

**TOWN OF PROVINCETOWN  
SELECT BOARD AND BOARD OF HEALTH**

**JOINT EMERGENCY RULE AND ORDER IMPOSING CERTAIN MEASURES TO  
PREVENT THE SPREAD OF  
COVID -19 WITHIN THE TOWN**

In accordance with the authority under G.L. c 111, §§ 31, 122, and 95 through 105, and any other applicable law, the Provincetown Select Board and the Provincetown Board of Health hereby issues the following Joint Order:

1. The intent of this Order is to impose measures to address the expected significant increase in people residing in or visiting the Town of Provincetown during the summer season. The Board of Health has estimated that the Town's year round population, which is approximately 3,000, may increase on any given day during the summer season to between 35,000 and 40,000. The extreme population density within the Town during the summer months presents challenges with regard to ensuring the safety of Town residents as well as visitors during the State of Emergency declared by the Governor and the Town due to the ongoing COVID – 19 pandemic. The unique circumstances of the Town requires local measures that may be more stringent than the Governor's emergency orders in order to protect public health and safety because the requirements for social distancing to minimize the inherent risk of COVID-19, a highly contagious disease, are not feasible in many areas of the Town including walking on Commercial Street and other streets within the Town especially during the summer season.
2. All provisions of this Order should be interpreted to effectuate this intent. Failure to comply with any of the provisions of this Order is deemed to constitute an imminent threat to public health.
3. This Order incorporates by reference all prior Orders of the Select Board and Board of Health, the provisions of which shall remain in effect unless they are in conflict with this Order, in which case the provisions of this Order shall take precedence.
4. This Order incorporates by reference the Declaration of Emergency issued by Governor Baker on March 10, 2020, and all subsequent orders, guidelines, and regulations issued by the Commonwealth relative to the COVID-19 State of Emergency, whether now in effect or issued in the future, and said orders, guidelines and regulations shall be enforced in the same manner as a regulation of the Board of Health.
5. This Order shall remain in effect until this Order is amended or rescinded by the Town.
6. This Order acknowledges that many of the measures contained herein affecting businesses and other activities are currently not allowed under the Governor's COVID-19

Order No. 33 and related regulations and guidelines. Nevertheless, this Order is intended to provide residents, visitors, and businesses with some degree of certainty and predictability regarding local measures, which will-may apply in future phases of the Governor's Re-Opening Plan, depending on present public health conditions and the containment of COVID-19.

7. To the extent that any provisions of this Order imposes requirements or restrictions that are different from those imposed by the Governor or state agencies, the provisions that are most protective of public health shall prevail.

### ~~Out~~Outdoor Dining and Outdoor Display of Merchandise:

It is hereby ordered that restaurants with food permits authorizing the service of food for consumption on the premises shall hereinafter be authorized to expand their premises to accommodate outdoor dining on decks or in parking lots, subject to the following requirements:

1. Restaurants with permits that have designated outdoor areas may continue to use those areas and are not subject to the requirements of this Order.
2. Permit holders wishing to expand their premises to include outdoor dining areas, shall make written application to the Board of Health and shall receive the approval of the Board or its authorized agent prior to using any outdoor dining space.
3. The application shall include a plan showing the location of the proposed dining area, the size of the dining area, the number of seats and tables that will be located in the dining area, and any other information required by the Board or its agent. Handicapped parking spaces may not be utilized for outdoor dining. The expansion of outside dining onto ~~to~~ Town-owned beaches is subject to approval by the Board of Health and the Select Board. Expansion of dining on to private beaches is subject to approval of the beach owner and ~~by~~ the Board of Health.
4. Approval to use an outdoor dining area shall not result in an increase in the number of seats authorized for the premises; such that the number of seats permitted inside the establishment shall be reduced by the number of seats allowed outside the establishment.
5. The permit holder shall demonstrate a legal right of access to the proposed outdoor space, either through ownership, lease or written permission of the owner. Under no circumstances shall outdoor dining be allowed on any public sidewalk, within the Town's public right of way or on any other Town-owned property, unless approved by the Select Board, in writing.
6. The permit holder may request approvals from the Board of Appeals, and/or the Building Department to extend restaurant seating areas to outside areas. The revised seating plan must be approved by the Building Department. The Board of Health and the Select Board

recommend that such approvals be granted, unless the proposed outdoor seating plan constitutes a danger to public health, safety, or welfare.

