



# PROVINCETOWN

## Town Warrant

### Special Town Meeting – Monday, October 23, 2023

The Provincetown Independent | October 5, 2023

#### Commonwealth of Massachusetts Barnstable, ss.

To either of the Constables of the Town of Provincetown, Greetings:

In the Name of the Commonwealth of Massachusetts and in the manner prescribed in the Charter and Bylaws of said Town, you are hereby directed to notify the inhabitants of the Town qualified by law to vote in Town affairs to meet and assemble at **Provincetown Town Hall, 260 Commercial Street, on Monday, the Twenty-Third day of October, A.D. 2023 at 6 o'clock in the evening**, then and there to act on the following articles, to wit:

#### ARTICLES

**ARTICLE 1. Prior Year Bills.** To see what sum the Town will vote to raise and appropriate or transfer from available funds for the purpose of paying prior year unpaid bills; or to take any other action relative thereto.

*[Requested by the Select Board and Town Manager]*

**Explanation of Article 1:** Invoices received after the close of the fiscal year for services rendered or goods received prior to July 1 are considered prior year bills. Per MGL Ch 44 Section 64, prior year bills to be paid from the Town's general operating fund may only be paid by a vote of Town Meeting.

**ARTICLE 2. Establish a Provincetown Municipal Airport Enterprise Fund.** To see if the Town will vote to accept the provisions of General Laws Chapter 44, Section 53F ½ establishing the Provincetown Municipal Airport as an Enterprise Fund effective for the Fiscal Year beginning July 1, 2024; and further to transfer any balance remaining in the Fiscal Year 2023 Airport Revenue Account on July 1, 2024, to the Airport Enterprise Fund; or to take any other action relative thereto.

*[Requested by the Select Board and the Town Manager]*

**Explanation of Article 2:** This article would establish a more structured budget for the airport by creating an Airport Enterprise Fund that would be subject to approval at Annual Town Meeting, similar to the Water and Sewer Enterprise fund. Approving the enterprise fund creation at Special Town Meeting will allow us to plan accordingly for FY25 budget. Enterprise funds allow for comprehensive accounting and finance systems that are legally not required to recover total costs. Surplus monies stay with the fund and can pay for any legal purpose.

**ARTICLE 3. Establish a Receipts Reserved for Appropriation Ambulance Fund.** To see if the Town will vote pursuant to the provisions of Massachusetts General Laws Chapter 40, Section 5F, to create a Receipts Reserved for Appropriation Ambulance Fund beginning in Fiscal Year 2024, to defray the cost, including maturing debt and interest, of acquiring, establishing, maintaining, purchasing, hiring and operating ambulance services; or to take any other action relative thereto.

*[Requested by the Select Board and the Town Manager]*

**Explanation of Article 3:** With the discontinuation of Lower Cape Ambulance Association (LCAA) services, the Town will begin receiving monies from ambulance transports which is currently collected by LCAA. Establishment of a Receipts Reserved for Appropriation fund allows these receipts to be segregated from the general fund into a separate fund and earmarked for appropriation for specified purposes by statute. Appropriations from the fund are limited to actual collections on hand and available and will be used to supplement the operating budget of a full-time EMT/Ambulance service.

**ARTICLE 4. Funding for Motta Field Design Development & Construction Documents.** To see if the Town will vote to raise and appropriate, borrow, or transfer from available funds, \$250,000 to fund the design and development costs of the Motta Field Master Plan on the property located at 25 Winslow Street, which such land is dedicated for active recreation purposes under the provisions of Massachusetts Gen-

eral Law Chapter 45, Section 3, including all costs incidental or related thereto; or to take any other action relative thereto.

*[Requested by the Select Board and the Town Manager]*

**Explanation of Article 4:** This article appropriates \$250,000 to cover the next phase of design and development costs for Motta Field, including the creation of construction documents. This will provide necessary details and a more specific cost estimate that will inform our funding ask for the reconstruction of Motta Field at 2024 Annual Town Meeting.

