commissioner, or his designee.

2.4 “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.

2.5 “Person” Any actual person, firm, partnership, association or corporation.

²⁶ Amended 2002 ATM Article 46

2.6 “Significant Building” any building, or portion thereof which is not subject to regulation under the provisions of M.G.L. c. 40C, or regulations under the Cape Cod Commission Act as a Development of Regional Impact, and is over 50 years of age and: is associated with one or more historic persons or events contributing to the cultural, political, economic, or social history of the Town of Provincetown; or is historically or architecturally important (in terms of period, style, method of building construction, or association with a famous architect or builder) either by itself or in the context of a group of buildings.

11-1-5-3. Procedure.²⁷

3.1 No permit for the demolition of a building shall be issued other than in conformity with the provisions of this bylaw as well as in conformity with provisions of other laws applicable to the demolition of buildings.

3.2 When an application is made for a demolition permit from the Town, the Department of Regulatory Management shall deliver a copy of said application to the Commission.

3.3 The Commission, within thirty (30) days of the receipt of the application, shall hold a public hearing to determine the significance of the building and whether the demolition of the building would be detrimental to the historical, cultural or architectural heritage of the Town. The Commission shall notify the applicant, the building official and the Town Clerk within ten (10) days from the close of the public hearing of their determination.

3.4 If the Commission determines that the demolition of the building would not be detrimental to the historical, cultural or architectural heritage of the Town, the building official may, subject to requirements of the state building code and any other applicable laws, bylaws, rules and regulations, issue the demolition permit.

3.5 If the Commission determines that the demolition of the significant building would be detrimental to the historical, cultural or architectural heritage of the Town, no demolition permit may be issued until at least six (6) months after the date of such determination by the Commission.

3.6 The Building Official may issue a demolition permit for the significant building which is the subject of said hearing prior to the expiration of the six (6) month delay period after receipt of written determination by the Commission that the Commission is satisfied that the owner has made a good faith effort to find an alternative use for the building that will result in its preservation. Alternatives to demolition include, but are not limited to, incorporation of the building into the future development of the site; adaptive re-use of the building; utilization of financial incentives to rehabilitate the building; seeking a new owner willing to purchase and preserve, restore, or rehabilitate the building; or moving or relocating the building.

3.7 The provisions of this bylaw must be satisfied, including expiration of a delay period if imposed, before a building permit or other regulatory applications can be submitted to the Department of Regulatory Management for new construction on the premises. As used herein, “premises” includes the parcel upon which the building to be demolished is located.

11-1-5-4. Emergency demolition.

²⁷ Amended April 2016 ATM 25

In the event that the Building Official determines or is asked to consider the condition of a building which was wholly or in part constructed 50 or more years ago, the Chair of the Historical Commission or designee shall be notified to accompany the Building Official during the inspection. If the Chair of the Historical Commission or designee makes an initial determination that the said building is or may be a significant building within the meaning of this bylaw, the Building official shall pursue all reasonable courses of action to prevent emergency demolition of such building including, but not limited to, requiring the owner to secure it against further damage or danger to the public. Nothing in this bylaw shall restrict the Building Official from immediately ordering the demolition of unsafe structures in accordance with the provisions of M.G.L. c. 143.

11-1-5-5. Non-compliance.

5.1 Whoever violates any provision of this bylaw shall be penalized by a fine of not more than three hundred (\$300) dollars, each day of violation shall constitute a separate offense.

5.2 The Commission and the Building Official are each authorized to institute any and all proceedings in law or equity as they deem necessary to obtain compliance with the requirements of this bylaw to prevent a violation thereof.

5.3 No building permit shall be issued with respect to any premises upon which a significant building has been voluntarily demolished in violation of this bylaw, or any building has been voluntarily demolished prior to application for a demolition permit and review by the Commission pursuant to this bylaw, for a period of two years after the date of the completion of such demolition. As used herein, "premises" includes the parcel upon which the demolished significant building was located.

11-1-5-6. Appeals.

Any person aggrieved by a determination of the Commission may, within twenty (20) days after filing of the notice of determination by the Commission with the Building Inspector and Town Clerk, appeal to the Superior Court of Barnstable County. The court shall hear all pertinent evidence and shall annul the determination of the Commission if it finds the decision of the Commission to be unsupported by the evidence or to exceed the authority of the Commission or may remand the case for further action by the Commission or make such other decree, as justice and equity shall require.

11-1-5-7. Severability.

If any section, paragraph or part of this bylaw be for any reasons declared invalid or unconstitutional by any court, every other section paragraph and part shall continue in full force and effect.

11-2. Electrical installation permits and inspections.

11-2-1. Permits for electrical installations. No person, without written permit from the Inspector of Wires, shall install wires, conduits, apparatus, fixtures, or other appliances for using electricity for heat, light or power.

11-2-2. Inspection for electrical installations. After any electrical installation, the Inspector of Wires shall inspect the work and shall not approve it until all applicable standards have been met.

11-3. Private swimming pools, spas, and hot tubs.

11-3-1. Enclosure. Every private, outdoor, in ground swimming pool that contains water over twenty-four (24) inches in depth shall be enclosed by a fence or barrier a minimum of four (4) feet in height and firmly secured at finished ground level.

11-3-2. Openings in fence. Openings in the fence or barrier shall not allow passage of a four (4) inch diameter sphere.

11-3-3. Spacing between vertical members. When the inside horizontal members of a fence or barrier are less than forty-five (45) inches apart, the spacing between the vertical members shall not exceed one and three-quarters ($1\frac{3}{4}$) inches wide.

11-3-4. Chain link fences. The maximum mesh size for a chain link fence shall not exceed one and one quarter inches square.

11-3-5. Access gates. Access gates shall open outward away from the pool and shall be self-closing and self-latching.

11-3-6. Latches. Latches shall be made inaccessible from the outside to children up to eight (8) years of age and be located on the pool side at least three (3) inches below the top of the gate.

11-3-7. Safety covers. All outdoor portable spas and hot tubs shall be provided with a safety cover which complies with ASTM ES 13-89.

11-3-8. Fines. Any person who violates this bylaw will be subject to a fine of fifty dollars (\$50) for each offense, with each day the violation exists constituting a separate offense.

11-3-9. Non-criminal disposition. This bylaw may also be enforced pursuant to non-criminal disposition procedures.

11-4. Handicapped parking spaces on private property.

11-4-1. Number of handicapped parking space. Any person or body that has lawful control of a public or private way, or of improved or enclosed property used as off-street parking areas for businesses, shopping malls, theatres, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings, or for any other place where the public has a right of access as invitees or licensees, shall be required to reserve parking spaces in said off-street parking areas for any vehicle owned and operated by disabled veterans or handicapped persons and bearing the distinctive number plates or, for vehicles transporting a handicapped person, displaying the special parking identification plate authorized by M.G.L. c. 90 §2, or for any vehicle bearing the official identification of a handicapped person issued by any other state or any Canadian Province, according to the following formula:

| | |
|------------------------|-----------------------------------|
| 16 to 25 spaces | 1 designated space |
| 26 to 40 spaces | 5% but not less than 2 spaces |
| 41 to 100 spaces | 4% but not less than 3 spaces |
| 101 to 200 spaces | 3% but not less than 4 spaces |
| 201 to 500 spaces | 2% but not less than 6 spaces |
| 501 to 1,000 spaces | 1.5% but not less than 10 spaces |
| 1,001 to 2,000 spaces | 1% but not less than 15 spaces |
| 2,001 to 5,000 spaces | 0.75% but not less than 20 spaces |
| More than 5,000 spaces | 0.5% but not less than 30 spaces |

11-4-2. Sign requirements for and location of handicapped parking spaces. Each parking space designated as reserved under the provisions of Section 11-4-1 of this bylaw or each pair of such spaces shall be identified by a permanently installed above-grade sign located at a height of not less than five (5) feet and not more than eight (8) feet to the top of the sign with white lettering against a blue background and shall bear the words "Handicapped Parking: Special

Plate Required. Unauthorized Vehicles May Be Removed at Owner's Expense," and must also contain the international symbol of accessibility which is a person in a wheelchair. Such parking spaces shall be as near as possible to a building entrance or walkway and adjacent to curb ramps or other unobstructed methods which permit sidewalk access to a handicapped person, shall be twelve (12) feet wide and have two eight (8) foot wide areas with four (4) feet of cross hatch between them and contain an international symbol of accessibility on their surface. However, on unpaved lots, parking spaces shall be designated only by the sign as defined in this Section. Where the designated parking space cannot be located within two hundred (200) feet of an entrance accessible to the physically handicapped, a drop-off area accessible to the physically handicapped shall be provided within one hundred (100) feet of such entrance.

11-4-3. Applicability. This bylaw shall apply to any existing or future parking area to which the public has a right to access as invitees or licensees and which contains more than fifteen (15) parking spaces.

11-4-4. Enforcement. The Building Inspector shall enforce the provisions of section 11-4.

11-5. Street numbers on buildings.

The owner or person in control of any building, regardless of use, shall post the street number assigned by the Town Assessor so as to identify the building clearly. Said posting shall consist of numbers and letters where applicable, (not script) that are not less than 3 inches high and of a contrasting nature to the background. (Example: black numbers on white background)

The street number shall be affixed to the building in a location that is most visible from the public or private way, or on a separate post or mailbox in front of the property. If the building is not visible from a public or private way and is accessible via alleyway or lane, the street number shall be affixed to the building and on a post at the entrance to the access way if allowed by the property owner. At a multi-unit property, each unit shall be posted in addition to the assigned street number. Unit posting shall consist of numbers and letters that are not less than three inches high and of a contrasting nature to the background. The unit number shall be affixed to the building nearest to the unit entrance door.

Violation of this bylaw shall be administered as follows: warning notice; no fine; fail to correct within 30-days' notice, \$25.00; fail to correct within 60-days' notice, \$50.00; subsequent offense after 60-day notice, \$50.00 for each day of violation.

11-6. Public ways.

11-6-1. Excavation of public ways. No person shall break or dig up the ground or surface of a town or public way or sidewalk without express permission from the Commissioner of Public Safety or his delegate, who shall require a performance bond sufficient to guarantee restoration of the street following excavation by a private contractor. Upon neglect or violation of any duty imposed under this bylaw, such work may be performed by the Town at the expense of the person charged with the duty, and that expense may be received by the Town in a legal action of contract pursuant to M.G.L. c. 40, §31.

11-6-2. Curb cuts. No person shall break or dig up the ground or surface of a town or public way or sidewalk, or create a new access way to any property which would alter existing parking and traffic patterns, without the express permission of the Select Board after a duly advertised hearing.

11-6-3. Construction or repairs involving public ways.

11-6-3-1. Blocking off of public ways. No person shall block, wholly or in part, any town or public way for construction, maintenance, or repair without first requesting and having had assigned sufficient police personnel to direct vehicular and pedestrian traffic. The Commissioner of Public Safety or his delegate shall determine the number of personnel to be assigned. The person requesting the service shall reimburse the town for the cost thereof.

11-6-3-2. Construction equipment and material on public ways. No person shall erect any staging for building, deposit construction equipment or building materials, or cause anything related to construction to be erected or built on or over a public way or sidewalk without express permission from the Commissioner of Public Safety or his delegate.

11-6-4. Obstructions within the Public Ways. In order to preserve and promote the safety of the public, no property owner shall permit an encroachment or obstruction within the public way. Whenever the Director of Public Works, the Fire Chief or the Chief of Police determine that the public way is obstructed by a hedge, tree, brush, or similar natural growth, fence, sign, structure, landscape element or object so as to constitute a public safety hazard to vehicular or pedestrian traffic, or access of emergency or public works vehicles, they shall present a report to the Select Board. The Select Board shall give such notice to interested parties, including affected property owners, as they deem appropriate, and following a public hearing in which a finding of a public safety hazard is made by a majority of the board, may thereafter vote to require that the obstruction be trimmed, altered, removed or moved so that the public way shall be unobstructed and clear from any public safety hazard.²⁸

11-6-5. Trees & Shrubs: Height restrictions for traffic safety. In order to preserve and promote the safety of the public, hedge or shrub or other growth on the corner lot or curb obstructing the view of motorists and situated within 15 feet of a public street, or curb- or side line thereof, shall not be permitted by the owner or occupant of the premises to exceed the height of three feet above road grade; any and all trees within said fifteen-foot area (shade trees are to be subject to the provisions of M.G.L. c. 87, §3) shall have limbs trimmed to the height of six feet above road grade, including that any growth overhanging public walkways shall also be trimmed to the property line at the owner's expense. The Department of Public Works (DPW) shall notify the owner of the property of a violation of this chapter by certified mail. If the violation shall not have been cured within 15 days of the date of mailing of the notice, the DPW shall have the right to correct such violation.²⁹

11-6-6. Trees & Shrubs: Obstructions in the Public Ways. In order to preserve and promote the safety of the public, no property owner shall permit any hedge, tree, brush or natural growth to encroach within the public way in a manner that becomes a physical or visual obstruction to any vehicle or pedestrian. Each year by April 1st and November 1st, the Department of Public Works will issue a public notice requiring all property owners to trim or remove such obstructions within two weeks or the Department will remove all obstructions without further notice³⁰

11-7. Private ways.

11-7-1. Standards for acceptance of private roads as public ways. No private road may be laid out or accepted as a public way unless the Director of Public Works has first certified that the condition of said private road meets the standards set forth in the Subdivision Rules and Regulations adopted by the Planning Board pursuant to M.G.L. c. 41, §81K-81GG, inclusive.

²⁸ Added October, 2011 STM Article 8

²⁹ Added April, 2005 ATM Article 19/Moved and renumbered October, 2011 STM Article 8 (was 13-2-22)

³⁰ Added May, 2021 ATM Article 17

11-7-2. Temporary repairs to private ways.

11-7-2-1. Statutory conformance. This bylaw is adopted in conformance with the provisions of M.G.L. c. 40, §6N, to provide for the making of temporary repairs on private ways.

11-7-2-2. Conditions governing repairs. The following conditions shall govern any repairs made pursuant to this bylaw:

Any repairs shall be minor and temporary, as determined by the Director of Public Works, including grading and scraping and the filling of holes and impressions with sand, gravel or other suitable materials and shall not include the construction, reconstruction or resurfacing of such roads.

Drainage shall be included to the extent required by public convenience and necessity as determined by the Director of Public Works.

The Director of Public Works shall make a determination that such repairs are required by public necessity before such repairs may be undertaken.

Such repairs shall only be made if the Select Board receives a petition from abutter(s) who own at least fifty percent (50%) of the linear footage of such way.

Betterment charges may be assessed by the Select Board on the abutter(s) of such way up to an amount equal to the cost of such repairs.

The town shall have no liability as a result of any such repairs, except as may be provided by law, and shall be held harmless on account of any damages whatever caused by such repairs by agreement executed by the abutter(s) who petitioned therefor.

The private way shall have been opened to the public use for two years or more prior to the undertaking of such repairs.

The Town Manager may require a cash deposit equal in amount to the estimated cost of such repairs, as determined by the Director of Public Works, to be paid to the town prior to the commencement of such repairs. The Town Manager may use any collection process deemed necessary in collecting from the abutters.

11-7-2-3. Determination of qualification. The Director of Public Works shall have full discretion in determining which repairs so qualify under this bylaw.

11-8. Automatic-dialing mechanical protection devices and fire protective signaling systems and automatic fire detection systems.

11-8-1. Permission required. No person shall install, maintain or use a protection device that automatically activates the telephone lines of the Police or Fire Departments, without written permission from the Commissioner of Public Safety or his delegate and any of the permission required, including but not limited to, a building permit under 780 CMR 110.1 and 780 CMR 917 and 918 and any other permits or approvals that may be required.

11-8-2. Disapproved.

11-8-3. Shut off device. All alarm systems installed with an outside audible alarm shall be equipped with a device that will shut off the signal within fifteen minutes after the activation of the alarm.

11-8-4. Identification system. Alarms directly connected to the Police Department shall be connected in such a manner that the signal transmitted specifically identifies either fire, burglar or line.

11-8-5. False alarms. The activation of an alarm by error or malfunction shall constitute a violation of this bylaw.

11-8-6. Fines. The owner or person in charge of a building or structure who fails to comply with this bylaw shall be provided with written notice of non-compliance from the Police

Department or Fire Department. Any owner or person in charge of a building or structure who fails to comply with this bylaw within 10 business days of written notice of non-compliance shall be punished by a fine prescribed in the following manner under M.G.L. c. 40, §21D. Within in each calendar year, a non-criminal disposition penalty of a warning for the first offense, a fine of \$150 dollars for the second offense and a fine of \$300 for the third offense and each offense thereafter shall be imposed for false alarm violations under §11-8-5.³¹

11-9. Stretch Energy Code.³²

11-9-1 Adoption. The Town of Provincetown has adopted the provisions of 780 CMR 115.AA of the State Building Code or the “Stretch Energy Code,” as may be amended or modified from time to time.

11-9-2. Purpose. The purpose of the Stretch Energy Code shall be to provide the Town with a more energy efficient alternative to the base energy code otherwise set forth under the State Building Code.