7. If the establishment intends to serve alcohol in the outdoor area, the permit holder shall apply for and receive approval of an alteration of premises from the Licensing Board and the ABCC, as may be ~~applicable~~applicable.
8. If the establishment intends to use the outdoor area for entertainment, the permit holder shall obtain a permit from the Licensing Board.
9. The outdoor area shall physically abut the primary premises, such that wait staff and patrons shall not have to cross streets, private property or parking lots to access the outdoor area.
10. The outdoor area shall be physically designated with ropes, fencing or other barriers and no space outside the designate area shall be used for dining purposes.
11. The permit holder shall comply with and enforce all rules, orders and guidance of the Governor, the Department of Public Health and the Town of Provincetown Board of Health relative to COVID-19 safety measures, including but not limited to, workplace safety requirements, gathering size limits, physical distancing, and face covering requirements.
12. The permit holder shall be solely responsible for sanitizing the tables and chairs after each use, cleaning the outdoor area and securing tables, chairs and equipment when the area is not in use.
13. All other regulations and permit conditions, including hours of operation, shall remain in effect, and the outdoor areas shall be subject to inspection by agents of the Board of Health.
14. The Board of Health reserves the right to impose additional requirements on a case-by-case basis as may be necessary to protect public health, safety and welfare.
15. Food Trucks and the outdoor dispensing of food at hotels located out of the center of Town, as determined by the Board of Health, are not allowed.
16. The outdoor display of merchandize shall be permitted subject to approval of the Building Department, but may not encroach into the public way.

**Cruise Ships and Excursion Marine Vessels:**

In light of the significant risk caused by an influx of visitors to the Town caused by these activities which will make social distancing more difficult to achieve, the use of any docking facilities within the Town by cruise ships, whale watching, dinner or sightseeing cruises, deep sea fishing excursions, gambling cruises, or other vessels for hire shall not be permitted except with the approval of the Board of Health, after consultation with the Harbormaster and the

Provincetown Public Pier Corporation. This prohibition does not apply to scheduled ferry service, which is considered an integral part of the Town's transportation infrastructure.

**Bus Tours:**

For the same reasons, leisure bus tours or other vehicles for hire services that are designed to transport ten people or more are not allowed to disembark passengers anywhere within the Town or park tour buses or other vehicles in any Town parking areas except with the approval of the Board of Health, in consultation with the Tourism Board and the Cape Cod Chamber of Commerce. This prohibition shall not apply to regularly scheduled passenger bus service, which are also considered an integral part of the Town's transportation infrastructure.

**Street Performers:**

Street performers must be duly licensed by the Town and are required to wear a mask or other face covering while performing as provided for in this Order. Licensed street performers shall be permitted to perform only within certain designated zones and during the hours as approved by the Board of Health. It is the intent of this prohibition that street performers have the right to exercise freedom of speech subject only to reasonable time place and manner restrictions, and are designed to protect public health, safety and welfare. The Board of Health reserves the right to issue further orders in this regard should the Board determine that the ability to social distance is not possible during performances.

**Mask Order:**

The Governor's mask order is hereby extended to require the wearing of a mask or other mouth covering anywhere within the Town at all times when a person is outside or in a building other than a person's residence. There is no social distancing exception to this requirement.

**Alternative version proposed by the Board of Health:**

The Governor's mask order continues to be extended to require the wearing of a mask or other cloth face covering over the nose and mouth when along the public way on Commercial Street between Bangs Street and Pleasant Street from the hours of 9 AM until 9 PM. This order does not apply to children under the age of 2 or any person who is unable to wear a mask or face covering due to a medical condition or is otherwise exempted by the Department of Public Health guidance. Persons not able to wear a mask due to a medical condition are not required to produce documentation of the condition.

**Public or Semi-public showers:**

No gym, marina, campground, or other facility providing public or semi-public showers, saunas, hot tubs, swimming pools or steam rooms may operate without the approval of the Board of Health and in accordance with any safety standards established by the Board of Health.