The Provincetown 2022 Annual Town Meeting approved \$100,000.00 from Community Preservation funds to complete a master plan for the future of Motta Field. A working group comprised of members from the Recreation Commission, Board of Health, School Committee, Selectboard, and four abutters were formed to initiate the planning process. The Master Plan has been completed as of July 1, 2023, and outlines the eight-month community planning process. The community planning process consisted of public engagement that defined the preferred design, which has been recommended to the town as part of the master plan. The preferred plan reflects the community goals as set forth in this process which are: providing accessibility, connectivity, providing multigenerational active and passive recreation for all, while providing flexible space that can host community events.

One of the goals for this project was to line up the Motta Field updates with the sewer expansion project. Aligning both projects could result in the Town of Provincetown saving a significant amount of money and time. However, to have the best success of aligning the projects, this final design work must be initiated as soon as possible.

**ARTICLE 5. Capital Funding for Transfer Station Trash Trailers.**

To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$250,000 to be expended under the direction of the Town Manager or Public Works Director for the replacement of two trash trailers at the Provincetown Transfer Station; or to take any other action relative thereto.

*[Requested by the Select Board and the Town Manager]*

**Explanation of Article 5:** There are a total of six trailers for the transfer station to haul trash and recycling out of town for disposal, four are for trash and two are for recycling. The transfer Station is in immediate need of two new trailers to replace the aged and rotten ones. Not replacing these trailers will affect the operation of the transfer station. Due to the amount of trash and recycling that is collected on a regular basis, it is imperative that we always maintain six working trailers. Cost per trailer is \$125,000 so we would need a total of \$250,000.

One trailer being replaced is a 2006 Steco that was purchased in 2017. Due to the amount of rot, the trailer is no longer operational as it is no longer safe to haul with. The structure of the trailer is compromised due to the extensive amount of rot that has occurred in the crossmembers, which is what hold the trailer to the frame. The air tank cross frame and junction box has rotted off the truck and is hanging. This is the system that operates the air brakes.

The second trailer being replaced is a 2004 Steco that was purchased new in 2004. This trailer is still currently in operation, but it is estimated that the trailer will no longer be operation in a year or less. The cross members are rotten and the air brake junction box has rotted off the truck as well. The included pictures show the rot in the cross members of the trailers.

This article will be funded from unspent funds from previously approved capital articles.

**ARTICLE 6. Eversource Easement for Transformer at Police Station on Jerome Smith Road.** To see if the Town will vote to authorize the Select Board to grant to NStar Electric Company dba Eversource Energy and/or other utility company an easement or easements for overhead lines for distribution of electricity, and lines for control, relay,

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and communication purposes over, across, upon, and under and over a portion or portions of the Town owned property located at 2 Jerome Smith Road, identified on the Assessors Map 8-1 as Parcel 013, on such terms and conditions as the Select Board deems appropriate; or to take any other action relative thereto.

*[Requested by the Select Board]*

**Explanation of Article 6:** This is to allow Eversource an easement to install and service an electric pad mount transformer that will serve the new Police Station. The easement rights granted herein are more particularly described as the right, from time to time and within the premises, to install, construct, reconstruct, alter, extend, operate, inspect, maintain, repair, replace and remove: (a) pad mount transformers, pull boxes, underground wires, cables, conduit, insulators, fittings and fixtures, and other supporting appurtenances deemed necessary by the Town for the purposes specified above; collectively the "equipment", and (b) together with the right and easement to enter upon the premises, including vehicular access for construction and maintenance purposes, as may be necessary from time to time for all of the foregoing purposes, utilizing existing paved ways and parking areas on the premises to the extent practicable.

**ARTICLE 7. Capital Funding for 3 Jerome Smith Site Readiness and Preparation.** To see if the Town will vote to raise and appropriate or transfer from available funds the sum of \$200,000 to be expended under the direction of the Town Manager for the removal of the old septic system at 3 Jerome Smith Road in preparation for the Community Builders housing project; or to take any other action relative thereto.