³¹ Amended April 2015 ATM Article 27

³² Added October, 2011 STM Article 9

12. WETLANDS PROTECTION BYLAW

12-1. Introduction.³³

The purpose of this bylaw is to protect the foreshores, wetlands, water resources, and adjoining land areas in the Town of Provincetown by controlling activities deemed by the Conservation Commission likely to have a significant or cumulative effect upon resource area values, including but not limited to the following: public or private water supply, groundwater quantity and quality, flood control, erosion and sedimentation control, storm damage prevention including coastal storm flowage, water quality, water pollution control, fisheries, shellfish, wildlife habitat, rare species habitat including rare plant species, agriculture, aquaculture, and recreation values, deemed important to the Town (collectively, the “resource area values protected by this bylaw”). This bylaw is intended to utilize the Home Rule authority of the Town to protect additional resource areas, for additional values, with additional standards and procedures stricter than those of the Massachusetts Wetlands Protection Act (G.L. Ch. 131, §40) and Regulations thereunder (310 CMR 10.00).

12-2. Jurisdiction.³⁴

Except as permitted by the Conservation Commission or as provided in this bylaw, no person shall commence to remove, fill, dredge, build upon, degrade, or discharge into, or otherwise alter the following resource areas: any freshwater or coastal wetlands; vegetated and unvegetated wetlands (both Bordering and Isolated); marshes; flats; wet meadows; bogs; swamps; vernal pools; banks; reservoirs; lakes; ponds of any size; rivers; streams; creeks; beaches; dunes; estuaries; the ocean; lands under water bodies; any and all areas protected by the Massachusetts Endangered Species Act (MESA) and as defined by the Natural Heritage and endangered Species Act Program (NHESP); and the one-hundred (100) foot Buffer Zone to any of the aforementioned resource areas; lands subject to flooding or inundation by groundwater or surface water; and lands subject to tidal action, coastal storm flowage, or flooding (collectively the “resource areas protected by this bylaw”). Said resource areas shall be protected whether or not they border surface waters.

In the event that the Commission determines that an activity occurring beyond the limit of jurisdiction noted above is likely to have, is having or has had a significant effect on the wetlands values of a resource area, the Commission may require the filing of a Notice of Intent or a Request for Determination of Applicability for that activity.

In determining whether a resource area is subject to the provisions of this bylaw, the origin of the wetland, whether natural or manmade, is not a relevant factor.

12-3. Conditional exceptions.

12-3-1. Public utility facilities. The application and permit required by this bylaw shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, telephone, telegraph, or other telecommunication services, provided that written notice has been given to the Commission prior to commencement of work, and provided that the work conforms to performance standards and design specifications in regulations adopted by the Commission.

³³ Amended April, 2019 ATM 21

³⁴ Amended April, 2019 ATM Article 21

12-3-2. Agricultural uses. The application and permit required by this bylaw shall not be required for work performed for normal maintenance or improvement of land which is lawfully in agricultural use at the time the work takes place.

12-3-3. Emergency project. The application and permit required by this bylaw shall not be required for emergency projects necessary for the protection of the health and safety of the public, provided that the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth or a political subdivision thereof; provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement; provided that the Commission or its agent certifies the work as an emergency project; provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and provided that within 21 days of commencement of an emergency project, a permit application shall be filed with the Commission for review as provided by this bylaw. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

12-3-4. Exceptions contained in the act. Other than stated in this section, the exceptions provided in the Wetlands Protection Act (M.G.L. c. 131 §40) and Regulations (31 CMR 10.00) shall not apply under this bylaw.

12-4. Applications for permits and requests for determination.

12-4-1. Application. Written application shall be filed with the Commission to perform activities affecting resource areas protected by this bylaw. The permit application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the resource areas protected by this bylaw. No activities shall commence without receiving and complying with a permit issued pursuant to this bylaw. The Commission in an appropriate case may accept as the permit application and plans under this bylaw the Notice of Intent and plans filed under the Wetlands Protection Act (M.G.L. c. 131 §40) and Regulations (310 CMR 10.00).

12-4-2. Request for determination. Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may in writing request a determination from the Commission. Such a Request for Determination (RFD) shall include information and plans as are deemed necessary by the Commission.

12-4-3. Filing fee. At the time of a permit application or RFD, or application for Certificate of Compliance, the applicant shall pay a filing fee specified in Regulations of the Commission. The fee is in addition to that required by the Wetlands Protection Act (M.G.L. c. 131 §40) and Regulations (310 CMR 1.00). The fee shall be deposited in a dedicated account, for use only for wetland protection activities, from which the Commission may withdraw funds without further appropriation.

12-4-4. Consultant fee. Upon receipt of a permit application or RFD, or at any point during the hearing process, the Commission is authorized to require an applicant to pay a fee for the reasonable costs and expenses borne by the Commission for specific expert engineering and other consultant services deemed necessary by the Commission to come to a final decision on the application. This fee is called the "consultant fee." The specific consultant services may include, but are not limited to, performing or verifying the accuracy of resource area survey and delineation; analyzing resource area functions and values, including wildlife habitat evaluations, hydro geologic and drainage analysis; and researching environmental or land use law. The exercise of discretion by the Commission in making its determination to require the payment of a

consultant fee shall be based upon its reasonable finding that additional information acquirable only through outside consultants would be necessary for the making of an objective decision. Any applicant aggrieved by the imposition of, or size of, the consultant fee, or any act related thereto, may appeal according to the provisions of the Massachusetts General Laws.

12-4-5. Method of payment. The Commission may require the payment of the consultant fee at any point in its deliberations prior to a final decision. If a consultant fee account is authorized by a special act, the applicant's fee shall be put into such account, and the Commission may draw upon that account for specific consultant services approved by the Commission at one of its public meetings. Any unused portion of the consultant fee shall be returned to the applicant unless the Commission decides at a public meeting that additional services will be required.

12-4-6. Waiver of fee. The Commission may waive the filing fee, consultant fee, and costs and expenses for a permit application or RFD filed by a government agency.

12-4-7. Fee schedule. The maximum consultant fee charged to reimburse the Commission for reasonable costs and expenses shall be according to the following schedule:

| Project costs | Maximum fee |
|---------------------------|-------------|
| Up to \$ 100,000 | \$ 500 |
| \$ 100,001 - \$ 500,000 | \$ 2,500 |
| \$ 500,001 - \$1,000,000 | \$ 5,000 |
| \$1,000,001 - \$1,500,000 | \$ 7,500 |
| \$1,500,001 - \$2,000,000 | \$10,000 |

Each additional \$500,000 project cost increment (over \$2,000,000) shall be charged an additional \$2,500 maximum fee per increment. The project cost means the estimated, entire cost of the project including, but not limited to, building construction, site preparation, landscaping, and all site improvements. The consultant fee shall be paid pro rata for that portion of the project cost applicable to those activities within resource areas protected by this bylaw. The project shall not be segmented to avoid being subject to the consultant fee. The applicant shall submit estimated project costs at the Commission's request, but the lack of such estimated project costs shall not avoid the payment of the consultant fee.

12-5. Notice and hearings.³⁵

12-5-1. Notice. Any person filing a permit application or a RFD with the Commission at the same time shall give written notice thereof, be hand delivery or certified mail, return receipt requested, or by certificates of mailing to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 100 feet of the property line of the applicant, including any in another municipality or across a body of water.³⁶ The notice to abutters shall have enclosed a copy of the permit application or request, with plans, or shall state where copies may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. When a person requesting a determination is other than the owner, the request, the notice of the hearing, and the determination itself shall be sent by the Commission to the owner as well as to the person making the request.

³⁵ Amended April, 2011 ATM Article 29

³⁶ Amended April 7, 2008 ATM Article 24

12-5-1-1. Permit Application.³⁷ Any person filing a permit application with the Commission pursuant to Section 12-4-1 at the same time shall give written notice thereof, by hand delivery or certified mail, return receipt requested, or by certificates of mailing to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 100 feet of the property line of the applicant, including any in another municipality or across a body of water. The notice to abutters shall have enclosed a copy of the permit application or request, with plans, or shall state where copies may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission.

12-5-1-2. Request for Determination. Upon receipt of an RFD submitted pursuant to Section 12-4-2, written notice thereof shall be given by the Town of Provincetown by hand delivery or mail to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 100 feet of the property line of the applicant, including any in another municipality or across a body of water. The written notice shall state the date, time, and location of the public hearing and where copies of the RFD may be examined or obtained.³⁸ When a person requesting a determination is other than the owner, the request, the notice of the hearing, and the determination itself shall be sent by the Commission to the owner as well as to the person making the request.

12-5-2. Public Hearing.³⁹ The Commission shall conduct a public hearing on any permit application or RFD, with written notice given at the expense of the applicant, not less than five days prior to the hearing, in a newspaper of general circulation in the municipality. The Commission shall commence the public hearing 21 days from its posted deadline for filing applications, upon receipt of a completed permit application or RFD unless an extension is authorized in writing by the applicant. The Commission shall issue its permit or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant. The Commission in an appropriate case may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act (G.L. Ch.131 §40) and Regulations (310 CMR 10.00).

12-5-3. Continuation of hearing. The Commission shall have authority to continue the hearing to a certain date announced at the hearing, for reasons stated at the hearing, which may include receipt of additional information from the applicant or others deemed necessary by the Commission in its discretion, or comments and recommendations of the boards and officials listed in Section 12-6-1.

12-6. Coordination with other boards.

Any person filing a permit application or RFD with the Commission shall provide a copy thereof at the same time, by certified mail (return receipt requested) or hand delivery, to the Conservation Agent, who shall distribute copies thereof to the appropriate regulatory boards, the

³⁷ Added May 1, 2021 ATM Article 20

³⁸ Added May 1, 2021 ATM Article 20

³⁹ Amended April, 2019 ATM Article 21

cost of which copies shall be at the applicant's expense.⁴⁰ A copy shall be provided in the same manner to the Conservation Commission of the adjoining municipality, if the application or RFD pertains to property within 200 feet of that municipality. An affidavit of the person providing notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. The Commission shall not take final action until the boards and officials have had 14 days from receipt of notice to file written comments and recommendations with the Commission, which the Commission shall take into account but which shall not be binding on the Commission. The applicant shall have the right to receive any comments and recommendations, and to respond to them at a hearing of the Commission, prior to final action.

12-7. Permits and conditions.

12-7-1. Issuance of permit. If the Commission, after a public hearing, determines that the activities which are subject to the permit application or the land and water uses which will result therefrom are likely to have a significant individual or cumulative effect upon the resource area values protected by this bylaw, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions. The Commission shall take into account the cumulative adverse effects of loss, degradation, isolation, and replication of protected resource areas throughout the community and the watershed, resulting from past activities, permitted and exempt, and foreseeable future activities.

12-7-2. Denial of permit. The Commission is empowered to deny a permit for failure to meet the requirements of this bylaw; for failure to submit necessary information and plans requested by the Commission; for failure to meet the design specifications, performance standards, and other requirements in regulations of the Commission; for failure to avoid or prevent unacceptable significant or cumulative effects upon the resource area values protected by this bylaw; and where no conditions are adequate to protect those values.

12-7-3. Presumed importance of buffer zone. Lands within 100 feet of rivers, ponds and lakes, and lands within 100 feet of other resource areas, are presumed important to the protection of these resources because activities undertaken in close proximity to resource areas have a high likelihood of adverse impact upon the wetland or other resource, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat. The Commission therefore may require that the applicant maintain a strip of continuous, undisturbed vegetative cover within the 100-foot area, unless the applicant convinces the Commission that the area or part of it may be disturbed without harm to the values protected by the bylaw.

12-7-4. Practicable alternatives. In the review of areas within 100 feet of rivers and streams, no permit issued hereunder shall permit any activities unless the applicant, in addition to meeting the otherwise applicable requirements of this bylaw, has proved by a preponderance of the evidence that (1) there is no practicable alternative to the proposed project with less adverse effects, and that (2) such activities, including proposed mitigation measures, will have no significant adverse impact on the areas or values protected by this bylaw. The Commission shall regard as practicable an alternative, which is reasonably available and capable of being done

⁴⁰ Amended April 7, 2008 ATM Article 24

after taking into consideration the proposed property use, overall project purpose (e.g., residential, institutional, commercial, or industrial purpose), logistics, existing technology, costs of the alternatives, and overall project costs.

12-7-5. Avoidance of wetlands loss or alteration. To prevent wetlands loss, the Commission shall require applicants to avoid wetlands alteration wherever feasible; shall minimize wetlands alteration; and, where alteration is unavoidable, shall require full mitigation. The Commission may authorize or require replication of wetlands as a form of mitigation, but only with adequate security, professional design, and monitoring to assure success, because of the high likelihood of failure of replication.

12-7-6. Expiration of permit. A permit shall expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Notwithstanding the above, a permit may contain requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all owners of the land.

12-7-7. Revocation of permit. For good cause the Commission may revoke or modify a permit or determination issued under this bylaw after notice to the holder of the permit or determination, notice to the public, abutters, and town boards, pursuant to §V and §VI, and a public hearing.

12-7-8. Coordination of permit with order of conditions. The Commission in an appropriate case may combine the permit or determination issued under this bylaw with the Order of Conditions or Determination of Applicability issued under the Wetlands Protection Act (M.G.L. c. 131 §40 and Regulations (310 CMR 10.00).

12-7-9. Recording of permit. No work proposed in any permit application shall be undertaken until the permit issued by the Commission with respect to such work has been recorded in the registry of deeds or, if the land affected is registered land, in the registry section of the land court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the permit has been recorded, or provides the Commission with a copy of the recording information or other evidence of recordation with the appropriate registry.

12-8. Regulations.

After public notice and public hearing, the Commission shall promulgate rules and regulations to effectuate the purposes of this bylaw effective when voted and filed with the town clerk. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw. At a minimum, these regulations shall define key terms in this bylaw not inconsistent with the bylaw and procedures governing the amount and filing of fees.

12-9. Definitions.⁴¹

12-9-1. Defined terms. The following definitions shall apply in the interpretation and implementation of this bylaw.

12-9-1-1. Coastal & inland banks. “Coastal Bank” shall mean the seaward face or side of any elevated landform, other than a coastal dune, which lies at the landward edge of a coastal beach,

⁴¹ Amended by April 4, 2011 ATM Article 29

land subject to tidal action, or other wetland. "Inland Bank" shall mean the portion of the land surface which normally abuts and confines a water body. It occurs between a water body and a vegetated bordering wetland and adjacent flood plain, or, in the absence of these, it occurs between a water body and an upland. A bank may be partially or totally vegetated, or it may be comprised of exposed soil, gravel or stone. The upper boundary of a Bank is the first observable break in the slope or the mean annual flood level, whichever is lower. The lower boundary of a Bank is the mean annual low flow level. The topography, soil structure, and plant community composition and structure of coastal and inland banks can provide the following important wildlife habitat functions: 1. Food, shelter and migratory and breeding areas for wildlife. 2. Overwintering area for mammals and reptiles.

12-9-1-2. Vernal pool. "Vernal pool" shall include a confined basin depression which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, and which is free of adult fish populations, as well as the area within 100 feet of the mean annual boundary of such a depression, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife. Vernal pools shall include those mapped and certified by the Massachusetts Natural Heritage and Endangered Species Program as well as those areas identified in the field as eligible for certification by a professional wetland biologist or other expert.

12-9-1-3. Rare species. "Rare species" shall include, without limitation, all vertebrate and invertebrate animal and plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife, regardless of whether the site in which they occur has been previously identified by the Division.

12-9-1-4. Person. "Person" shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to town bylaws, administrative agency, public or quasi-public corporation or body, this municipality, and any other legal entity, its legal representatives, agents, or assigns.

12-9-1-5. Alter. "Alter" shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protect by this bylaw:

1. Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind.
2. Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics.
3. Drainage, or other disturbance of water levels or water table. Dumping, discharging, or filling with any materials which may degrade water quality.
4. Placing of fill, or removal of material, which would alter elevation.
5. Driving of piles, erection, or repair of buildings, or structures of any kind.
6. Placing of obstructions or objects in water.
7. Destruction of animal and/or plant life, including cutting of trees.
8. Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters.
9. Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or groundwater.
10. Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw.
11. Use of fertilizers, pesticides, herbicides and fungicides.

12-9-1-6. Isolated vegetated wetland. Isolated vegetated wetland is any area where surface or ground water or ice at or near the surface of the ground and greater than 300 square ft. which supports a plant community (cover) comprise of 50% or greater of wetland species, or which in the judgment of the Commission supports a significant community of wetland vegetation.

12-9-1-7. Passive recreation. Passive recreation refers to non-consumptive, non-motorized uses such as wildlife observation, walking, biking, canoeing and fishing as well as trail-based hiking, mountain biking, horseback riding, recreation generally encompasses the less intensive range of outdoor activities compatible with preserving natural resource functions such as wildlife habitat and floodplain protection. Passive recreation is that which emphasizes the open-space aspect of a park and which involves a low level of development, including picnic areas and trails.⁴²

12-9-2. Consistency with wetlands protection act. Except as otherwise provided in this bylaw or in regulations of the Commission, the definitions of terms in this bylaw shall be as set forth in the Wetlands Protection Act (M.G.L. c. 131 §40) and Regulations (310 CMR 10.00).

12-10. Security.

12-10-1. Performance and observation of conditions. As part of a permit issued under this bylaw, in addition to any security required by any other municipal or state board, agency, or official, the Commission may require that the performance and observance of the conditions imposed thereunder (including conditions requiring mitigation work) be secured wholly or in part by one or more of the methods described below:

By a proper bond or deposit of money or negotiable securities or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a Certificate of Compliance for work performed pursuant to the permit.

By accepting a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of the Town whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant.

