

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 or (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.¹

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.

13-2-5. 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 and/or responsible party shall also be responsible to remove the advertising material from any town-owned or privately-owned property or vehicles.²

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

¹ Added by October 29, 2012 STM Article 13

² Amended by April, 1999 ATM Article 44

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 vehicle³, 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.⁴

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.⁵

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 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

³ Amended by April, 2002 ATM Article 45

⁴ Amended by April, 1999 ATM Article 45

⁵ Amended by April, 2002 ATM Article 45

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 \$25.00 (twenty-five dollars) to the owner for the first offense; \$50.00 (fifty dollars) for the second offense; \$75.00 (seventy-five dollars) for the third offense and subsequent offenses. Each violation of this bylaw shall be deemed to be a separate offense.⁶

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 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

⁶ Amended April, 2009 ATM Article 25

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.⁷

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.⁸

- (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.
 - (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

⁷ Amended April, 2009 ATM Article 23

⁸ Added November 8, 2010 STM Article 9

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.⁹

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.

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.

⁹ Added November 8, 2010 STM Article 10

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.¹⁰ 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.¹¹

(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 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 \$100 for the first offense; \$200 for the second offense; and \$300 for the third and subsequent offenses. Each violation of

¹⁰ Added April 6, 2009 ATM Article 24

¹¹ Added November 8, 2010 STM Article 11

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.

13-2-8. 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.¹²

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.¹³

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.¹⁴ 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 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.

¹² Amended April, 1999 ATM Article 47

¹³ Amended April, 2002 ATM Article 41

¹⁴ Amended April, 2000 ATM Article 25

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.¹⁵¹⁶

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.¹⁷

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.¹⁸

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 schedule shall be posted in all lots. A non-criminal disposition penalty will be assessed of fifty dollars (\$50) for each offense.¹⁹

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

¹⁵ Added April, 1998, ATM Article 36

¹⁶ Amended April, 1999, ATM Article 49

¹⁷ Added April, 2000, ATM Article 26

¹⁸ Added October 2015, STM Article 15

¹⁹ Amended April, 1999, ATM Article 48

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.²⁰

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 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.²¹

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

²⁰ Added April, 2000, ATM Article 29

²¹ Amended October 2014, STM Article 7

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.²²

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.²³

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 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.

²² Amended October 2014, STM Article 7

²³ Approved April 1, 2002, STM Article 14

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.²⁴

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.
- 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,

²⁴ Approved April, 2013, ATM Article 23

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 Bylaw²⁵

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 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.

²⁵ Approved October 2014, STM Article 8

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.