*[Requested by the Select Board and the Town Manager]*

**Explanation of Article 7:** While the septic system removal is needed in order to officially hand the site over to Community Builders to begin construction, the Town has a pending MassWorks grant applications with the state to fund this removal. These Town funds are only being requested in the event we do not receive the MassWorks grant and would not be necessary if we do. The Town expects to hear about our MassWorks grant in September 2023.

**ARTICLE 8. Acquisition of 22, 22R and 24 Nelson Avenue.** To see if the Town will vote to appropriate \$2,035,000, or any other amount, to pay costs of acquiring the parcels of land located at 22/22R and 24 Nelson Avenue, identified on the Assessors Map 9-2 as Parcels 12-A, 13, 14, and for the payment of all costs incidental and related thereto, and to determine whether this amount shall be raised by borrowing or otherwise and to authorize the Select Board to acquire said parcels by purchase, gift, and/or eminent domain for affordable and/or community housing purposes and for the purpose of conveyance; and further to authorize the Select Board to convey or lease said parcels, such acquisitions and conveyances to be on such terms and conditions and for such consideration as the Select Board shall determine to be in the best interests of the Town; or take any other action relative thereto.

*[Requested by the Select Board and the Town Manager]*

**Explanation of Article 8:** Under the agreed terms, the Town will purchase 22/22R Nelson Avenue for \$1,270,000 and the property at 24 Nelson Ave for \$765,000.

These two properties present an increasingly rare opportunity for the Town to embark on ambitious community housing projects in the coming years. Notably, 22 Nelson Avenue has already been approved and permitted for 12 ownership units, comprising ten market-rate and two affordable units. Once the property is served by Town sewer in the coming years, the potential density is projected to increase significantly, accommodating between 26 to 32 units.

24 Nelson Avenue currently allows for 9 units, but upon sewer connection, development density is expected to expand to 12 to 18 units. When these parcels are combined, the Town could explore the development of up to 18 units today, or between 48 to 60 units once served by sewer. Both properties are part of Phase 6B of the sewer expansion plan, with sewer connection anticipated to occur between 2027 to 2030.

While the Town does not have immediate plans for the redevelopment of these parcels, securing the land is undoubtedly in the Town's best interest. Without the Town's intervention, the likelihood of private development looms large, leading to a proliferation of market-rate condominiums, many of which could potentially become short-term rentals.

**ARTICLE 9. Declaration of Surplus of Property Located at 26 Shank Painter Road and 15 Browne Street.** To see if the Town will vote to transfer the care, custody, control, and management of the following described parcels of land from the board or officer that currently has custody of the land to the Select Board for affordable and/or community housing purposes and for the purpose of conveyance, and, further, to authorize the Select Board to convey or lease said parcels for the purpose of creating affordable and/or community housing thereon, all on such terms and conditions as the Select Board shall determine to be in the best interests of the Town; the land being all or a portion of Assessors Map No.7-2, Parcel No. 68, located at 26 Shank Painter Road, and Assessors Map No. 7-2, Parcel No. 70, located at 15 Browne Street, and commonly known as the Former Police Station; or to take any other action relative thereto.

*[Requested by the Select Board and the Town Manager]*

**Explanation of Article 9:** This article authorizes the Select Board to dispose of Town-owned property based on the recent Request for Proposal for development of housing on the site of the existing police station.

**ARTICLE 10. Declaration of Surplus of Property Located at 288A Bradford Street.** To see if the Town will vote to transfer the care, custody, control, and management of the following described parcel of land from the board or officer that currently has custody of the land to the Select Board for affordable and/or community housing purposes and for purpose of conveyance, and, further, to authorize the Select Board to convey or lease said parcel, subject to compliance with G.L. c.30B, for the purpose of creating affordable and/or community housing thereon on such terms and conditions as the Select Board shall determine to be in the best interests of the Town; the land being all or a portion of Assessors Map No.15-3, Parcel No. 101, located at 288A Bradford Street; or to take any other action relative thereto.