12-11. Enforcement.

12-11-1. Prohibition. No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this bylaw, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this bylaw.

12-11-2. Entry on property. The Commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this bylaw and may make or cause to be made such examinations, surveys, or sampling as the commission deems necessary, subject to the constitutions and laws of the United States and the Commonwealth.

12-11-3. Enforcement alternatives.⁴³ The Commission shall have authority to enforce this bylaw, its regulations, and permits issued thereunder by violation notices, enforcement orders, under the Town's non-criminal disposition section of its general bylaws, pursuant to M.G.L. c.

⁴² Amended by April 7, 2008 ATM Article 24

⁴³ Amended by April 4, 2011 Annual Town Meeting Article 29

40, §21D, and civil and criminal court actions. Any police officer, Conservation Agent, Harbormaster, Shellfish Constable or Commissioner (with the Commission's approval) shall have authority to enforce this bylaw.⁴⁴ An person who violates provisions of this bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.

12-11-4. Fine. Any person who violates any provision of this bylaw, or regulations, permits, or administrative orders issued thereunder, shall be punished by a fine of \$300. Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense.

12-12. Burden of proof.

12-12-1. Preponderance of evidence. The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the permit application will not have unacceptable significant or cumulative effect upon the resource area values protected by this bylaw. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant permit with conditions.

12-13. Appeals.

12-13-1. Certiorari appeal. A decision of the Commission shall be reviewable in the Superior Court in accordance with M.G.L. c. 249 §4.

12-14. Relation to the wetlands protection act.

12-14-1. Home rule authority. This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act (M.G.L. c. 131 §40) and Regulations (310 CMR 10.00) thereunder.

12-15. Severability.

12-15-1. Invalidity. The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof.

⁴⁴ Amended by April 7, 2008 Annual Town Meeting Article 24

13. PROHIBITED ACTIVITIES

13-1. Prohibited use of private property.

13-1-1. Shedding water from private property. No owner of a property shall permit water to be pumped or to increase the natural flow or alter the natural flow of water (such as hard-topping) from that property on any sidewalk or street or other public property to the injury, damage or inconvenience of pedestrian or vehicular traffic.

13-1-2. Nuisances of noises or odors. No person shall maintain upon or within private property a nuisance whereby loud noises or noxious odors escape to the disturbance of neighbors or travelers on town, public, or private ways. Each day that such nuisance is maintained or not abated shall constitute a separate offense.

13-1-3. Misuse of town water.

13-1-3-1. Use of water for lawns and gardens. From May 1 through October 31, no person shall use the town water (a) in lawn sprinklers or in sprinkler hose for watering lawns or gardens of (b) in unattended water hose, unless the Board of Water Commissioners, after a public hearing, grants permission thereof on a town-wide basis.

13-1-3-2. Uses prohibited without permission. Without written permission from the Board of Water Commissioners, no person shall use water from a town fire hydrant or use town-supplied water (a) to drive piles, (b) to fill or cure any swimming pool, or (c) as a coolant in a central-station, air conditioning system using evaporating or unit air conditioners or in a refrigerating open-circuit water cooled system except that fireman on official duty may use water from any hydrant within the town.

13-1-3-3. Rules and regulations. The Board of Water Commissioners is empowered, after a public hearing and proper notification to the public, to make rules and regulations pertaining to the use of municipal water.

13-1-3-4. Emergency rules and regulations. No provision of this bylaw shall prevent the Board of Water Commissioners from enacting, without advance notice, rules and regulations required to meet emergencies. Any rules or regulation required to meet an emergency shall be without effect once the Board of Water Commissioners declares the emergency has ceased to exist.

13-1-4. Yard, house, garage or barn sales

13-1-4-1. Definitions.

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

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

No person or location shall be authorized more than one (1) yard sale per week to run no more than two (2) consecutive days, with the exception of Memorial Day weekend when such sale may run for three (3) consecutive days.

13-1-4-3. Displays or sales.

No display or sales shall take place within or upon public land, sidewalk or roadway. 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 safety.

13-1-4-4. Signs.

Any sign advertising such sale shall not exceed two (2) square feet. All signs must be removed immediately at end of the sale event.

13-1-4-5. Violations and penalties.

A non-criminal disposition penalty will be assessed for any violation of this bylaw in the amount of \$50 for each offense. Each day that a violation exists shall be deemed to be a separate offense. If such offense continues for more than four days the yard sale shall be deemed to be a business and the Town may take such action as it deems necessary to regulate, and, or order it closed.⁴⁵

13-2. Prohibited conduct.

13-2-1. Disorderly conduct. No person shall cause inconvenience or annoyance to members of the public by any one or more of the following:

- by engaging in fighting or threatening;
- by originating, or being a participant in, violent or tumultuous behavior;
- by creating, without just cause, a hazardous or physically offensive condition;
- by making unnecessarily loud noise.

13-2-2. Obstructing free passage of travelers. No person shall willfully or negligently obstruct the free passage of travelers in any street or upon any public sidewalk nor shall any person so obstructing said street or sidewalk remain steadfast in any street or upon any sidewalk after being directed by a police officer to move on.

13-2-3. Trespass on private property. No person shall stand or remain in any doorway, upon any stairs, doorstep, porch or other projection from any house or building, or upon any wall or fence or near any street or public place, after having been requested to move along by the owner of the premises or an occupant thereof or, at the request of either of them, a police officer.

13-2-4. Damaging or defacing public or private property.

13-2-4-1. Damage to public or private property. No person shall break, damage or deface any fence, post, sign, building or structure on public property or on the private property of another.

13-2-4-2. Defacing public or private property. No person shall deface, or post, write, print, paint, carve, or cut any obscene or offensive word or words, figures, or designs on public or private property so as to be visible to the public.

13-2-4-3 Discharge of Fire Arms or Hunting on Public Property. No person shall discharge any gun, including paint ball guns, fowling piece, pistol, or firearm or release an arrow from a bow or hunt or trap or poison or set fire to any material known as fireworks, or other combustible matter, in any of the public ways, streets or places of the Town, including but not limited to conservation land or other Town owned property, except for lands under control of the Cape Cod National Seashore and Clapp's Pond Property; except on such occasions approved by the Select Board upon public notice; provided, however, this section shall not apply to any person abating nuisance or in the exercise of duty required by law.

13-2-5. Placing advertising on property or vehicles without permission. No person shall place, or cause to be placed, any advertising material on any town-owned property or vehicle without written permission from the Select Board or its delegate, or on any privately-owned property or vehicle without permission from the owner thereof. A non-criminal disposition penalty will be assessed of a warning to the owner, sponsor and/or responsible party for the first offense, fifty dollars (\$50) for the second offense and one hundred dollars (\$100) for the third offense. Each violation of this law shall be deemed to be a separate offense. The owner, sponsor

⁴⁵ Added by October 29, 2012 STM Article 13

and/or responsible party shall also be responsible to remove the advertising material from any town-owned or privately-owned property or vehicles.⁴⁶

13-2-6. Excessive musical and other noise.

13-2-6-1. Noise permitted by person in charge. No person occupying or having charge of any building, premises, mobile or stationary vehicle, or any part thereof shall cause, suffer or allow unnecessary loud, excessive or unusual noise (regardless of its nature, source or manner of production or preproduction) to be audible at a distance of fifty (50) feet or more from the point of origin.

13-2-6-2. Noise caused or suffered by persons on premises. No person present in or about any building, dwelling, premises, shelter, stationary vehicle⁴⁷, boat or conveyance (or any part thereof), other than that section of any establishment licensed under M.G.L. c. 138, shall cause, suffer, or countenance any loud, unnecessary, excessive, or unusual noise, regardless of its nature, source, or manner or production or reproduction, to be audible at a distance of fifty (50) feet or more from the point of origin. A non-criminal disposition penalty will be assessed of fifty dollars (\$50) to the owner, sponsor and/or responsible party for each offense.⁴⁸

13-2-6-3. In addition to the **non-criminal disposition penalty stated above, any ‘stationary vehicle’ or ‘vessel’** who violates 13-2-6-1 for a period of sixty (60) minutes or more, or whose vehicle is determined to be mal-functioning by an officer of the Provincetown Police Department, shall have said vehicle or vessel removed to a location where the source of the noise can be extinguished. The cost of removal and extinguishing of the source of the offending noise shall be paid by the owner or claimant of the offending vehicle.⁴⁹

13-2-6-4. The Licensing Board may waive any part of this noise Control bylaw for a temporary licensed public event if, in the judgment and discretion of the Licensing Board, the noise that the event will create in excess of the noise level limits established under the Noise Control bylaw is offset by the benefits of the event to the participants or the public and the noise of the event will not cause undue hardship or disturbance to the surrounding area. Events covered by this bylaw will not extend beyond midnight nor begin prior to 10 AM. The Licensing Board can stipulate any time it deems appropriate within this time frame depending on the expected noise level and impact on surrounding area. Residential private parties limited to invitation only are not affected by this bylaw as they are not licensed by the Licensing Board. They are still governed as to noise or nuisance stipulations of these bylaws under 13-1-2 and 13-2-6. The Licensing Board may impose, on the grant of a temporary waiver, terms and conditions appropriate to reduce the impact of the noise level exception. An application for a temporary waiver shall be filed with the Town Clerk. The applicant shall certify that notice of such temporary waiver application has been provided to all properties contiguous, or likely to be affected by the event, to the property where the event will occur. The applicant must also place a notice in the local media advising of the request for waiver at least two weeks prior to any hearing on the waiver by the Licensing Board. The applicant shall further certify that the Police Department has been consulted with respect to the event and has approved as to form the application for a waiver with the understanding that once the event is in process, complaints could arise necessitating action on the part of the Police, i.e., immediate consultation with the applicant to ameliorate the sound conditions if the complaints are numerous and clearly justified in the discretionary opinion of the responding Police. The application for a temporary waiver affects all public events likely to

⁴⁶ Amended by April, 1999 ATM Article 44

⁴⁷ Amended by April, 2002 ATM Article 45

⁴⁸ Amended by April, 1999 ATM Article 45

⁴⁹ Amended by April, 2002 ATM Article 45

produce sound levels that will affect the average person in a negative manner and in no instance will a waiver application be considered by the Licensing Board less than 60 days preceding any event. Applicants may receive more than one waiver in a year but the Licensing Board may recall any applications during the event year if complaints exceed the benefit to the public as determined by the Licensing Board as advised by the Police Department. The Licensing Board may suspend, modify or revoke any temporary waiver if it determines that an applicant has violated the terms or conditions of the waiver.

13-2-7. Dogs.

13-2-7-1. Purpose. Provincetown's dogs and their owners enhance the character of the Town, and the Town seeks to encourage responsible dog ownership and behavior to the extent that they do not interfere with the reasonable expectations of residents and visitors for safety, appropriate health standards, and enjoyment of peace and quiet in public and private areas. This bylaw seeks to balance the interests of dog owners and their dogs with the interests of all Town inhabitants.

13-2-7-2. Definitions. As used in this article, the following terms shall have the meanings indicated:

A dog "at large:" an unrestrained or out of control dog outside the dog owner's property;

A dog "owner:" a person who owns a dog, or a person with responsibility for a dog;

A "restrained" dog: a dog kept on a leash, cord, chain or other restraint, or a dog kept within the dog owner's property of leased premises, or another owner's property with consent of that owner or occupant of same; and

A dog under "voice and sight control:" a dog kept within sight of the dog's owner and under the owner's verbal control at all times such that the dog does not (1) charge, chase or display aggression towards any person or behave in a way that a reasonable person may find threatening or dangerous; (2) charge, chase or display aggression towards any dog; or (3) fail to come to and stay with the dog's owner or guardian immediately upon that person's command.

13-2-7-3. Control of dogs. Any dog within Town boundaries must be restrained and may not be at large except as specified provided that such dog is under voice and sight control. The following are Town-owned open space off-leash areas (limited by specified times as noted): Foss Woods, Locke Property (also known as 'Whistle Path Woods'), Abandoned Railroad Right-Of-Way, and all Town-owned beaches. From Memorial Day through November 1, dogs may be off-leash if under voice and sight control on Town-owned beaches between the hours of 6 am and 9 am and the hours of 6 pm and 9 pm; from November 2 through the day before Memorial Day, dogs may be off-leash if under voice and sight control on Town-owned beaches between the hours of 6 am and 9 pm; all dogs must be restrained on Town-owned beaches at all other times. In designated off-leash areas, any owner whose dog is not under voice and sight control or is out of control is in violation of this bylaw. In all other areas, any owner whose dog is at large, out of control, or not restrained is in violation of this bylaw. A non-criminal disposition penalty will be assessed in the amount of \$50 to the owner for the first offense; \$100 for the second offense; \$300 for the third offense. For a fourth or subsequent offense, the fine shall be \$500 and the municipality may, after a hearing, order the animal spayed or neutered. Each violation of this bylaw shall be deemed to be a separate offense.⁵⁰

13-2-7-4. Dog excrement and removal. No owner shall permit a dog to defecate upon public sidewalks, streets, beaches, or Town-owned land or structures without immediately and permanently removing the excrement therefrom, nor shall said person permit such excrement to

⁵⁰ Amended April, 2009 ATM Article 25 and September 2020 ATM Article 28

remain on private property without consent of the owner or occupant of same. A non-criminal disposition penalty will be assessed in the amount of \$100 (one hundred dollars) to the owner for the first offense; \$200 (two hundred dollars) for the second offense; and \$300 (three hundred dollars) to the owner for the third and subsequent offenses.

13-2-7-5. Licensing. In addition to any other information required for a dog license, an applicant must provide the Town Clerk with the applicant's name, address, and signature. The Town Clerk shall, when providing or otherwise making available the license application, include a copy of this bylaw and a map indicating off-lease areas therewith, and the required applicant's signature shall constitute a certification that the applicant has received, read, and understood the text of this bylaw. Any owner that fails to license and/or vaccinate a dog by order of an enforcement official within two business days of receipt of a notice to license shall be subject to a fine of \$25.00. Any owner that fails to license and/or vaccinate a dog by order of an enforcement official within the next two business days shall be subject to a fine of \$50.00. Any owner that fails to license and/or vaccinate a dog by order of an enforcement official for more than four days shall be subject to a fine of \$75.00. Each day thereafter that a violation of the Town bylaw continues shall be deemed to be a separate offense.⁵¹

13-2-7-6. Amendments to off-leash areas. The locations, times, and dates of Town-owned off-leash areas may be amended by vote of the Select Board after public hearing and notice thereon. Such notice shall be advertised at least once in a local newspaper no less than fourteen (14) days prior to the hearing.

13-2-7-7. Loss of off-leash privileges to specific dogs. The Chief of Police is authorized under this bylaw to determine, in the interests of public safety and health, whether an individual dog must be restrained at all times on public property and off-leash areas. If the Chief of Police so determines, notice of such decision to prohibit an individual dog from all off-leash privileges within the Town shall be communicated in the most immediate manner possible and shall be mailed to the dog's owner of record. On any subsequent occasion when such dog is determined to be in violation of the Chief of Police's decision, a non-criminal disposition penalty will be assessed in the amount of \$75 (seventy-five dollars).

13-2-7-8. Unlawful tethering of dogs.⁵²

(a) The following terms shall have the following definitions:

“Reasonable period” shall mean a period of time not to exceed a total of three hours in any 24-hour period, or a time that is otherwise approved by the animal control officer.

“Temporary task” shall mean a task that takes no longer than 30 minutes to complete.

“Tether” shall mean to fasten, chain, tie or otherwise restrain.

(b) No person shall tether, or cause a dog to be tethered, to a dog house, tree, fence, or any other stationary object.

(1) A dog shall not be tethered to any running line, pulley, or trolley system by means of a choke collar or pinch collar or prong collar or any other device that is not properly fitted to the dog or that is likely to cause injury to the dog.

(2) A dog shall not be tethered if the length of the tether is shorter than ten feet or five times the length of the dog as measured from the tip of the dog's nose to the base of the dog's tail, whichever is greater.

(3) A dog shall not be tethered in any manner that is likely to cause injury, strangulation or entanglement to the dog.

⁵¹ Amended April, 2009 ATM Article 23

⁵² Added November 8, 2010 STM Article 9

- (4) A dog shall not be tethered if the dog does not have access to water, shade and dry ground.
 - (5) A dog shall not be tethered if it is visibly sick or injured.
 - (6) A dog shall not be tethered in the case of extreme weather conditions, including conditions in which the actual or effective outdoor temperature is below 32 degrees Fahrenheit; a heat advisory has been issued by a local or state authority jurisdiction; or a hurricane, tropical storm or tornado warning has been issued within the Town by the National Weather Service.
 - (7) A dog shall not be tethered if the owner or party responsible for the dog is not in visual range of the dog.
- (c) Notwithstanding subdivision (b), an owner or person responsible for the dog may do any of the following:
- (1) Tether a dog for a reasonable period. If there are multiple dogs, each dog is tethered separately.
 - (2) Tether a dog pursuant to the requirements of a camping or recreational area.
 - (3) Tether a dog no longer than is necessary for the owner or person responsible for the dog to complete a temporary task that requires the dog to be restrained.
- (d) Any person who violates this bylaw shall be subject to a fine of \$100 (one hundred dollars) for the first offense; \$200 (two hundred dollars) for the second offense; and \$300 (three hundred dollars) for the third and subsequent offenses. Each violation of this bylaw shall be deemed to be a separate offense.