**Indoor Entertainment:**

Live indoor entertainment, including cabarets and other live performances, which would otherwise require an entertainment license by the Licensing Board is hereby prohibited.

**Shared Bathrooms:**

No guesthouse or other lodging houses may provide for the shared use of bathrooms by persons who are not related to each other, without the approval of the Board of Health.

**Food Buffets:**

Food buffets and/or any kind of self-service of any food that is not pre-packaged, including self-serve coffee soft drinks, and water dispensing areas, are not allowed to operate.

**Outdoor Areas of Restaurants or Bars**

Smoking in outside restaurant areas or bar areas is prohibited.

**Use of Town Property – Improvements to Town Hall Property**

As the custodial board of Town property, the Select Board will make certain properties available for use by members of the public for the consumption of take-out meals by installing picnic tables, and sanitation and hand washing stations. Said outdoor areas shall be subject to such reasonable rules and regulations as the Select Board deem necessary and shall be available on a first-come, first-serve basis. Pursuant to the authority of the Select Board over public ways and authority to enact traffic regulations, the Select Board will temporarily remove parking spaces on Ryder Street to promote social distancing and pedestrian movement. The Select Board will permit the expansion of the Farmer's Market and the Sunday Vendor's Market onto the Town Hall lawn.

**Closing of Commercial Street to Vehicular Traffic:**

Commercial Street between Standish Street and Court Street will be closed to vehicular traffic between the hours of 6:00 PM and 10:00 PM, on Thursdays, Fridays, Saturdays and Sundays, beginning on effective date of this Order, subject to the following:

- a. Government officials vehicles, including but not limited to Emergency-emergency and safety vehicles, and package and essential service delivery services including grocery and pharmacy deliveries are allowed;
- b. Bicycles must be “walked.”
- c. Taxi stands will be moved to adjacent areas.
- d. No seating or display of merchandize is allowed within the public way.
- e. The queue of crowds that extends into the public way must be monitored and controlled by the business to maintain social distancing requirements and orderly behavior of persons waiting to enter the business.
- f. Enforcement of these requirements will include ticketing and towing.

**East End Gallery Stroll:**

In order to promote social distancing, parking will be prohibited in the East End during Gallery Strolls on Friday evening from 6:00 PM to 10:00 through Labor Day.

**Firehouse No. 3:**

Firehouse No. 3 will be supplied with masks and other sanitary products that will be available to the public as supplies last. The Town’s ambassador program volunteers will be available to monitor and assist residents and visitors.

**Enforcement:**

1. Copies of this Order and any other notices required by this Order shall promptly be: (1) made available at the Provincetown Hall; (2) posted on the Town Website; and (3) provided to any member of the public requesting a copy of this Order; and (4) a summary of which shall be published in the Cape Cod Times, Provincetown Banner, and the Provincetown Independent.
2. If any provision of this order or the application thereof to any person or circumstance is held to be invalid, the remainder of the Order, including the application of such part or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.
3. Whoever violates any provision of this Order 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 be one thousand dollars (\$1,000). Each day or portion thereof shall

constitute a separate offense. If more than one, each condition violated shall constitute a separate offense. The Board of Health and/or the Select Board may seek to enjoin violations thereof through any lawful process, and the election of one remedy by the Board of Health shall not preclude enforcement through any other lawful means.

4. The Provincetown Health Director, Assistant Health Officer, Agent of the Board of Health, and/or any Police Officer of the Town of Provincetown may enforce this Order as a regulation of the Board of Health.
5. Whoever violates any provision of this Order may be penalized by a noncriminal disposition process as provided in Massachusetts General Laws, Chapter 40, section 21D and the Town's non-criminal disposition by-law.
6. If non-criminal disposition is elected, then any person who violates any provision of this Regulation and Order shall be subject to a penalty 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 a third and subsequent offense. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.
7. Notwithstanding the foregoing, agents and officers are encouraged to educate offenders and to exercise their judgment on a case-by-case basis, and they may issue verbal or written warnings prior to determining that an offense has occurred.

So Ordered by the Provincetown Board of Health on this \_\_\_\_ day of\_\_\_\_, 2020

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So Ordered by the Provincetown Select Board on this \_\_\_\_ day of \_\_\_\_\_, 2020

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