*[Requested by the Select Board and the Town Manager]*

**Explanation of Article 10:** Acquisition of the property was approved at the 2022 April Town Meeting. The Town purchased the 1.7 acre property for \$1,475,000 as a joint Open Space Conservation and Affordable Housing Project. The rear two-thirds of the property will be dedicated as open space and the front third will be developed as housing. This article allows the Select Board to issue a Request for Proposal to receive developer submission on how to develop the property and could allow the Select Board to enter into a lease or sale agreement to achieve the Town's housing goals.

**ARTICLE 11. General Bylaw Amendment – Prohibitions Related To Short-Term Rental Of Residential Properties.** To see if the Town will vote to amend the Provincetown General By-Laws by adding a new Section 13-8 entitled: Prohibitions Related to Short-Term Rental of Residential Properties, as set forth below:

13-8. Prohibitions Related to Short-Term Rental of Residential Properties.

13-8-1. Purpose and Intent. This bylaw is enacted pursuant to the Town's Home Rule Authority and the authority set forth in General Laws c. 64G, §14 and is intended to:

- (1) provide for an orderly process for identifying, registering, and regulating Short-Term Rentals within the Town so as to ensure that such Short-Term Rentals do not create or cause any nuisance conditions within the Town.
- (2) Protect the time-honored tradition of home rentals in Provincetown and preserve economic opportunities through Short-Term Rentals for persons to keep their homes, now and into the future, so they may afford to live either full-time or part-time in Provincetown;
- (3) avoid adverse impacts on the local economy stemming from a loss of existing Short Term Rental revenue, including rooms excise tax revenue, and visitor spending.
- (4) prohibit additional corporate ownership and discourage investment-only ownership of residential properties for the exclusive purpose of operating them as Short-Term Rentals rather than housing for either full-time or part-time residences.
- (5) reduce the neighborhood churn caused by numerous turnovers of occupancy of Short-Term Rentals in residential neighborhoods.
- (6) limit the conversion of residential units to Short-Term Rentals which has had the deleterious effect of removing residential units from the available year-round rental housing stock.

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(7) protect the existence of year-round residences and the quiet and peace of the Town by preventing unwarranted commercialization from encroaching therein, including commercialization caused by the misuse of single-family residences. Fractional ownership, interval and time share units have similar character as commercial hotels, motels, lodges, and other commercial occupancy uses due to their transient nature and multiple short-term occupancies. Such commercial or quasi-commercial use is inappropriate in residential areas due to the increased traffic generation and multiple occupancies disturbing the peace and quiet of residential neighborhoods.

## 13-8-2. Definitions.

For purposes of this Chapter, the following terms shall have the definitions indicated.

13-8-2-1. "Corporation". All businesses and charitable entities required to file Articles of Incorporation and Annual Reports with the Massachusetts Secretary of State or an equivalent agency of another state, pursuant to G.L. c. 156D, § 2 or G.L. c. 180, §4, respectively.

13-8-2-2. "Owner". Any person who alone, or severally with others, has legal or equitable title or beneficial interest in any dwelling unit; a mortgagee in possession; or agent, trustee or person appointed by the courts. An Owner can be a single person, a marital unit, a group of people, LLC, or a Trust. The Owner may also be referred to as the operator, or the Host.

13-8-2-3. "Short-Term Rental". The rental of a whole or a portion of a residential or secondary dwelling unit, in exchange for payment, as residential accommodations for not more than thirty consecutive days, excluding a Hotel, Motel, or Lodging House or Tourist Home for Transient Guests as defined in Massachusetts General Laws Chapter 64G.