13-2-7-9. Provincetown Dog Park (Pilgrim Bark Park) Rules and Regulations.⁵³

The Dog Park, which is located at the intersection of Shank Painter Road and Route 6 and is known as Pilgrim Bark Park is a designated off-leash area for dogs that is opened from Dawn to Dusk. The following list of rules and regulations shall apply to the use of the Dog Park:

- (a) **Dogs:**
- Must be licensed and vaccinated and wear tags at all times.
 - Must be spayed or neutered.
 - Must be within view or voice control of owner at all times.
 - Must not be sick or suffering with parasites.
 - Must be on leash when outside the gated enclosures.
 - Must be 25 pounds or under in the small dog area.
- (b) **Owners/handlers/responsible party:**
- May not bring animals other than dogs into the dog park.
 - May not bring more than three dogs into the park at one time.
 - Must clean up after dog immediately.
 - Must immediately remove a problem dog (displaying aggressive behavior , mounting, excessive barking) from the dog park.
 - May not bring food, alcoholic beverages or glass containers into the dog park.
 - May not smoke.
 - Must immediately stop dogs from digging and must fill in any holes created by any dog under his or her control.
 - Must keep the dog park gates closed at all times.
 - Are solely responsible for injuries and damage caused by their dogs.
 - Must provide supervision to children under age 16.

⁵³ Added November 8, 2010 STM Article 10

May not bring strollers, bicycles or any children's toys into the dog park.

(c) **Any person who violates this bylaw** shall be subject to a fine of \$25 for the first offense; \$50 for the second offense; and \$75 for the third and subsequent offenses. Each violation of this bylaw shall be deemed to be a separate offense. Repeated offenses could result in the loss of dog park privileges.

13-2-7-10. Horses and other animals. No owner or person having care or control of any horse shall permit the animal to run at large, nor shall the person having control of any animal allow said animal to defecate upon public sidewalks, streets, beaches, Town-owned land or structures without immediately and permanently removing the excrement therefrom, nor shall said person allow such excrement to remain on private property without consent of the owner or occupant of same. A non-criminal disposition penalty will be assessed of ten dollars (\$10) to the owner and/or responsible party for the first offense, fifteen dollars (\$15) for the second offense, twenty-five dollars (\$25) for the third offense, fifty dollars (\$50) for the fourth offense and seventy-five dollars (\$75) for the fifth and subsequent offenses. Each violation of this bylaw shall be deemed to be a separate offense.

13-2-7-11. Safe transportation of Animals.⁵⁴ No person shall transport an animal in the back of a motor vehicle in a space intended for a load on the vehicle on a public way unless such space is enclosed or has side and tail racks to a height of at least 46 inches extending vertically from the floor, the animal is cross tethered to the vehicle, the animal is protected by a secured container or cage or the animal is otherwise protected in a manner which will prevent the animal from being thrown or from falling or jumping from the vehicle. A noncriminal disposition penalty will be assessed in the amount of fifty dollars (\$50) to the owner for the first offense; seventy-five dollars (\$75) to the owner for the second offense; and one hundred dollars (\$100) for the third and subsequent offenses.

13-2-7-12. Animals left unattended in motor vehicles.⁵⁵

(a) No person shall leave or confine an animal in any unattended motor vehicle under conditions that endanger the health or well-being of an animal due to heat, cold, lack of adequate ventilation, or lack food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.

(b) Nothing in this section shall prevent a law enforcement officer and/or animal control officer from removing an animal from a motor vehicle if the animal's safety appears to be in immediate danger from heat, cold, lack of adequate ventilation, lack of food or water, or other circumstances that could reasonably be expected to cause suffering, disability, or death to the animal.

(c) A law enforcement officer and/or animal control officer who removes an animal from a motor vehicle shall take it to an animal shelter or other place of safekeeping or, if the officer deems necessary, to a veterinary hospital for treatment.

(d) A law enforcement officer and/or animal control officer is authorized to take all steps that are reasonably necessary for the removal of an animal from a motor vehicle, after a reasonable effort to locate the owner or other person responsible, and the Town shall not be responsible for any damage to the motor vehicle resulting from such removal.

(e) A law enforcement officer and/or animal control officer who removes an animal from a motor vehicle shall, in a secure and conspicuous location on or within the motor vehicle, leave written notice bearing his or her name and office, and the address of the location where the

⁵⁴ Added April 6, 2009 ATM Article 24

⁵⁵ Added November 8, 2010 STM Article 11

animal can be claimed. The animal may be claimed by the owner only after payment of all charges that have accrued for the maintenance, care, medical treatment, or impoundment of the animal.

(f) Any person who violates this bylaw shall be subject to a fine of \$150 for the first offense; \$300 for the second offense; and \$500 for the third and subsequent offenses. Each violation of this bylaw shall be deemed to be a separate offense. If the animal suffers great bodily injury, then criminal disposition is possible under M.G.L. c. 272, §77 Cruelty to Animals.

13-2-7-13. Prohibited use of animals. No person or organization shall permit the display of animal acts and performances, including, but not limited to, animal rides and competitive animal races, of wild or exotic animals for public entertainment or amusement in circuses, carnivals or similar entities on property owned or under lease by the Town of Provincetown or on private property.

13-2-8. Alcoholic beverages.

13-2-8-1. Possession or use by persons under legal age. No person under the age established for the consumption of alcoholic beverages by the General Laws of the Commonwealth shall be allowed to consume any alcoholic beverage on public property or in a place open to the public.

13-2-8-2. Consumption from, or possession of, opened containers in public. No person shall, on any street, sidewalk, or other public property, consume from, or possess, any opened container of any alcoholic beverage, without written permit from the Select Board. A non-criminal disposition penalty will be assessed of fifty dollars (\$50) for each offense.⁵⁶

13-2-9. Setting up camp and sleeping in the open reads as follows: “Between 8 p.m. and 8 a.m., no person shall:

set up and or sleep in a camp or tent, or

sleep in the open, or

sleep in or on a wheeled vehicle either adapted or not for habitation (self-propelled or capable of being towed) on public property or on private property not licensed as a campground under M.G.L. c. 140, §32B;” or to take any other action relative thereto.

13-2-10. Swimming in the nude. No person shall swim or bathe unclothed in any of the waters adjacent to, or open to the public within the town except in areas designated clothing optional by a Town Meeting vote.⁵⁷

13-2-11. Indecent exposure. No person shall indecently expose his or her body in public in such manner as to be visible to persons of the opposite sex to children except in areas designated clothing optional by a Town Meeting vote.

13-2-12. Voyeurism. No person shall enter upon the premises of another, or upon any public property, and peep into any window of a building or spy, in any manner, upon any person therein.

13-2-13. Littering.⁵⁸ No person shall throw, drop, release or otherwise dispose of into the waters of Provincetown Harbor, upon any beach, upon land of another, or upon any public property, any garbage, refuse, rubbish, bottles, cans, containers, paper, cigarette butts, wrapping material, glass, filth or any noxious or dangerous liquid or solid.

13-2-14. Prohibition of helium-filled balloons. The sale, use, and distribution of helium filled balloons, both for public and private use, is prohibited.

13-2-15. Prohibition of nitrous oxide. The sale, distribution, use or possession of industrial-grade nitrous oxide within the Town of Provincetown, for the purpose of causing a condition of

⁵⁶ Amended April, 1999 ATM Article 47

⁵⁷ Amended April, 2002 ATM Article 41

⁵⁸ Amended April, 2000 ATM Article 25

intoxication, euphoria, excitement, exhilaration, stupefaction or dulled senses or nervous system, is hereby prohibited. Nothing in this section shall be construed as limiting the sale, distribution, use or possession of pharmaceutical-grade nitrous oxide when said sale, distribution, use or possession is in accordance with M.G.L. c. 94C and the regulations promulgated thereunder; nor shall this section be construed to limit the sale, distribution, use or possession of industrial-grade nitrous oxide when used in conjunction with the manufacture, sale, or distribution of foodstuffs, or other legitimate industrial uses.

13-2-16. Prohibition of nuclear weapons.

13-2-16-1. Purpose. We, the residents of Provincetown, as a step toward a nuclear-free Cape Cod, do hereby declare the Town of Provincetown to be a nuclear-free community, except as prohibited by a specific act or acts of Congress. Under this bylaw, no person, corporation, or other nongovernmental agency within this town shall design, test, produce, deploy or store nuclear weapons. Research supporting the development, deployment, transport, and delivery systems of nuclear weapons shall also be prohibited.

13-2-16-2. Nuclear weapon. Nuclear weapon is to be defined to be any device in which the explosion results from the energy released by reactions involving atomic nuclei, either fusion, fission, or both, and includes the means of transporting, guiding, propelling or triggering the weapon, if and only if, such means is destroyed or rendered useless in the normal propelling, triggering, or detonation of the weapons. A component of a nuclear weapon is defined to be any device, of radioactive or non-radioactive material, the primary function of which is to contribute to the operation of a nuclear weapon.

13-2-16-3. Exemptions. Nothing in this bylaw shall be construed to prohibit or regulate the following:

- any activity not specifically described;
- the research and application of nuclear medicine;
- use of fissionable materials for basic research, smoke detectors, light-emitting watches and clocks and other applications the primary purpose of which is NOT to work toward the development of nuclear weapons;
- all research not involved in the design, manufacture, or deployment of nuclear weapons of the transportation and delivery system thereof.

13-2-16-4. Severability. If any section, sub-section, paragraph, sentence or word of this bylaw shall be held unconstitutional either on its face or as applied the unconstitutionality of the section, sub-section, paragraph, sentence or word of the application thereof shall not affect other sections, sub-sections, paragraphs, sentences and words of this bylaw and the applications thereof; and to this end the sections, sub-sections, paragraphs, sentences, and words of this bylaw are intended to be severable.

13-2-17. Improper disposal of recyclable materials.

13-2-17-1. Prohibition of disposal of recyclable materials. The Town prohibits the disposal of recyclable materials in any trash going to the town landfill, or in any trash to be shipped at town expense to any other waste disposal facility.

13-2-17-2. Determination of materials as recyclable. The determination of a material as recyclable shall be made by the Board of Health in conjunction with the Recycling Committee, only after a duly advertised public hearing, and shall include only those materials for which there are deemed to be more appropriate mechanisms readily available for disposal other than landfilling or incineration.

13-2-17-3. Enforcement. Provisions for enforcement of this bylaw shall be made by the Board of Health.

13-2-17-4. Duty of town. The town shall make every effort to facilitate the collection and disposal of said materials by providing containers or storage areas which are accessible to the public.

13-2-18. Removing or damaging warning signals. No person without authority shall remove or damage any warning light, sign or other signal that indicates danger or obstruction in any street or way.

13-2-20. Prohibit in-line skating on sidewalks, public property. No person shall use roller skates, in-line roller blades, or skateboards on public sidewalks and on publicly-owned areas surrounding and including Town Hall, the Bas Relief, Fishermen's Memorial Park, and the bus station/waiting area at the MPL.

Any person who roller skates, roller blades, or skateboards on any public street within the Town of Provincetown shall do so in the same lawful direction of the motor vehicle traffic. The only exception to this rule shall be along Commercial Street, where such travel shall be permitted in both directions.

Any person who roller skates, roller blades or skateboards in the Town of Provincetown shall do so with all due caution, safety, and respect for all other traffic, motor vehicle, bicycle, and pedestrian, that may be using the public street at the same time.

The Select Board reserves the right to designate and/or restrict the use of any public building, facility, area, public street or way for roller skating, roller blading, or skateboarding use, either on a permanent or temporary basis, and to post such as deemed necessary.

The Provincetown Police Department shall enforce the provisions of this article. Violators shall be issued a non-criminal disposition penalty of a warning for the first offense and twenty-five dollar (\$25) for the second and subsequent offenses. Each violation of this law shall be deemed to be a separate offense.⁵⁹⁶⁰

13-2-21. Construction time. Exterior repairs and construction shall not take place until after 7 a.m. and closing time ending at 9 p.m.⁶¹

13-2-22. Renumbered and moved, October, 2011 STM, Article 8 (now appears as 11-6-5 Trees & Shrubs: Height Restrictions for Traffic Safety).

13-2-23. Smoking is prohibited in all places designated in Massachusetts General Laws Chapter 270, Section 22, and on all Town-owned beaches.⁶²

13-3. Prohibited use of motor vehicles.

13-3-1. Unregistered vehicles on private property. No person may keep on private property more than one unregistered motor vehicle. In no event may person store any unregistered motor vehicle in the front yard of private property in a residential district. This article shall not apply to duly-licensed automobile dealers.

13-3-2. Vehicular obstruction of traffic. Without express permission from the commissioner of public safety or his delegate, no person shall permit any vehicle under his care or control to obstruct traffic on a public highway or street for an unnecessary length of time.

13-3-3. Parking lot violation.

13-3-3-1. No person, without permission of the parking lot manager or their designee, may exit a municipal public parking lot without paying the established fee for said parking. A fee

⁵⁹ Added April, 1998, ATM Article 36

⁶⁰ Amended April, 1999, ATM Article 49

⁶¹ Added April, 2000, ATM Article 26

⁶² Added October 2015, STM Article 15

schedule shall be posted in all lots. A non-criminal disposition penalty will be assessed of fifty dollars (\$50) for each offense.⁶³

13-3-3-2. No motor vehicle which is subject to daily parking fees as established by the Select Board pursuant to Charter Section 4-2-2 may remain in the Grace Hall or MPL parking lot for more than fourteen days without payment in full of the accumulated parking fees. If a vehicle remains in such parking lot for more than fourteen days, the vehicle may be removed by the Chief of Police or his designee. If a vehicle is so removed, the vehicle shall not be released to the owner until payment of all parking, towing and storage charges has been made. On or after the tenth day that a vehicle has remained in the parking lot, a written notice shall be placed on the vehicle stating that if the vehicle is not moved and the parking charges paid in full by the fourteenth day, the vehicle will be removed on the fifteenth day at the owners expense. In no event shall less than forty eight hours' notice be given before a vehicle is removed under this bylaw. If a vehicle is removed from a parking lot in accordance with this bylaw, notice of the removal shall be sent by certified mail to the owner of the vehicle stating that the vehicle has been removed and informing the owner that the vehicle will not be released until all of the charges are paid. This bylaw is in addition to any remedy which may be available under Massachusetts General Laws regarding removal and disposal of apparently abandoned vehicles. Notice of the terms of this bylaw shall be posted in the Grace Hall and MPL lots.⁶⁴

13-3-4. Storage or parking of motor vehicles or boats. No person shall store a boat or park a boat carrier on public property without permission from the Select Board or its delegate.

13-3-5. Parking of motorcycle. No operator or person in charge of a motorcycle shall allow said vehicle to stand unattended or park on a public way, town-owned parking lot, or other public property, without a board, plate, or other device under the kickstand to prevent damage to the pavement or property. A warning shall be given for a first violation and court action shall be mandatory for every violation thereafter.

13-3-6. Parking or operating motor vehicles or trailers within harbor beaches. The driver and/or registered owner of a motor vehicle and/or trailer in operation or parked upon the beaches, flats or other "resource area," found to be doing so without a "beach access permit" issued by the Conservation Commission or designee shall be fined and subject to towing regulations under M.G.L. c. 40, §22D; for the purposes of this bylaw a resource area is defined as: any coastal area subject to tidal action, coastal storm flowage and flooding.

13-3-7. Unauthorized parking in handicapped parking spaces prohibited. No person shall park a motor vehicle, motorcycle, or like means of transportation in a designated parking space that is reserved for vehicles owned and operated by disabled veterans or handicapped persons and bearing the distinctive number plates or, for vehicles transporting a handicapped person, displaying the special parking identification plate authorized by M.G.L. c. 90, §2, or for any vehicle bearing the official identification of a handicapped person issued by any other state or any Canadian province. Any vehicle parked in violation of this section may be removed in accordance with M.G.L. c. 266, §120D.

13-3-8. Deliveries during spring, summer and fall. From April first through October thirty-first, all deliveries on Commercial Street, between Pearl and Central Streets, will only be allowed until 12:00 p.m. said deliveries may be made in this area anywhere along Commercial Street that is not designated as otherwise illegal parking. Any person making deliveries on Commercial Street shall first make deliveries to businesses located between Ryder Street (260

⁶³ Amended April, 1999, ATM Article 48

⁶⁴ Added April, 2000, ATM Article 29

Commercial) and Winthrop Street (171 Commercial) before any other section of Commercial Street. Exceptions thereto may only be made by the Chief of Police or his designee.⁶⁵

13-3-8-2. Alternate unloading zones. For the period April first through October thirty-first, the Select Board shall establish off-Commercial Street alternative unloading zones within the area of Pearl and Central Streets for deliveries to establishments on Commercial Street made after 12:00 p.m. No other off-Commercial Street unloading zones between Pearl and Central Streets shall be used after 12:00 p.m.⁶⁶

13-3-8-3. Winter deliveries allowed. From November first through March thirty first, deliveries may be made on Commercial Street in all designated unloading zones.

13-4. Prohibited use of waterfront and harbor.

13-4-1. Use of waterfront facility without permission. No person shall attach any float, set up any gang way to, or place any booths on Macmillan Pier or any other town-owned or town-operated docking or berthing facility without first providing to the Harbormaster on duty, a document from the Treasurer's Office indicating that the total yearly berthing fee has been paid in full by cash payment or certified bank check, along with a document of permission from the Licensing Board or their delegate empowered to license spaces on or adjacent to town-owned or operated berthing facilities. The term person, as used in this bylaw, shall include any individual partnership, trust, corporation, association, company or other business organization. Every day of a violation of this bylaw constitutes a separate offense. The fee for non-criminal disposition will be \$200.00 for each violation.

