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.

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, respectively, including common victualer, innholder, retail package store, entertainment and food vendor licenses, shall be subject to the following conditions:
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.
that the application shall include a plan showing the specific area of the proposed usage.
that the abutters be notified by certified mail of the application or modification within 3 days of the first publication date.
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.
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 it 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 furnish to each department, board, committee, commission or division, hereinafter 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 for not less than a twelve month period, 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 licence. 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 of Selectmen may waive such denial, suspension or revocation if 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 section one of chapter two hundred and sixty-eight in the business or activity conducted in or on said property. This section shall not apply to the following licenses and permits: open burning; section thirteen of chapter forty-eight; bicycle permits; section eleven A of chapter eighty-five; sales of articles for charitable purposes; section thirty-three of chapter one hundred and one;children work permits; section sixty-nine of chapter one hundred and forty-nine; clubs, associations dispensing food or beverage licenses; section twenty-one E of chapter one hundred forty; dog licenses; section one hundred and thirty-seven of chapter one hundred and forty; fishing, hunting, trapping licenses; section twelve of chapter one hundred and thirty-one; marriage licenses; section twenty-eight of chapter two hundred and seven and theatrical events, public exhibition permits; section one hundred and eighty-one of chapter one hundred and forty.

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.[1]

8-10. Prohibit brown bagging.

No common victualer or inn holder or any other premises licensed to sell alcoholic beverages under G.L. c.138

[1]Amended by April 5, 1999 ATM, Art. 35

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.[2]

8-11-1. Special Permit from Zoning Board of Appeal required. 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 a Special Permit for said display is first granted by the Board of Zoning Appeals, or specifically excepted as hereinafter provided. Effective April 1, 1990, all exterior displays or exhibits must have a Special Permit from the Zoning Board of Appeals. A Special Permit for Outside Display may be issued for a period of three calendar years after filing an application with the Board of Appeals and a copy thereof with the Town Clerk. The Special Permit 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 a new Special Permit. The Special Permit may be granted by the Board of Zoning Appeals: (a) only upon its written determination that the proposed display does not create any adverse effect due to hazard or congestion; (b) only if the display is set back a distance of ten (10) feet or greater from the property line; (c) only if a majority of abutters within a 300 foot radius have not submitted a petition objecting to the proposed display; and (d) only if the proposed display has not been opposed by a petition signed by 150 voters. The Special Permit may be renewed for succeeding three-year periods, however violations may be considered as a basis for non-renewal.

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

bazaars or functions for charitable purposes by organizations existing in town for a minimum of one year may be excepted for periods not exceeding one week in any one year by any one applicant provided that application is made to the Board of Selectmen and a license for said activity is granted.

the sale of food and/or beverages served at table with seating provided for patrons provided that application is made to the Board of Selectmen and a license for said activity is granted.

[2]Amended by April 5, 1999 ATM, Art. 36

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 Board of Selectmen and a license for said activity is granted. 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 Board of Selectmen 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 By-laws are subject to either the occupancy loadlimits 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 By-law. 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.[3]

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.

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.

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[3] Added April 1999 ATM, Art. 37.

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.[4] 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 ($100) for the first offense, two hundred ($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.[5]

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 ($100) for the first offense, two hundred ($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.[6]

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[4]Added April 1998 ATM, Art. 35

[5]Amended April 1999 ATM, Art. 38.

[6]Added November 8, 2010 STM, Art. 7