13-8-2-4. "Time Share, Interval or Fractional Ownership Unit." Any Dwelling Unit which is owned by a limited liability company, corporation, partnership, or other joint ownership structure in which unrelated persons or entities own, sell, purchase or otherwise for consideration create or acquire any divided property interest including co-ownership or fractional or divided estates, shares, leaseholds, or memberships which are subject to, or subsequently bound by any agreement limiting the right or functional ability of interest holders or their designees to occupy or use the property to their respective interests or any other agreement which limits interest holders' or their designees' use of the property to fractional reservations through stay limitations of any duration. Such use is established by any of the following elements:

- (1) co-ownership or fractional or divided estates, shares, leaseholds, or memberships which are openly advertised, marketed, or offered for sale and sold individually at separate times;
- (2) centralized or professional management;
- (3) reservation systems;
- (4) maximum or minimum day limits on each interest holder's occupancy or use of the property; or
- (5) management agreements or fees reflective of interval use or ownership, irrespective of whether the agreement may be cancelled individually or by any party.

## 13-8-3. Prohibitions.

13-8-3-1. Registration Requirement. No dwelling unit or part thereof may be offered as a Short-Term Rental within the Town of Provincetown unless it is operated in accordance with a Short-Term Rental Certificate issued by the Board of Health and is in compliance with regulations issued by the Board of Health, and is registered with the Commonwealth of Massachusetts Department of Revenue in accordance with applicable laws.

## 13-8-3-2. Reserved.

13-8-3-3. Corporate Ownership. Short-Term Rentals are prohibited in dwelling units owned by a corporation. Short-Term Rentals are permitted in dwelling units owned by an LLC, Trust, or S Corporation only when every shareholder, partner, or member of the legal entity is a natural person, as established by documentation provided by the applicant at the time of registration.

13-8-3-4. Affordable Housing Dwelling Units. Short-Term rentals are prohibited in dwelling units designated as affordable or otherwise income-restricted, which are subject to an affordability restriction or are otherwise subject to housing or rental assistance under local, state, or federal programs or law.

13-8-3-5. Time Share, Fractional and Interval Ownership Units. No Fractional Ownership, Interval or Time Share unit may engage in Short-

Term Rental activities or be eligible to receive a Certificate of registration for such unit; except that this section shall not apply to the creation of mortgages, liens, easements or other similar interests encumbering the residential property as a whole to secure a loan or for any other legitimate purposes; and this section shall not apply to non-commercial groups, such as families, partnerships, associations, or trusts with divided interests or agreements in which the real estate is held and transferred within the family, partnership, association or trust, as opposed to sold in fractional or divided interests on the open market.

13-8-3-6. Protection for Existing Short-Term Rentals. Any person or other legal entity, including Corporations, LLC's, Trusts, and S Corporations, which hold a current Long-Term Rental Certificate issued prior to January 1, 2023 and/or a Short-Term Rental Certificate issued after January 23, 2023 on the effective date of this bylaw may continue to engage in Short-Term Rentals in accordance with the existing Rental Certificate, until the dwelling unit is transferred or conveyed, or the Rental Certificate is not renewed or is revoked by the Board of Health.. If a property is bequeathed to a person or other beneficiary through a will, trust, or other instrument, the new owner may continue to engage in Short-Term Rental activities in accordance with this section.

## 13-8-4. Regulations.

13-8-4-1. Regulations and Fees. The Board of Health may promulgate regulations to carry out and enforce the provisions of this bylaw, and may, subject to the approval of the Select Board, set fees for the issuance of Rental Certificates for Short-Term Rentals.

## 13-8-5. Penalties and Enforcement.

13-8-5-1. Enforcement Options. Whoever violates any provision of this bylaw, or a regulation promulgated hereunder may be penalized by indictment or on complaint brought in the district court. The Town may seek to enjoin violations thereof through any lawful process, and the election of one remedy by the Town shall not preclude enforcement through any other lawful means.

13-8-5-2. Non-Criminal Disposition. Whoever violates any provision of this bylaw, or a regulation promulgated hereunder 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 (Chapter 2). If non-criminal disposition is elected, then any person who violates any provision of this bylaw or regulation 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. The Board of Health or its agent, or any police officer of the Town, shall be the enforcing authority.