13-4-2. Personal watercraft in Provincetown Harbor.⁶⁷

13-4-2-1. Definitions.

13-4-2-1-1. As used in this bylaw, the term "personal watercraft" means a vessel propelled by a water-jet pump or other machinery as its primary source of propulsion that is designed to be operated by a person sitting, standing or kneeling on the vessel rather than being operated in the conventional manner by a person sitting or standing inside the vessel.

13-4-2-1-2. As used in this bylaw, the term "Provincetown Harbor" means the waters extending from the shores of Provincetown to a line drawn from Long Point to the Provincetown/Truro line.

13-4-2-2. Except as provided in §13-4-2-3 below, the operation of personal watercraft is prohibited in the waters of the Town of Provincetown in the following areas:

Within the boundaries of the Cape Cod National Seashore as set forth in Public Law 87-126, 7 August 1961, 75 Stat. 293, and as most recently surveyed by the U.S. Department of Interior.

(b) On the tidal waters of Provincetown Harbor and any adjoining river, inlet, cove, pond, embayment or harbor westerly of a line running from the Provincetown Truro town line to Long Point Light, with the exception of a marked channel in which personal water craft may pass through Provincetown Harbor operating at lawful speed. Said marked channel shall be the Federal Channel between red #4 marker on the west end of the breakwater to Long Point Buoy marker green #3 within Provincetown Harbor, as shown on a plan on file in the office of the Town Clerk. Personal watercraft shall traverse at headway speed only between the red #4 mark at the west end of the breakwater and the boat ramp, boatyard, fuel dock, marina or boat rental

⁶⁵ Amended October 2014, STM Article 7

⁶⁶ Amended October 2014, STM Article 7

⁶⁷ Approved April 1, 2002, STM Article 14

business. On departure, personal watercraft must depart Provincetown Harbor by the Federal Channel from red #4 to green #3 at Long Point.

13-4-2-3. No personal watercraft shall be launched from any location or vessel in Provincetown Harbor except the above listed marine facilities, and any personal watercraft using said boat-launching ramps shall be registered with Provincetown Harbormaster.

13-4-2-4. Personal watercraft may be operated in the above areas described in §13-4-2-2 for the purpose of enforcement, search and rescue, training, or other emergency, provided it is under the direction of a duly authorized federal, state or local law enforcement or emergency response agency, or other authorized official.

13-4-2-5. This bylaw shall be enforced by the Provincetown Harbormaster or his designee, the Provincetown Police Department, or the Massachusetts Environmental Police.

13-4-2-6. The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision hereof.

13-4-3. Sewage/septic discharge into harbor. No person shall discharge or cause to be placed any sewage or septic waste within the waters of Provincetown.

13-5. Prohibited use of bicycles.⁶⁸

13-5-1. Bicycle removal program.

13-5-1-1. Purpose. The Town of Provincetown regulates bicycle parking for short term storage only. For the purposes of this bylaw, the term “short-term parking” shall be defined as parking a bicycle at a Town bicycle rack for a period of less than seven (7) continuous days. The Principal intent of these regulations is two-fold; first to ensure that short-term parking for bicyclists is available in the town and second, to ensure that bicycles are parked in a safe and secure manner. One of the important ways of meeting these intentions is to remove abandoned bicycles that are taking up valuable spaces which could be used by other bicyclists. In addition, it should be clear that the bicycle spaces in town are not intended for long-term storage. Finally, the regulations address the fact that parking a bicycle to some fixtures is not acceptable: trees can be damaged, benches rendered unusable, or hand railings be unavailable to those who need them most. Bicycles in violation of these regulations should be reported to the Provincetown Police Department. An abandoned bicycle (that meets the established criteria), or one that is in violation of the time (7 days) restrictions will be tagged and removed. A bicycle determined to be inoperative will be removed by the Department of Public Works for Disposal. A bicycle determined to be operative will be held at the Provincetown Police Department of 30 days.

13-5-1-2. Procedure

Bicycle parking on public property.

- a. Bicycles are permitted to park against a street sign pole, or on a bicycle rack or other facility specifically intended for that purpose.
- b. Under no circumstances shall a bicycle obstruct the pedestrian path of travel or handicap access ramps. A parked bicycle must leave at least 36 inches of an obstruction free path of travel.
- c. Bicycles are not permitted to be parked to: fire hydrants, hand railings, benches, trees, trash receptacles and parking meters. Bicycles in violation of the above regulations shall be tagged and removed immediately if presenting a public safety hazard as noted in this section.

⁶⁸ Approved April, 2013, ATM Article 23

- d. Bicycles shall not be parked longer than seven consecutive days at the same location on any bike rack, public way or sidewalk. If the bike is determined to be a working bike, a tag will be affixed, and after a 72-hour time period, be removed for storage purposes. The Department of Public Works (DPW) will transport the bike to Police Headquarters, and the sector officer will generate a report, identifying the bike and removal date. The report will include make, model, color, serial number (if possible) and a brief description of the bikes condition. The serial number will be checked with the Criminal Justice Information system. The Property/Evidence Officer will log the bike into the IMC System and secure the bike for safekeeping in a designated storage area for a period of thirty days. If the bike is not claimed in this period, the Property Evidence Officer will release the bike for auction.
- e. No motorized vehicles shall be parked on a bicycle rack or other facility specifically designed and intended for bicycle parking. Violators are subject to immediate removal by the Provincetown Police Department. Motorized vehicles parked on sidewalks will be issued a parking citation and towed.

Abandoned or inoperable bicycle on public property. A bicycle with one or more of the following defects will be considered abandoned and can be removed and destroyed:

- a. No tires or wheels
- b. Have warped wheels or frame
- c. Missing, rusted or broken chain in such a state that renders the bicycle inoperative.
- d. Missing or warped handle bars.

13-6 Provincetown Single-Use Plastic Bag Reduction Bylaw⁶⁹

13-6-1. Purpose and Intent

The use and disposition of single-use plastic bags, including bags made of high-density polyethylene, low-density polyethylene, “biodegradable,” “compostable” or “oxo-biodegradable” materials, have significant impacts on the marine and terrestrial environment of all coastal communities, including but not limited to:

- 1) Contributing to the injury and potential death of marine and terrestrial animals through ingestion and entanglement;
- 2) Contributing to pollution and degradation of the terrestrial and coastal environment;
- 3) Clogging storm drainage systems; and
- 4) Creating mechanical and disposal burdens for solid waste collection and recycling facilities.

Studies have shown that even those plastic bags made from “biodegradable,” “compostable” or “oxo-biodegradable” materials, which all require very specific and controlled environments to fulfill their claims, are for all intents and purposes identical to single-use high or low-density polyethylene plastic bags in their potential impacts to the environment as set forth above. Bags of these types are therefore also subject to the requirements herein.

The goal of this Bylaw is to protect, conserve and enhance the Town’s unique natural beauty and irreplaceable natural resources through the elimination, within the retail sector, of certain single-use plastic bags and by encouraging the use of reusable bags within the retail and municipal

⁶⁹ Approved October 2014, STM Article 8

sectors. Therefore the Town of Provincetown seeks to phase out the use of single-use plastic bags by April 15, 2015.

13-6-2. Definitions

An “Establishment” means any business in Provincetown selling goods, articles, food or personal services to the public, including but not limited to markets, restaurants, bars, take-out food purveyors, merchandise retailers, florists and galleries.

A “single-use plastic bag” for the purposes of this Bylaw is defined as a bag made of plastic, including but not limited to bags made of high-density polyethylene, low-density polyethylene, “biodegradable,” “compostable” or “oxo-biodegradable” materials, with a thickness of less than 1.5 mils provided at the checkout stand, cash register, point of sale or other point of departure and that are intended for the purpose of transporting food or merchandise out of the Establishment. Single-use plastic bags **do not include** plastic bags which are a maximum of 11 inches by 17 inches and are without handles provided to the customer:

- (1) To transport produce, bulk food, candy or meat from a department within a store to the point of sale;
- (2) To hold prescription medication dispensed from a pharmacy;
- (3) To segregate food or merchandise that could damage or contaminate other food or merchandise when placed together in a point-of-sale bag;
- (4) To distribute newspapers; or
- (5) To protect clothing in dry-cleaning establishments.

A “reusable bag” is defined as a bag with handles that is specifically designed and manufactured for multiple reuse and is either:

- (1) Made of cloth or other machine washable fabric;
- (2) Made of durable plastic that is at least 1.5 mils thick; or
- (3) Other durable material suitable for reuse.

13-6-3. Use Regulations

Single-use plastic bags shall not be distributed or sold at any Establishment beginning April 15, 2015, by which date existing stock of single-use plastic bags shall be phased out; any stock remaining after that date shall be disposed of properly (e.g., recycled or returned to manufacturer) by the Establishment.

Customers are encouraged to bring their own reusable shopping bags to Establishments.

Establishments may provide paper or reusable bags at no charge, or charge a fee which would be kept by the Establishment, as they so desire.

13-6-4. Administration and Enforcement

This Bylaw may be enforced by any Town police officer, enforcement officer or agent of the Board of Health or Licensing Department.

This Bylaw may be enforced through any lawful means in law or in equity, including, but not limited to, non-criminal disposition pursuant to G.L. c. 40, §21D and Chapter 2 of the Town’s General Bylaws. If non-criminal disposition is elected, then any Establishment which violates any provision of this Bylaw shall be subject to the following penalties:

- | | |
|--------------------------------|---------------------|
| First Offense: | \$50 fine |
| Second Offense: | \$100 fine |
| Third and Subsequent Offenses: | \$200 for each fine |

Subsequent offenses shall be determined as offenses occurring within two years of the date of the first reported offense. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

13-7. Polystyrene Reduction Bylaw

13-7-1. Purpose and Intent

The use and disposal of polystyrene has significant impacts on our Town and our environment, including but not limited to:

1. Harm to marine and terrestrial animals through ingestion.
2. Pollution and degradation of the terrestrial and coastal environment.
3. Human exposure to styrene, which is derived from benzene and used in the manufacture of polystyrene. Occupational studies have shown risks for leukemia and lymphoma, and genetic damage to white blood cells. Styrene is “reasonably anticipated to be a human carcinogen” (US Department of Health and Human Services, 2016).
4. Disposal burdens of difficult to recycle plastics for solid waste collection and recycling facilities.

With the goal of protecting the health of its citizens and the unique natural beauty and irreplaceable natural resources of the Town of Provincetown, and given that inexpensive, safe alternatives to polystyrene are easily obtained, the Town will phase out the use of certain polystyrene plastics by June 1, 2019.

13-7-2. Definitions

“Polystyrene Disposable Food Services Containers and Cutlery” shall mean single-use disposable products for serving or transporting food or beverages, including without limitation take-out foods and/or leftovers from partially consumed meals prepared by a restaurant and/or retail food establishment. This includes but is not limited to plates, cups, bowls, trays, hinged or lidded containers, straws, cup lids, and cutlery. It shall also include single-use disposable packaging for uncooked foods prepared on the premises, as well as disposable catering trays.

“Expanded or Foam Polystyrene” and “Polystyrene” shall mean blown polystyrene (polystyrene that has been expanded or blown using a gaseous blowing agent into a solid foam) and expanded and extruded forms, which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including but not limited to fusion of polymer spheres (expandable bead polystyrene), injection molding, form molding, and extrusion blown molding (extruded foam polystyrene), sometimes called Styrofoam, a Dow Chemical Co. trademarked form of polystyrene foam. It bears the recycling number 6.

“Food Establishments” shall mean any operations, including without limitation schools, farmers markets and other public venues that store, prepare, package, serve, vend or otherwise provide food for human consumption. Any establishment requiring a permit to operate in accordance with the State Food Code, 105 CMR 590.000, et. seq., shall be considered Food Establishments for the purpose of this bylaw.

“Retail Establishments” shall mean any commercial business facility that sells goods directly to consumers including but not limited to grocery stores, pharmacies, liquor stores, convenience stores, retail stores and vendors selling clothing, food, and personal items, dry cleaning services, theaters and all other food services establishments.

“Public Venues” shall mean operations including but not limited to meeting halls, churches, Town offices, the Senior Center, Recreation Department, Library and Provincetown Elementary School.

13-7-3. Use Regulations

Polystyrene disposable food service containers, cutlery, and new polystyrene packing peanuts shall not be used or sold by food establishments and/or retail establishments within the Town of Provincetown on or after June 1, 2019. Any stock remaining after that date shall be accepted for disposal free of charge, through June 30, 2019, at the Provincetown Transfer Station/Recycling Center.

This bylaw shall not apply to:

1. Polystyrene packing peanuts and foam packaging reused from shipments coming to Provincetown.
2. Prepackaged meat and produce trays, egg cartons, and other food or beverage products bought from wholesaler or out of Town supplier.
3. Polystyrene foam freezer chests.

13-7-4. Administration And Enforcement

This Bylaw may be enforced by any agent of the Board of Health through any lawful means in law or in equity, including, but not limited to, non-criminal disposition pursuant to MGL Chapter 40, Section 21D and Article VII General Section 37. Penalties And Enforcement of the Town’s General Bylaws. If non-criminal disposition is elected, then any establishment which violates any provision of this bylaw shall be subject to the following penalties:

| | |
|--------------------------------|-----------------------------|
| First Offense: | \$100 fine |
| Second Offense: | \$200 fine |
| Third and Subsequent Offenses: | \$300 fine for each offense |

Offenses occurring within two years of the date of first reported offense will be considered as subsequent offenses. Each day or portion thereof shall constitute a separate offense, to do or act anything thereon.

The Board of Health, after a hearing conducted in accordance with the procedures set forth in 105 CMR 590.14 and 590.15, may suspend or revoke the food service permit for any establishment failing to comply with this bylaw.

13-7-5. Severability

If any provision of this Bylaw is declared invalid, or unenforceable, the other provisions shall not be affected thereby.

13-8. Single Use Plastic Straw Ban

13-8-1. Intentions and Findings.

It has been found that:

- 1) Plastic straws are rarely recycled.
- 2) Provincetown’s proximity to the ocean means that plastic straws that go uncollected by DPW have a high chance of ending up on the beaches or in the bay.
- 3) Plastic straws take up to 200 years to degrade and are never fully absorbed by the planet.
- 4) The degrading of plastic straws releases chemicals toxic to wildlife and the environment the United States uses 500 million straws per day.
- 5) There is currently a national movement to reduce and ban the use of plastic straws and reasonable affordable alternatives are available.

Because Provincetown has a duty to protect the natural environment, the economy, and the health of its citizens, this amendment proposes to ban the sale or dispensing of single use plastic straws, including those made from polyethylene, polypropylene, and polystyrene, by any food establishment, retail establishment, or public venue in the Town of Provincetown.

13-8-2. Definitions

“Plastic straw” shall mean any single use plastic straw including but not limited to those made from polyethylene, polypropylene, and polystyrene.

“Food Establishments” shall mean any operations including without limitation schools, farmers markets and other public venues that store, prepare, package, serve, vend or otherwise provide food for human consumption. Any establishment requiring a permit to operate in accordance with the State Food Code, 105 CMR 590.000, et. seq., shall be considered Food Establishments for the purposes of this bylaw.

“Retail Establishments” shall mean any commercial business facility that sells goods directly to consumers including but not limited to grocery stores, pharmacies, liquor stores, convenience stores, retail stores and vendors selling clothing, food, and personal items, dry cleaning services, theaters and all other food services establishments.

“Public Venues” shall mean operations including but not limited to meeting halls, churches, Town offices, the Senior Center, Recreation Department, Library, and the Provincetown Elementary School.

13-8-3. Use Regulations

Plastic straws shall not be used, dispensed, or sold by food establishments and/or retail establishments within the Town of Provincetown on or after June 1, 2019. Any stock remaining after that date shall be accepted for disposal free of charge, through June 30, 2019, at the Provincetown Transfer Station/Recycling Center.

13-8-4. Administration And Enforcement

This Bylaw may be enforced by any Town Police Officer or agent of the Board of Health through any lawful means in law or in equity, including but not limited to non-criminal disposition pursuant to MGL Chapter 40 Section 21D and Article VII General Section 37. Penalties And Enforcement of the Town’s General Bylaws. If non-criminal disposition is elected, then any Establishment which violates any provision of this Bylaw shall be subject to the following penalties:

| | |
|--------------------------------|-----------------------------|
| First Offense: | \$100 fine |
| Second Offense: | \$200 fine |
| Third and Subsequent Offenses: | \$300 fine for each offense |

Offenses occurring within two years of the date of first reported offense will be considered as subsequent offenses. Each day or portion thereof shall constitute a separate offense, to do or act anything thereon.

The Board of Health, after a hearing conducted in accordance with the procedures set forth in 105 CMR 590.14 and 590.15, may suspend or revoke the food service permit for any establishment failing to comply with this Bylaw.

13-8-5. Severability

If any provision of this bylaw is declared invalid, or unenforceable, the other provisions shall not be affected thereby.

13-9. Single Use Plastic Bottle Ban

13-9-1. Intentions and Findings.

13-9-2. Definitions

“Plastic bottle” shall mean a beverage container made from any type of plastic resin.