13-8-5-3. Suspension of a Rental Certificate. If a notice of violation of this bylaw or any regulation promulgated hereunder or other order is issued to the Owner of a dwelling unit operated as a Short-Term Rental by the Board of Health or its designee, after a Rental Certificate is issued, the Board of Health, after a hearing, may suspend for a period of time determined by the Board of Health or revoke said Rental Certificate until the violation has been cured or otherwise resolved. Multiple violations by any Owner may, at the discretion of the Board of Health and after a hearing, disqualify that Owner from obtaining a Rental Certificate for a period of up to three years.

13-8-5-4. Civil Penalty. In accordance with G.L. c. 64G, §14(v), the Town may assess a civil penalty not to exceed \$5,000 for any violation of this bylaw or a regulation issued hereunder. Each day a violation continues shall be considered a separate offense.

## 13-8-6. Severability.

If any provision in this chapter shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

Or to take any other action relative thereto.

*[Requested by the Select Board]*

**Explanation of Article 11:** This article creates a General Bylaw to regulate short-term rentals with items that appear to have broad support amongst the housing advocates, including banning corporations from obtaining STR certificates.

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**ARTICLE 12. General Bylaw Amendment – Prohibitions Related To Short-Term Rental Of Residential Properties – Additional Regulations.** To see if the Town will vote to amend the Provincetown General By-Laws by adding a new Section 13-8 entitled: Prohibitions Related to Short-Term Rental of Residential Properties, as set forth below:

13-8. Prohibitions Related to Short-Term Rental of Residential Properties.

13-8-1. Purpose and Intent. This bylaw is enacted pursuant to the Town's Home Rule Authority and the authority set forth in General Laws c. 64G, §14 and is intended to:

- (1) provide for an orderly process for identifying, registering, and regulating Short-Term Rentals within the Town so as to ensure that such Short-Term Rentals do not create or cause any nuisance conditions within the Town.
- (2) Protect the time-honored tradition of home rentals in Provincetown and preserve economic opportunities through Short-Term Rentals for persons to keep their homes, now and into the future, so they may afford to live either full-time or part-time in Provincetown;
- (3) avoid adverse impacts on the local economy stemming from a loss of existing Short Term Rental revenue, including rooms excise tax revenue, and visitor spending.
- (4) prohibit additional corporate ownership and discourage investment-only ownership of residential properties for the exclusive purpose of operating them as Short-Term Rentals rather than housing for either full-time or part-time residences.
- (5) reduce the neighborhood churn caused by numerous turnovers of occupancy of Short-Term Rentals in residential neighborhoods.
- (6) limit the conversion of residential units to Short-Term Rentals which has had the deleterious effect of removing residential units from the available year-round rental housing stock.
- (7) protect the existence of year-round residences and the quiet and peace of the Town by preventing unwarranted commercialization from encroaching therein, including commercialization caused by the misuse of single-family residences. Fractional ownership, interval and time share units have similar character as commercial hotels, motels, lodges, and other commercial occupancy uses due to their transient nature and multiple short-term occupancies. Such commercial or quasi-commercial use is inappropriate in residential areas due to the increased traffic generation and multiple occupancies disturbing the peace and quiet of residential neighborhoods.

13-8-2. Definitions.

For purposes of this Chapter, the following terms shall have the definitions indicated.

13-8-2-1. "Corporation". All businesses and charitable entities required to file Articles of Incorporation and Annual Reports with the Massachusetts Secretary of State or an equivalent agency of another state, pursuant to G.L. c. 156D, § 2 or G.L. c. 180, §4, respectively.

13-8-2-2. "Owner". Any person who alone, or severally with others, has legal or equitable title or beneficial interest in any dwelling unit; a mortgagee in possession; or agent, trustee or person appointed by the courts. An Owner can be a single person, a marital unit, a group of people, LLC, or a Trust. The Owner may also be referred to as the operator, or the Host.

13-8-2-3. "Short-Term Rental". The rental of a whole or a portion of a residential or secondary dwelling unit, in exchange for payment, as residential accommodations for not more than thirty consecutive days, excluding a Hotel, Motel, or Lodging House or Tourist Home for Transient Guests as defined in Massachusetts General Laws Chapter 64G.