13-9-3. Use Regulations

It shall be unlawful to sell non-carbonated, unflavored drinking water in single-use plastic bottles of less than one gallon in the Town of Provincetown. Enforcement of this regulation will begin September 1, 2021. Sales or distribution of non-carbonated, unflavored drinking water in single-use plastic bottles occurring subsequent to a declaration of emergency (by the Emergency Management Director or other duly authorized Town, County, Commonwealth or Federal Officer) affecting the availability and/or quality of drinking water to residents of the Town shall be exempt from this bylaw until seven days after the declaration has ended.

13-9-4. Administration and Enforcement

Enforcement of this regulation will begin September 1, 2021. Enforcement of this article shall be the responsibility of the Town Manager or his/her designee. The Town Manager shall determine the inspection process to be followed, incorporating the process into other Town duties as appropriate. Any establishment conducting sales in violation of this article shall be subject to a non-criminal disposition fine as specified in GL Chapter 40 Section 21D. The following penalties apply:

First Violation: Written warning

Second Violation: \$150 fine

Third and subsequent violations: \$300 fine

Each day a violation continues constitutes a separate violation, incurring additional fines. Any such fines collected shall be payable to the Town of Provincetown.

All businesses will be routinely inspected until the Town Manager deems the inspection to no longer be required; or to take any other action relative thereto.

13-9-5. Severability

If any provision of this bylaw is declared invalid, or unenforceable, the other provisions shall not be affected thereby.

14. WATER USE RESTRICTION BYLAW

14-1. Authority.

The Town of Provincetown adopts this bylaw under its police powers to protect the public health and welfare and its powers under M.G.L. c. 40, §§21 *et seq.* and implements the Town's authority to regulate water use pursuant to M.G.L. c. 41, §69B. This bylaw also implements the Town's authority under M.G.L. c. 40, §41A, conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection.

14-2. Purpose.

The purpose of this bylaw is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a State of Water Emergency by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the town or by the Department of Environmental Protection.

14-3. Definitions.

14-3-1. Person shall mean any individual, corporation, trust, partnership or association, or other entity.

14-3-2. State of Water Emergency shall mean a state of water emergency declared by the Department of Environmental Protection under M.G.L. c. 21G, §§15-17.

14-3-3. State of Water Supply Conservation shall mean a state of water supply conservation declared by the Town pursuant to Section 4 of this bylaw.

14-3-4. Water Users or Water Consumers shall mean all public and private users of the Town's public water system, irrespective of any person's responsibility for billing purposes for water used at any particular facility.

14-4. Declaration of a state of water supply conservation.

The Town, through its Water and Sewer Board, may declare a state of water supply conservation upon a determination by a majority vote of the Board that a shortage of water exists and conservation measures are appropriate to ensure an adequate supply of water to all water consumers. Public notice of a state of water conservation shall be given under Section 6 of this bylaw before it may be enforced.

14-5. Restricted water uses.

A declaration of a state of water supply conservation shall include one or more of the following restrictions, conditions, or requirements limiting the user of water as necessary to protect the water supply. The applicable restrictions, conditions or requirements shall be included in the public notice required under Section 6.

Odd/Even Day Outdoor Watering: Outdoor watering by water users with odd numbered addresses is restricted to odd numbered days. Outdoor watering by users with even numbered addresses is restricted to even numbered days.

Outdoor Watering Ban: Outdoor watering is prohibited.

Outdoor Watering Hours: Outdoor watering is permitted only during daily periods of low demand, to be specified in the declaration of a State of Water Supply conservation and public notice thereof.

14-6. Public notification of a State of Water Supply Conservation.

Notification of DEP. Notification of any provision, restriction, requirement or condition imposed by the Town as part of a State of Water Supply Conservation shall be published in a newspaper of general circulation within the Town, or by such other means reasonably calculated to reach and inform all users of water of the State of Water Supply Conservation shall also be simultaneously provided to the Massachusetts Department of Environmental Protection.

14-7. Termination of a state of Water Supply Conservation.

A State of Water Supply Conservation may be terminated by a majority vote of the Water and Sewer Board, upon a determination that the water supply shortage no longer exists. Public notification of the termination of a State of Water Supply Conservation shall be given in the same manner required by Section 6.

14-8. State of Water Supply Emergency.

Compliance with DEP orders: Upon notification to the public that a declaration of a State of Water Supply Emergency has been issued by the Department of Environmental Protection, no person shall violate any provision, restriction, requirement, condition of any order approved or issued by the Department intended to bring about an end to the State of Emergency.

14-9. Penalties.

Any person violating this bylaw shall be liable to the Town in the amount of \$50.00 for the second violation and \$100.00 for each subsequent violation, which shall insure to the Town for such uses as the Water and Sewer Board may direct. Fines shall be recovered by indictment, or on complaint before the District Court, with Section 21D of Chapter 40 of the General Laws. Each day of violation shall constitute a separate offense.

14-10. Severability.

The invalidity of any portion or provision of this bylaw shall not invalidate any other portion or provision thereof.

15. LOCAL HISTORIC DISTRICT

15-1. Purpose.

The purpose of this bylaw is to promote the cultural, economic, educational and general welfare of the inhabitants of the Town of Provincetown through: 1.) the preservation and protection of the distinctive characteristic of buildings and places significant in the history and development of Provincetown; 2.) maintaining and improving the settings of these buildings and places; and 3.) the encouragement of design compatible with buildings existing in the area, so as to continue to maintain the historic village, fishing, artistic, cultural, commercial and residential character and other qualities which distinguish the town as a desirable community for permanent and seasonal residents and visitors.

15-2. Definitions.

The terms defined in this section shall be capitalized throughout this bylaw. Where a defined term has not been capitalized, it is intended that the meaning of the term be the same as the meaning ascribed to it in this section unless another meaning is clearly intended by its context. As used in this bylaw the following terms shall have the following meaning:

15-2-1. Alteration, to Alter. The act or the fact of rebuilding, reconstruction, restoration, renovating, remodeling, replication, removal, demolition, or other similar activities.

15-2-2. Building. A combination of materials forming a shelter for persons, animals or property.

15-2-3. Certificate. A Certificate of Appropriateness, a Certificate of Non-Applicability, or a Certificate of Hardship as set forth in this bylaw.

15-2-4. Commission. The Provincetown Historic District Commission.

15-2-5. Construct, to Construct. The act or the fact of building, erecting, installing, enlarging, moving and other similar activities.

15-2-6. District. The Provincetown Historic District as established by the bylaw.

15-2-7. Exterior Architectural Feature. Such portion of the exterior of a building or structure as is open to view from a public way, including but not limited to the architectural style and general arrangement and setting thereof, the kind and texture of exterior building materials, and the type and style of windows, doors, lights and other appurtenant exterior fixtures.

15-2-8. Person Aggrieved. The applicant; an owner of adjoining property; an owner of property within the same district; an owner of property within 150 feet of said district; and any charitable corporation in which one of its purposes is the preservation of historic places, structures, buildings or districts.

15-2-9. Public Way. This term shall include public ways, public streets, public parks and public bodies of water. The term "Public Way," however, shall not include a foot path, cart path or any easement or right of way that does not constitute a public way or public street.

15-2-10. Structure. A combination of materials other than a building, including but not limited to a fence, deck, wall, terrace, or walk.

15-3. District.

The District shall consist of the area shown on the map entitled Provincetown Historic District, dated December 4, 2002, attached as Appendix 2. The District boundary is identical to the boundary of the existing National Register District.

15-4. Commission composition and appointments.

15-4-1. Number of commissioners, terms of appointments: The District shall be overseen by a Commission consisting of five members and two alternates to be appointed by the Selectmen, one member initially to be appointed for one year, two for two years, and two for three years, and each successive appointment to be made for three years. The alternates shall be appointed, one for periods of two years and one for three years; and for three year terms thereafter.

15-4-2. Appointment process: The Selectmen shall appoint one Commission member from up to two nominees solicited from the Provincetown Chamber of Commerce; one member from up to two nominees solicited from the Provincetown Business Guild; one member from up to two nominees solicited from the Provincetown Art Association and Museum; one member from up to two nominees solicited from the Provincetown Historical Commission; and one member from up to two nominees solicited from the Pilgrim Monument and Provincetown Museum. If, within 30 days after submission of a written request for nominees to any of the organizations herein named, no such nominations have been made, the Select Board may proceed to make appointments as it desires.

15-4-3. Alternate Commission members: The Select Board shall appoint two alternate members to the Commission. In the case of the absence, inability to act or unwillingness to act because of self-interest on the part of a member of the Commission, his place shall be taken by an alternate member designated by the chairman.

15-4-4. Background recommendations: It is recommended, but not required, that Commission members selected by the nominating entities, including the Select Board, have educational and/or professional experience in one or more of the following fields: historic preservation, architecture, land use planning, architectural history, history, law or engineering.

15-4-5. Term expiration: Each member and alternate shall continue to serve in the office after the expiration date of his or her term until a successor is duly appointed.

15-4-6. Meeting schedule: Meetings of the Commission shall occur as provided for under M.G.L. c. 40C, §11, sentence 1 and, in any event, shall be held at least once per month and more often as necessary and as provided for under any applicable rules and regulations promulgated by the Commission.

15-4-7. Quorum: Three members of the Commission shall constitute a quorum.

15-5. Commission powers and duties

15-5-1. Powers of commission: The Commission shall exercise its powers in administering and regulating the Construction and Alteration of Structures or Buildings within the District as set forth under the procedures and guidelines established in this bylaw, and its duly adopted Rules and Regulations. This bylaw is not intended to allow Alterations or Construction not in compliance with state and local laws and regulations.

15-5-2. Rules and Regulations: The Commission may adopt, and from time to time amend, reasonable Rules and Regulations not inconsistent with the provisions of this bylaw of M.G.L. c. 40C, setting forth such terms and procedures as it deems desirable and necessary for the regulation of its affairs and the conduct of its business, including requirements for the contents and form of the Certificates, fees, hearing procedures and other matters. The Commission shall file a copy of such Rules and Regulations with the Office of the Town Clerk after review by Commission counsel.

15-5-3. Guidelines and Amendments: This bylaw may be amended in any manner not inconsistent with M.G.L. c. 40C by a two-thirds vote of Town Meeting, provided that the

substance of any such amendment substance of any such amendment has first been submitted to the Commission for its recommendation and its recommendation has been received or sixty days have elapsed without such recommendation.

15-5-4. Annual Meeting: The Commission shall each year hold an organizational meeting and elect a Chairman, Vice Chairman and Secretary, and file notice of such election with the Town Clerk.

15-5-5. Records: Record keeping shall be maintained as required by State law.

15-5-6. Public Education: The Commission shall undertake educational efforts to explain to the public and property owners the merits and functions of the District, to the extent that time and appropriations allow.

15-6. Alterations and construction prohibited without a certificate.

15-6-1. Certificates: Except as this bylaw provides, no Building or Structure or part thereof within a District shall be Constructed or Altered in any way that affects the Exterior Architectural Features as visible from a Public Way, unless the Commission shall first have issued a Certificate with respect to such Construction or Alteration.

15-6-2. Building permits: No building permit for Construction of a Building or Structure or for Alteration of an Exterior Architectural Feature within the District and no permit for demolition or removal of a Building or Structure within the District shall be issued by the Town or any department thereof until the Certificate as required under this bylaw has been issued by the Commission. Nothing in this bylaw shall restrict the Building Commissioner from immediately ordering demolition of unsafe structures in accordance with provisions of M.G.L. c. 143.

15-7. Procedures for review of applications.

15-7-1. Applications: Any person who desires to obtain a Certificate from the Commission shall file with the Commission an application for a Certificate of Appropriateness, of Non-Applicability, or of Hardship, as the case may be. The application shall be accompanied by such plans, elevations, specifications, material and other information as may be reasonably deemed necessary by the Commission to enable it to make a determination of the application. The Commission shall determine whether said application involves any Exterior Architectural Features which are within the jurisdiction of the Commission. The Commission shall determine promptly, and in all events within fourteen (14) days of the filing of an application for a Certificate whether said application involves any Exterior Architectural Features which are within the jurisdiction of the Commission, except for administrative approvals as provided in Section 7.5.

15-7-2. Certificates of Non-Applicability: If the Commission determines that an application for a Certificate does not involve any Exterior Architectural Features, or involves an Exterior Architectural Feature which is not subject to review by the Commission under the provisions of this bylaw, as provided in Section 9, the Commission shall forthwith issue a Certificate of Non-Applicability.

15-7-3. Hearings: If the Commission determines that such application involves an Exterior Architectural Feature subject to review under this bylaw, it shall hold a public hearing on the application, except as may otherwise be provided in this bylaw. The Commission shall hold such public hearing within forty-five (45) days from the date of the filing of the application if the Commission meets once a month, and within thirty (30) days if the Commission meets bi-monthly. At least fourteen (14) days before said public hearing, public notice shall be given by

posting in a conspicuous place in Town Hall and in a newspaper of general circulation in Provincetown. Such notice shall identify the time, place and purpose of the public hearing. Concurrently, a copy of said public notice shall be mailed by the town of Provincetown to the applicant, to the owners of all adjoining properties and of other properties deemed by the Commission to be materially affected thereby as they appear on the most recent applicable tax list, to the Planning Board, or to any person filing a written request for notice of hearings, such request to be renewed yearly in December. The concurring vote of a majority of the members of the Commission shall be required to issue a Certificate.

15-7-4. Certificate of Appropriateness: If the Commission determines that the Construction or Alteration for which a Certificate of Appropriateness has been filed conforms to the bylaw and Guidelines and will be appropriate for or compatible with the preservation and protection of the District, the Commission shall issue a Certificate of Appropriateness.

15-7-5. Administrative Approvals: If an application for a Certificate involves an Exterior Architectural Feature which is subject to review by the Commission under the provisions of this bylaw, but the proposed Alteration clearly conforms to the purposes of this bylaw and Guidelines because the Alteration is merely a replacement of an existing design element, which is allowed under M.G.L. c. 40C, §9, and, therefore, is insubstantial in its effect on the District, the Application shall be placed upon the next available meeting agenda, and may be approved by the Commission, or a sub-committee as appointed, as an administrative approval without a public hearing or notice to abutters.⁷⁰

15-7-6. Certificate of Hardship: If the Construction or Alteration for which an application for a Certificate of Appropriateness has been filed shall be determined to be inappropriate and therefore disapproved, or in the event of an application for a Certificate of Hardship, the Commission shall determine whether, owing to conditions especially affecting the Building or Structure involved, but not affecting the District generally, failure to approve an application will involve substantial hardship, financial or otherwise, to the applicant. In such cases, the Commission shall issue a Certificate of Hardship provided such application may be approved without substantial detriment to the public welfare, and without substantial derogation from the intent and purposes of this bylaw.

15-7-7. Certificate Conditions: In issuing Certificates, the Commission may impose certain conditions and limitations, and may require architectural or plan modifications consistent with the intent and purpose of this bylaw and Guidelines.

15-7-8. Issuance of Certificate: As soon as convenient after such public hearing but in any event within sixty days after the filing of the application or within such further time as the applicant may allow in writing, the commission shall make a determination on the application. The date of issuance of a Certificate of disapproval shall be the date of the filing of a copy of such Certificate or disapproval with the office of the Town Clerk.

15-7-9. Failure to Act: If the Commission shall fail to act upon an Application within sixty (60) days of the filing of the application for a Certificate, or within such further time as the applicant may allow, the Commission shall thereupon issue a Certificate of Hardship due to failure to act. The Commission shall file its determination with the Town Clerk as required under M.G.L. c. 40C, §10(f).

15-7-10. Appeals: Any person aggrieved by a determination of the Commission may, within twenty (20) days after the filing of the notice of such determination with the Town Clerk, appeal

⁷⁰ Amended October, 2013, STM Article 12

to the Superior Court as provided in Chapter 40C, Section 12A. Notice of an appeal must also be filed with the Office of the Town Clerk within twenty (20) days of the determination.

15-8. Criteria for determinations.

15-8-1. Criteria for determinations: In deliberating on applications for Certificates, the Commission shall adhere to the standards established in the Guidelines, as amended, which are part of this bylaw, all of which must be consistent with this bylaw and the requirements of M.G.L. c. 40C. In general, the Commission shall consider, among other things, the historic, architectural and cultural value and significant of the site, Building or Structure; the general design, proportions, detailing, mass, arrangement, texture, and material of Exterior Architectural Features involved; and the relation of the work proposed in the application to similar features of Buildings and Structures in the surrounding area and the District as a whole. In the case of new Construction or additions to existing Buildings or Structures, the Commission shall consider the appropriateness of the scale, shape, proportions, siting and the materials of the Building or Structure both in relation to the land area upon which the Building or Structure is situated and in relation to Buildings and Structures in the vicinity. The degree of visibility from a Public Way may be consideration in determining the level of compliance with this bylaw and Guidelines.

15-8-2. Interiors and use: The Commission shall not consider interior arrangements or architectural features not subject to view from a Public Way. In addition, the Commission shall not consider uses for the Building or Structure.

15-9. Exclusions:

15-9-1. Categorical exclusions: The Commission shall exclude from its purview the following:

- 15-9-1-1.** Maintenance and repairs that do not alter or replace material, as defined in Section 9.2.
- 15-9-1-2.** The color of paint.
- 15-9-1-3.** Exterior lighting.
- 15-9-1-4.** Gutters and downspouts.
- 15-9-1-5.** Signage.
- 15-9-1-6.** Storm windows and window air conditioners.
- 15-9-1-7.** Satellite antennae, or similar equipment, provided they are located to minimize visibility from a Public Way.
- 15-9-1-8.** Temporary Buildings or Structures subject however, to conditions pertaining to the duration of existence and use, as the Commission may reasonably specify.
- 15-9-1-9.** Terraces, walks, sidewalks and similar structures, provided that any such Structure is substantially at grade level.
- 15-9-1-10.** Flagpoles, sculpture, mailboxes (freestanding or attached), window boxes, house numbers, and garden furniture.
- 15-9-1-11.** Buildings that are less than 50 years old are exempt from review, with the following conditions: Alterations which affect more than 25% of a façade must comply with the Guidelines. Additions which increase such Building by more than 25% must conform with Guideline 15 New Construction and Additions.
- 15-9-1-12.** Piers/Wharves: Additions and alterations to piers and wharves, including all mechanical and maritime-related Structures and equipment, are exempt from review.
- 15-9-1-13.** Cemeteries: All cemetery Structures are exempt except Buildings and fences.

15-9-1-14. Plant material and trees.

15-9-1-15. Solar panels, provided that (1) panels are low profile and mounted no higher than 3 inches above the roof surface, (2) panels are set back from the edge of the roof, (3) the array is parallel to the edges of the roof, and is aligned in a regular and rectangular pattern with no missing panels, and (4) the panel frames and cells, pipes, and wires are dark or match the surrounding roof in color; otherwise, an administrative review shall be required.

15-9-2. Ordinary Maintenance and Repair: Nothing in this bylaw shall be construed to prevent the ordinary maintenance, repair or replacement of any Exterior Architectural Feature within a District which does not involve a change in design, material or to the outward appearance thereof, nor construed to prevent the meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition, nor construed to prevent any Construction or Alteration under a permit duly issued prior to the effective date of this bylaw.

15-9-3. Additional exclusions: Certain categories of Exterior Architectural Features may be constructed or altered without review by the Commission, provided such construction or alteration do not substantially derogate the intent and purposes of the District and of M.G.L. c. 40C. The Commission may, upon conducting a public hearing, exclude from its purview Exterior Architectural Features, in addition to those listed in Section 9.1, which it determines do not significantly impact the purpose of the District.

15-10. Enforcement and penalties.

15-10-1. Violations: The Commission shall determine whether a particular activity is in violation of this bylaw, and the Commission shall be charge with the non-criminal enforcement of this bylaw, and seeking civil enforcement under M.G.L. c. 40C, §12A, after obtaining the necessary authority to do so.

15-10-2. Remedies: The Commission shall institute any appropriate action or proceedings in the name of the Town of Provincetown to prevent, correct, restrain or abate violation of this bylaw.

15-10-3. Fines: Whoever violates any provision of this bylaw shall be subject to a fine of \$300.00.⁷¹ Each day during which any portion of such violation continues to exist shall constitute a separate offense.

15-10-3A. Special provisions regarding demolition: In addition to the other penalties set forth in this bylaw, whoever shall violate guideline 14 of this bylaw by demolition of a building or structure without approval therefore shall: (a) be subject to revocation after notice and hearing of any Certificate of Compliance issued by the Commission with respect to said building or structure; (b) not be issued a Certificate of Compliance for the property, on which said building or structure was located, for a period determined by the Commission, not to exceed two years from the date of said demolition; and (c) be required to reconstruct the said building or structure to the footprint, height, dimensions and character-defining features, as they existed before demolition commenced.⁷²

15-10-4. Building Commissioner: The Commission may designate the Building Commissioner to pursue non-criminal disposition under M.G.L. c. 40, §21D. The Commission shall have jurisdiction to pursue enforcement under M.G.L. c. 40C, §13.

⁷¹ Amended April, 2007, ATM Article 17

⁷² Approved April, 2007, ATM Article 17

15-10-5. Validity and Separability. The provisions of this bylaw shall be deemed separable. If any provision, sections, subsections, sentences or clauses shall be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of the bylaw shall continue to be in full force and effect.

15-11. Appendices

Appendix 1. Provincetown Historic District Guidelines

- 1. Statement of Purpose.** Provincetown is a unique community; unique in its location, in the degree of its economic dependence on tourism, and in its architectural and cultural heritage. Few towns have so much of their historic architecture still in existence, and maintaining its visual character as a 19th century seaport is of vital importance to the town's economy and way of life. These Guidelines are intended to ensure that alterations and new construction within the District occur in a manner that preserves and respects this unique heritage.
- 2. General Guidelines.**

In the District, the Commission shall determine whether the proposed construction, reconstruction, alteration or demolition of an exterior architectural feature will be appropriate to preserve the character and appearance of Provincetown. Commission members will refer to the Provincetown Survey when reviewing applications to better understand architectural and historic significance.

In the District, each building or structure shall be recognized as a physical and cultural record of its time, place and use. The historic character of a building or structure shall be retained and preserved. The removal of historic materials or alteration of features that characterize a building or structure shall be avoided. Deteriorated historic features significant to the architectural style should be repaired rather than replaced. All architectural changes shall be appropriate either to the original style of the building or structure (if it has not been significantly altered) or to its altered style (if it has been significantly altered to reflect characteristics of a later style). Where the severity of deterioration requires replacement of a distinctive feature, the new feature should match the old in design, color, texture, and the other visual qualities and, where possible, materials. Replacement of missing features should be substantiated by documentary, physical, or pictorial evidence.⁷³
- 2.5A. Demolition.** Demolition is defined as the act of pulling down, destroying, removing or razing more than 25% of a building or commencing the work of total or substantial destruction with the intent of completing the same.⁷⁴
- 3. Exemptions from review.** The following items shall be exempt from review by the Commission:
 - a. Maintenance and repairs.
 - b. The color of paint or finish.⁷⁵
 - c. Exterior lighting.
 - d. Gutters and downspouts.
 - e. Signage.

⁷³ Amended April, 2006, ATM Article 27

⁷⁴ Amended April, 2007, ATM Article 17

⁷⁵ Amended April, 2006, ATM Article 27

- f. Storm windows and window air conditioners.⁷⁶
 - g. Satellite antennae or similar mechanical equipment, provided it is located to minimize visibility from a Public Way.
 - h. Temporary buildings and structures, subject, however, to conditions pertaining to the duration of existence and use, as the Commission may reasonably specify.
 - i. Terraces, walks, sidewalks, or similar structures, provided that any such structure is substantially at grade level.
 - j. Flagpoles, sculpture, mailboxes (freestanding or attached), window boxes, house numbers, and garden furniture.
 - k. Buildings that are less than 50 years old are exempt from review, with the following conditions: Alterations which affect more than 25% of a façade must comply with the Guidelines. Additions which increase such buildings by more than 25% must conform with Guideline 15 New Construction and Additions.
 - l. Piers/Wharves: Additions and alterations to piers and wharves, including all mechanical and maritime-related structures and equipment, are exempt from review.
 - m. Cemeteries: All cemetery structures are exempt, except buildings and fences.
 - n. Plant material and trees.
 - o. Solar Panels, provided that (1) panels are low profile and mounted no higher than 3 inches above the roof surface, (2) panels are set back from the edge of the roof, (3) the array is parallel to the edges of the roof, and is aligned in a regular and rectangular pattern with no missing panels, and (4) the panel frames and cells, pipes, and wires are dark or match the surrounding roof in color; otherwise, an administrative review shall be required.
- 4. Limits of jurisdiction.** Review under this bylaw shall be limited to those Exterior Architectural Features, which are visible from a Public Way, as defined under the bylaw. The term “Public Way,” however, shall not include a foot path, cart path or any easement or right of way that does not constitute a public way or public street.
- 5. Windows.⁷⁷**
- a. Unique architectural styles of structures may use types of windows that are keeping in the style of architecture.
 - b. Entirely new windows may be added provided they do not detract from the historically accurate arrangement of windows.
 - c. Windows determined to be significant by the commission may be restored at the applicant’s request.⁷⁸
 - d. When the applicant requests replacements, they can choose one of the following types of sash, and this will be specified in the decision:
Wood, single pane true divided light. Non-insulated.

⁷⁶ Amended April, 2006, ATM Article 27

⁷⁷ Amended April, 2006, ATM Article 27

⁷⁸ Attorney General did not approve portion of motion that read “rather than be upgraded to meet current building codes.”

Insulated energy efficient true divided light double pane. These have a true muntin bar as a true divided light single pane window does.

Insulated energy efficient simulated divided light double pane. These have permanently applied interior and exterior split muntin bars with a filler piece between the glass.

All of the above may have exterior cladding of aluminum, vinyl or other appropriate material.

- e. The muntin pattern must be appropriate to the original style of the building, or to its altered style, if that style has gained significance. Muntins, whether structural or permanently applied, must have an exterior three-dimensional profile of an appropriate width.
- f. Glass may not have any deeper tinting than a manufactures normal Low-E coating applied for energy efficiency.
- g. Replacement windows shall not frame down the historic window openings. Altered window openings shall be returned as close to their historic dimensions as is reasonable.
- h. Waterfront elevations: On the waterfront elevations, window and door openings have frequently been altered and enlarged to accommodate water views. It is not the intention of these Guidelines to prohibit such alterations. Alterations to window and door openings shall be reviewed on a case-by-case basis. Alterations should retain and reflect the historic characteristics of the building, including appropriate materials, proportion, and design.
- i. Solid vinyl windows will be allowed in certain cases for non-significant windows.
- j. Storm windows are permitted. These may be triple track aluminum with half screens. Traditional removable interchangeable full storm window and screens are also allowed and should approximate and or compliment in style, material, and color, the window sash. Permanently applied half screens are also allowed and should approximate and or compliment in style, material, and color, the window sash.
- k. Shutters: When used, shutters shall be made of wood or of a material, approved by the Commission, and be of a design appropriate to the style and period of the building. Each shutter shall match the height and one-half the width of the window opening. It is recommended that the shutters be installed on shutter hardware and be operable or made to appear operable, and be hung in a manner consistent with traditional installations.
- l. Exterior window trim must duplicate or closely replicate the appropriate size and architectural style of the structure. Alternative building materials that are manufactured to resemble the original material may be permitted.

6. Entrances/Doors

- a. Original or historically significant doors, vestibules, steps and porches shall be retained or replaced-in-kind. Replacement doors, if necessary, shall match the original in material, size, and design. Decorative features (such as transoms, sidelights, door hoods, brackets, columns, balusters and pediments) shall be retained and repaired or replaced-in-kind, and may not be removed.

- b. New doors may be added, or existing doors moved, provided they do not detract from an original or architecturally significant elevation.
 - c. In commercial entrances, replacement doors must be compatible in design and material to the storefront, or to the original style of the building.
- 6.1 Exemptions.**⁷⁹ If it is the determination of the Building Commissioner that a doorway, vestibule, step or porch is significant means of egress and is currently not of a size or style to accommodate emergency egress from the structure, than the size and style of door, vestibule, step or porch may be altered to comply with Massachusetts State Building Code 780 CMR Sixth Edition or its successors. Such alterations shall be in keeping with the remaining intent of this bylaw.
- 7. Roof cladding.** Traditionally, most roofs were clad in cedar shakes, except for a few high Victorian-era examples that were clad in slate. It is encouraged, but not required, that traditional wood shake shingles be used when recladding a roof. Asphalt shingles are allowed, and should be of appropriate color, size and shape.
- 8. Roof dormers, alterations and additions**
- a. Dormers and other roof alterations and additions are permitted under the following criteria:
 - i. Preserving original roof slope unchanged at either side of alteration;
 - ii. Use of materials which are appropriate to the surrounding original roof and siding materials;
 - iii. If replacing missing features, such as cupolas or chimneys, such replacement should be based upon historic evidence.
 - b. Chimneys: Chimneys are an important component of many historic structures in Provincetown. It is required that, whenever possible, original or later important chimneys be retained and repaired.
 - c. Skylights: Skylights with flat profiles are allowed on all elevations. Approval will be based upon size, number, and location of skylights. The goal is to ensure that skylights do not dominate the appearance of a roof slope.
- 9. Roof decks, decks and porches.** Roof decks may be permitted under the following criteria:
- a. The size and location of the roof deck should not dominate the roof.
 - b. Roof decks should be located to be minimally visible from a public way, and detailed to reflect a historic roof walk, if appropriate to the building and site.
 - c. Railing design should consist of wooden railings with captured balusters. Decks and porches extending beyond the façade plane of a building may be permitted provided the deck supports do not obscure significant architectural detail. New decks should be detailed in a manner appropriate to the building.⁸⁰
- 10. Commercial Storefronts.**⁸¹ Historic or architecturally significant storefronts shall be preserved or restored to the greatest extent possible, while keeping in mind that public safety is of significant importance and as such, alterations necessary to maximize safety as determined by the Building Commissioner will

⁷⁹ Amended April, 2006, ATM Article 27

⁸⁰ Amended April, 2009, ATM Article 21

⁸¹ Amended April, 2006, ATM Article 27

be allowed. Said alterations shall be in keeping with the intent of this bylaw. Alterations of other storefronts shall use materials and be of a design compatible to the overall character of the historic commercial setting. The addition of new storefronts in historic façades shall retain the character and design of the building as originally designed, or as altered if such alteration has gained architectural or historic significance.

11. **Fences.** The typical Provincetown front yard enclosures throughout the 19th century and into the 20th were some version of the wood picket fence. Such fences were 30” to 48” tall, simplicity and linearity were emphasized; in many fences no visible posts interrupted the unbroken run of pickets, decorative posts were used at corners and gates. It is encouraged that such yard enclosures be preserved or replicated. Existing fences that reflect these characteristics should be preserved and maintained. Chain link, concrete block, and light gauge metal are inappropriate fencing material for front or side yards and will not be approved.
12. **Siding.** Clapboards, cedar shingles, board and batten, and flush board siding are the predominant exterior siding materials for Provincetown commercial and residential buildings. Synthetic siding will be approved on a case-by-case basis.⁸²
13. **Outside stairs.** Outside stairs will be allowed, if required, and will be reviewed on a case-by-case basis. Considerations for approval include material, design, and location.
14. **Demolition.** Demolition or partial demolition of buildings or structures is prohibited, except when in the opinion of the Commission warranted for extraordinary circumstances. Demolition or partial demolition of later additions that are not architecturally or historically significant may be permissible and are subject to review on a case-by-case basis. Nothing in these guidelines shall be construed to prevent the meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition or to prevent any construction or alteration under a permit duly issued prior to the effective date of the bylaw.
15. **New construction and additions.** Design guidelines for new construction or additions are intended to ensure that such work occurs in a manner that respects Provincetown’s unique heritage. The Commission shall consider the appropriateness of the size, shape, materials, and proportions both in relation to the land upon which it is situated and in relation to the vicinity.

Appendix 2. Provincetown Historic District Map. The Provincetown Historic District shall be a District under this bylaw. The location and boundaries of the Provincetown Historic District area defined and shown on the Local Historic District Map of the Town of Provincetown, which is part of this bylaw.

⁸² Amended April, 2006, ATM Article 27

16. TREES

16-1. Purpose

Trees contribute to the health and well-being of the Town of Provincetown (the “Town”) and its residents and wildlife. Trees also help define the Town’s ambience and streetscape and enhance property values. The purpose of this bylaw is to preserve and protect public shade trees in Provincetown in accordance with the provisions of Massachusetts General Law Chapter 87, and to provide standards for the proper care of town trees.

16-2. Definitions

16-2-1. “Public shade tree” means any tree within or on the boundaries of a public right-of-way except for a state highway, including any tree planted by or on behalf of the Tree Warden on any adjoining land, upon the written consent of the owner of such land, at a distance of 20 feet or less from the layout of such public way, all in accordance with the provisions of G. L. c. 87, s. 7.

16-2-2. “Town tree” means any tree in a public park or other place owned, controlled or leased by the Town of Provincetown except trees on conservation lands managed by, or resource areas or their buffer zones under the jurisdiction of, the Provincetown Conservation Commission.

16-2-3. “Public right-of-way” means the strip of land controlled or owned by the Town within which a public street or road lies. Typically the public right-of-way is wider than the road surface and often includes curbs, sidewalks, utilities, public shade trees and grass strips.

16-2-4. “Person” means any individual or entity as defined by Section 1-2-5 of the Provincetown General Bylaws.

16-2-5. “Drip line” means a vertical line running through the outermost portion of the crown (i.e., the outer branch tips) of a tree and extending to the ground.

16-2-6. “Tree removal” means the cutting down of any public shade tree and any other act that will cause such a tree to die within a three-year period, including but not limited to improper or excessive pruning and construction, demolition and excavation activities.

16-2-7. “Excessive pruning” means the removal of more than one-third of the tree canopy or cutting back the limbs to a point that prevents the natural growth of the tree.

16-2-8. “DBH (Diameter at Breast Height)” means the diameter of the trunk of a tree 4 ½ feet above the existing grade at the base of the tree.

16-2-9. “Tree fund” means a fund to be established hereunder as a revolving fund pursuant to G.L. c. 44, s. 53E1/2, for use by the Tree Warden for the purchase, planting, protection and care of public shade trees and town trees.

16-3. Jurisdiction

16-3-1. Tree Warden

This bylaw applies to all public shade trees and town trees in the Town. The Tree Warden shall have jurisdiction over all trees to which this bylaw applies and as set forth in G.L. c. 87, s. 2.

16-3-2. Coordination With Other Town Regulators

If any public shade tree or town tree may be impacted by construction, demolition or excavation activities under the jurisdiction of the Town’s Building Department, Planning Board, Zoning Board of Appeals, or other Town Department or Board, such regulatory agency shall (1) require the owner of the affected property and any person engaging in such activities to comply with the provisions of this bylaw and (2) notify the Tree Warden of such activities.

16-3-3. Planning Board

For projects that require Planning Board Site Plan Review or Special Permit, the provisions of Sections 16-4-2 and 16-5 of this bylaw shall be waived and all tree and landscape requirements shall be made part of the Planning Board Site Plan Approval or Special Permit. The Planning Department shall forward Site Plan Review and Special Permit applications to the Tree Warden

for review and comment. No Site Plan Approval or Special Permit shall be issued without written comments from the Tree Warden, unless such written comments are not received by the Planning Board within 30 days of the date the application is submitted.

16-4. Activities Requiring a Permit

16-4-1. A public shade tree or town tree may not be trimmed, pruned or removed by any person other than the Tree Warden until and unless the Tree Warden issues a written permit pursuant to this bylaw.

16-4-2. Such a permit shall also be required of any person for (1) planting a public shade tree or town tree, (2) engaging in construction or demolition activities within the drip line of a public shade tree or town tree, and (3) engaging in excavation activities that may disturb a public shade tree or town tree, including but not limited to the installation of utility lines.

16-5. Tree Planting

The Tree Warden shall issue standards for planting public shade trees and town trees for which a permit is required under Section 16-4-2. Such standards shall include (1) listing of trees acceptable for planting, (2) site selection, (3) priorities for tree planting locations, (4) spacing of street trees, and (5) planting guidelines.

16-6. Prohibited Activities

It shall be unlawful for any person to engage in any of the following activities relating to public shade trees or town trees: (1) topping tree branches, (2) stubbing tree branches, (3) girdling tree trunks, (4) cutting or poisoning tree roots, (5) causing any other kind of injury, and (6) pollarding the top and branches of a tree if done by any person other than a certified arborist.

16-7. Permit Application Procedures

16-7-1. A person who wishes to initiate any activity affecting a tree for which a permit is required under this bylaw shall submit an application to the Tree Warden in accordance with application requirements issued by the Tree Warden. Application forms shall be available at the office of the Town Clerk and the office of the Tree Warden. There shall be no fee for filing an application.

16-7-2. The permit issued by the Tree Warden may specify schedules, terms, and conditions as deemed appropriate by the Tree Warden. For activities except removal, the Tree Warden shall issue or deny the permit within fourteen (14) calendar days of receipt of a completed application. A permit shall be valid for one hundred twenty (120) days from issuance unless the permit specifies otherwise.

16-8. Public Hearing

16-8-1. Except as provided in G. L. c. 87, s. 5, the Tree Warden shall not remove a public shade tree, or grant an application to any person for the removal of a public shade tree, without first conducting a public hearing. Where a public hearing is required, the Tree Warden shall, in accordance with the provisions of G. L. c. 87, s. 3, issue a notice of the time and place of the hearing, which notice shall identify the size, type and location of the tree to be cut down or removed. The Tree Warden shall also post the notice in two or more public places in Provincetown, including the Town's website, and in public view upon the tree at least seven (7) days before such hearing and publish it in a newspaper of general circulation in Provincetown once in each of two successive weeks, the first publication to be not less than seven (7) days before the day of the hearing, or if no such local newspaper exists then in accordance with the provisions of G. L. c. 4, s. 6. The costs of notice, posting and publication shall be borne by the applicant.

16-8-2. When a public hearing must be held under the provisions of this bylaw and also under G. L. c. 40, s. 15(c), Scenic Roads Designations, such hearings shall be consolidated into a single public hearing before the Tree Warden and the Planning Board.

16-8-3. When the public shade tree to be removed is on conservation lands managed by, or resource areas or their buffer zones under the jurisdiction of, the Provincetown Conservation Commission, the public hearing required under the provisions of this bylaw shall be consolidated into a single public hearing before the Tree Warden and the Conservation Commission.

16-9. Approval Criteria

The Tree Warden shall approve removal of a public shade tree or town tree under this bylaw upon a determination that one of the following criteria is satisfied:

16-9-1. The tree interferes with structures, utilities, streets, sidewalks or proposed necessary improvements for which there is no alternative;

16-9-2. The tree is dead, diseased, terminally injured, in danger of falling, dangerously close to existing structures, causing disruption of public utility service, causing drainage or passage problems upon rights-of-way, or posing a threat to pedestrian or vehicular safety; or

16-9-3. There is no alternative to removal of the tree as determined by the Tree Warden.

16-10. Mandatory Applicability of State Standard

In accordance with the provisions of G. L. c. 87, s. 4, the Tree Warden shall not remove or grant a permit for the removal of a public shade tree if, at or before the public hearing required by this bylaw, objection in writing is made by one or more persons, unless such removal is approved by the Select Board.

16-11. Appeals

Any decision of the Tree Warden under this bylaw may be appealed to the Select Board. The appeal must be in writing and must be received by the Select Board within thirty (30) calendar days of the issuance of the Tree Warden's decision. The Select Board shall make a final decision within thirty (30) calendar days from the date of receipt of the appeal request.

16-12. Tree Replacement

Any person who removes a public shade tree or a town tree, including the driver of any vehicle that knocks down or severely injures such a tree, shall be required to replace it, within twelve (12) months of the date of its removal, at such person's cost, and in accordance with the permit application procedures set forth in Section 16-7, as follows:

16-12-1. The replacement tree shall be purchased from a certified tree nursery professional approved by the Tree Warden. Such professional shall plant and ensure the health of the tree for three years.

16-12-2. The replacement tree shall be of the same or similar species or such other species as deemed advisable by the Tree Warden and shall have the same or equivalent size as measured in DBH inches as that of the tree that was removed.

16-12-3. If a tree of equivalent size cannot be obtained or is not appropriate, the Tree Warden shall determine a suitable alternative including planting two or more smaller replacement trees that are the largest available and appropriate for transplanting, and payment to the tree fund for the value of the tree that was removed, as determined by a certified arborist based on standards in the industry.

16-13. Emergencies

16-13-1. Pruning or removal shall be allowed without a permit for any public shade tree or town tree that is determined by emergency response officials to create a public hazard so as to immediately endanger public safety or cause an immediate and severe disruption of public

services. Such officials shall complete a written record of any such determination and submit it to the Tree Warden within fourteen (14) calendar days of such determination.

16-13-2. The Tree Warden may waive the provisions of this bylaw as an emergency response to a hurricane, windstorm, flood or other act of nature.

16-14. Enforcement

16-14-1. Any person who violates any provision of G. L. c. 87, s. 3-5, relating to the trimming, cutting or removal of public shade trees shall be subject to fines of up to \$500 for each separate offense, as provided by G. L. c. 87, s. 6. Where any person violates any provision of this bylaw but not the provisions of G. L. c. 87, the person shall be subject to fines of up to \$300 for each separate offense. Each act causing damage to a separate tree shall constitute a separate offense. Each day that a violation continues shall constitute a separate offense. Fines shall be assessed and collected under G. L. c. 40, s. 21D process.

16-14-2. These remedies shall not be in derogation of the Town's right to enforce the provisions of G. L. c. 242, s. 7, against any person who without a permit willfully cuts down, girdles or otherwise destroys a public shade tree or town tree, or the Town's right to apply or enforce any other Massachusetts law or Town bylaw.

16-14-3. Fines and damages paid to the Town under this bylaw, G. L. c. 87, or G. L. c. 242, shall be paid into the Tree Revolving Account.

16-15. Severability

If any part of this bylaw is for any reason declared invalid or unconstitutional by any court, every other part shall continue in full force and effect.

17. CLIMATE POLICY

17-1. Climate Policy. The Town of Provincetown recognizes that the climate emergency, driven by human activity including energy consumption and land use practices and leading to global warming, rising seas, deadly storms, dangerous heat waves, acidifying oceans, and melting ice sheets, poses an imminent threat to the health, safety and economic security of the residents of the Town, the Town of Provincetown therefore adopts as its policy the objective of reducing net greenhouse gas emissions from human activity within and by the Town to zero at the earliest technically and economically feasible time, and directs that all officers and departments of the Town take such measures within the scope of their respective responsibilities and authority as may be necessary and prudent to facilitate such policy and objective; or to take any other action relative thereto.

17-2. Severability

If any part of this bylaw is for any reason declared invalid or unconstitutional by any court, every other part shall continue in full force and effect.

SCHEDULE A

The fine for a violation of these bylaws shall be \$50.00 unless the fine is specifically set forth below.

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| 8-2. | Notification of intent to commence business. | \$100.00 |
| 8-7. | Annual inspection and filings. | 100.00 |
| 8-8. | Conducting business without proper license(s). | 100.00 |
| 8-9. | Hours of retail business operation. | |
| | 1 st offense | 100.00 |
| | 2 nd offense | 200.00 |
| | 3 rd offense | 300.00 |
| 8-12. | Occupancy limits. | |
| | 1 st offense per person | 5.00 |
| | 2 nd offense per person | 10.00 |
| | 3 rd and subsequent offenses per person | 15.00 |
| 8-15. | Entertainment and amusement hours. | |
| | 1 st offense | 100.00 |
| | 2 nd offense | 200.00 |
| | 3 rd and subsequent offenses | 300.00 |
| 9-3. | Commercial solicitation on public property. | |
| | 1 st offense | 100.00 |
| | 2 nd offense | 200.00 |
| | 3 rd and subsequent offenses | 300.00 |
| 9-4. | Street performances. | 50.00 |
| 9-5. | Habitations for rent. | |
| 9-5-8. | Posting of name of owner or manager. | 25.00 |
| 9-7. | Prohibited businesses. | |
| 9-7-1. | Rental of motorized two-wheeled vehicles. | |
| | 1 st offense | 100.00 |
| | 2 nd offense | 200.00 |
| | 3 rd and subsequent offenses | 300.00 |
| 11-3. | Private swimming pools, spas, and hot tubs. | 50.00 |
| 11-4. | Handicapped parking spaces on private property. | |
| 11-4-1. | Number of handicapped parking spaces. | 200.00 |
| 11-4-2. | Sign requirements for and location of handicapped parking spaces. | 200.00 |
| 11-5. | Street numbers on buildings. | 10.00 |
| 11-6. | Public ways. | |
| 11-6-1. | Excavation of public ways/performance bond. | |
| | 1 st offense | 100.00 |
| | 2 nd offense | 200.00 |
| | 3 rd and subsequent offenses | 300.00 |
| 11-6-2. | Curb cuts. | 50.00 |
| 11-6-3. | Construction or repairs involving public ways. | 25.00 |
| 11-6-3-1. | Blocking off of public ways. | 25.00 |
| 11-6-3-2. | Construction equipment and material on public ways. | 25.00 |
| 11-8-5. | Automatic-dialing mechanical protection device. | |

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| | 1 st through 3 rd offenses | Warning |
| | 4 th and subsequent offenses | 15.00 |
| 13-1. | Prohibited use of private property. | |
| 13-1-1. | Shedding water from private property. | 10.00 |
| 13-1-2. | Nuisances of noises or odors. | 50.00 |
| 13-1-3. | Misuse of town water. | 50.00 |
| 13-1-3-2. | Uses prohibited without permission. | 50.00 |
| 13-2. | Prohibited conduct. | |
| 13-2-1. | Disorderly conduct. | 50.00 |
| 13-2-2. | Obstructing free passage of travelers. | 25.00 |
| 13-2-3. | Trespass on private property. | 25.00 |
| 13-2-4. | Damaging or defacing public or private property. | |
| 13-2-4-1. | Damage to public or private property. | 50.00 |
| 13-2-4-2. | Defacing public or private property. | 50.00 |
| 13-2-5. | Placing advertising on property or vehicles. | |
| | 1 st offense | Warning |
| | 2 nd offense | 50.00 |
| | 3 rd and subsequent offenses | 100.00 |
| 13-2-6. | Excessive musical and other noise. | |
| 13-2-6-1. | Noise permitted by person in charge. | 50.00 |
| 13-2-6-2. | Noise caused or suffered by persons on premises. | 50.00 |
| 13-2-7. | Restraint of animals. | |
| | 1 st offense | 50.00 |
| | 2 nd offense | 100.00 |
| | 3 rd offense | 300.00 |
| | 4 th offense | 500.00 |
| 13-2-7-12 | Animals Left Unattended in Motor Vehicles | |
| | 1st offense | 150.00 |
| | 2nd offense | 300.00 |
| | 3rd offense | 500.00 |
| 13-2-8. | Alcoholic beverages. | |
| 13-2-8-1. | Consumption from, or possession of, opened containers in public | 50.00 |
| 13-2-9. | Setting up camp and sleeping in the open | 50.00 |
| 13-2-10. | Swimming in the nude. | 25.00 |
| 13-2-11. | Indecent exposure. | 25.00 |
| 13-2-12. | Voyeurism. | 50.00 |
| 13-2-13. | Littering. | 75.00 |
| 13-2-18. | Removing or damaging warning signals. | 50.00 |
| 13-2-19. | Fires in public ways. | 50.00 |
| 13-2-20. | In-line skating. | |
| | 1 st offense | Warning |
| | 2 nd and subsequent offenses | 25.00 |
| 13-3. | Prohibited use of motor vehicles. | |
| 13-3-1. | Unregistered vehicles on private property. | 50.00 |
| 13-2-2. | Vehicular obstruction of traffic. | 25.00 |
| 13-3-2-1. | Delivery regulations violation. | |
| | 1 st offense | 100.00 |

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| 2 nd offense | 200.00 |
| 3 rd offense | 300.00 |
| 13-3-3-1. Parking lot violation. | 50.00 |
| 13-3-4. Storage or parking of motor vehicles or boats. | 25.00 |
| 13-3-5. Parking of motorcycle. | |
| 1 st offense | Warning |
| 2 nd and subsequent offenses | 10.00 |
| 13-3-6. Parking or operating motor vehicles or trailers within harbor beaches. | |
| 1 st offense | 100.00 |
| 2 nd offense | 200.00 |
| 3 rd and subsequent offense | 300.00 |
| 13-3-7. Unauthorized parking in handicapped parking spaces. | |
| 1 st offense | 25.00 |
| 2 nd and subsequent offenses | 50.00 |
| 13-3-8. Delivery vehicles restrictions. | |
| 1 st offense | 100.00 |
| 2 nd offense | 200.00 |
| 3 rd and subsequent offenses | 300.00 |
| 13-4. Prohibited use of waterfront and harbor. | |
| 13-4-2. Personal water craft in Provincetown Harbor. | |
| 1 st offense | 100.00 |
| 2 nd offense | 200.00 |
| 3 rd and subsequent offense | 300.00 |
| 13-4-3. Sewage/septic discharge into harbor | 300.00 |
| 14. Water use restriction bylaw | |
| 2 nd offense | 50.00 |
| 3 rd and subsequent offense | 100.00 |
| Provincetown Zoning bylaws | |
| 1 st offense | 50.00 |
| 2 nd offense | 100.00 |
| 3 rd offense | 200.00 |
| 4 th offense | 300.00 |
| Boat of Health regulations | 50.00 |
| Licensing regulations | |
| 1 st offense | 100.00 |
| 2 nd offense | 200.00 |
| 3 rd and subsequent offense | 300.00 |
| Berthing, docking and marine landing facility regulations | 50.00 |
| Shellfish regulations | 50.00 |
| Other regulations | 50.00 |
| Rule or order of head of the Fire Department | |
| Per offense | 50.00 |
| Each day the violation continues after notice of rule or order. | 50.00 |
| Violation of fire law | |
| Per offense | 100.00 |
| Each day the violation continues after notice of offense. | 100.00 |

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Violation of Fire Code.

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| 1 st offense | 100.00 |
| 2 nd offense | 200.00 |
| 3 rd and subsequent offenses | 300.00 |

Massachusetts General Laws (M.G.L.) and Code of Massachusetts Regulations (CMR).

M.G.L. c. 85, §11B. Bicycles.

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|---------------------------------------|-------|
| 1. Single file | 5.00 |
| 2. One person only on bike | 5.00 |
| 3. Audible warning | 20.00 |
| 4. Obstructing public way | 5.00 |
| 5. Towed by other vehicle | 20.00 |
| 6. Carrying goods without a basket | 5.00 |
| 7. Brake system | 20.00 |
| 8. Lights at night | 5.00 |
| 9. Reflectors-night | 5.00 |
| 10. Alteration to bike | 5.00 |
| 11. Reporting accidents over \$100.00 | 20.00 |

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| M.G.L. c. 270, §16. Disposing of rubbish. | 100.00 |
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M.G.L. c. 143 and 780 CMR. The Massachusetts State Building Code.

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| 1 st offense | 100.00 |
| 2 nd offense | 200.00 |
| 3 rd offense | 300.00 |

Violations of M.G.L. c. 111 and 105 CMRs 400, 410, 435, 440, 445, and 460, The Department of Public Health; Violations of M.G.L. c. 94 and 105 CMR 590, The Department of Public Health; Violations of M.G.L. c. 21A and 310 CMR 11, 15, The Department of Environmental Protection.

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| 1 st offense | 100.00 |
| 2 nd offense | 200.00 |
| 3 rd offense | 300.00 |

Appendix 1 Provincetown Public Pier Corporation Regulations