13-8-2-4. "Time Share, Interval or Fractional Ownership Unit." Any Dwelling Unit which is owned by a limited liability company, corporation, partnership, or other joint ownership structure in which unrelated persons or entities own, sell, purchase or otherwise for consideration create or acquire any divided property interest including co-ownership or fractional or divided estates, shares, leaseholds, or memberships which are subject to, or subsequently bound by any agreement limiting the right or functional ability of interest holders or their designees to occupy or use the property to their respective interests or any other agreement which limits interest holders' or their designees' use of the property to fractional reservations through stay limitations of any duration. Such use is established by any of the following elements:

- (1) co-ownership or fractional or divided estates, shares, leaseholds, or memberships which are openly advertised, marketed, or offered for sale and sold individually at separate times;

- (2) centralized or professional management;
- (3) reservation systems;
- (4) maximum or minimum day limits on each interest holder's occupancy or use of the property; or
- (5) management agreements or fees reflective of interval use or ownership, irrespective of whether the agreement may be cancelled individually or by any party.

13-8-3. Prohibitions.

13-8-3-1. Registration Requirement. No dwelling unit or part thereof may be offered as a Short-Term Rental within the Town of Provincetown unless it is registered with the Board of Health and in compliance with regulations issued by the Board of Health and is registered with the Commonwealth of Massachusetts Department of Revenue in accordance with applicable laws.

13-8-3-2. Limitation on Number of Short-Term Rentals. An Owner may register to operate only two dwelling units as Short-Term Rentals. If a person owns or is listed as a manager and/or is an agent for three or more dwelling units, that person must choose only two units to be registered as Short-Term Rentals. No person shall have more than two legal or equitable title or beneficial interest in dwelling units used for Short-Term Rentals except as provided for above. An Owner may hire a property management company to list and manage Short-Term Rentals, but the registration must be in the Owner's name.

13-8-3-3. Corporate Ownership. Short-Term Rentals are prohibited in dwelling units owned by a corporation. Short-Term Rentals are permitted in dwelling units owned by an LLC, Trust, or S Corporation only when every shareholder, partner, or member of the legal entity is a natural person, as established by documentation provided by the applicant at the time of registration.

13-8-3-4. Affordable Housing Dwelling Units. Short-Term rentals are prohibited in dwelling units designated as affordable or otherwise income-restricted, which are subject to an affordability restriction or are otherwise subject to housing or rental assistance under local, state, or federal programs or law.

13-8-3-5. Time Share, Fractional and Interval Ownership Units. No Fractional Ownership, Interval or Time Share Dwelling Unit may engage in Short-Term Rental activities or be eligible to receive a Certificate of Registration for such unit; except that this section shall not apply to the creation of mortgages, liens, easements or other similar interests encumbering the residential property as a whole to secure a loan or for any other legitimate purposes; and this section shall not apply to non-commercial groups, such as families, partnerships, associations, or trusts with divided interests or agreements in which the real estate is held and transferred within the family, partnership, association or trust, as opposed to sold in fractional or divided interests on the open market.

13-8-3-6. Protection for Existing Short-Term Rentals. Any person or other legal entity who holds a current Certificate of Registration on the effective date of this bylaw may continue to engage in Short-Term Rentals in accordance with the existing Certificate of Registration, until the dwelling unit is transferred or conveyed, or the certificate of registration is not renewed. If a property is bequeathed to a person or other beneficiary through a will, the new owner may continue to engage in Short-Term Rental activities in accordance with this section.

13-8-4. Regulations.

13-8-4-1. Regulations and Fees. The Board of Health may promulgate regulations to carry out and enforce the provisions of this bylaw, and may, subject to the approval of the Select Board, set fees for the issuance of Certificates of Registration for Short-Term Rentals.

13-8-5. Penalties and Enforcement.

13-8-5-1. Enforcement Options. Whoever violates any provision of this bylaw, or a regulation promulgated hereunder may be penalized by indictment or on complaint brought in the district court. The Town may seek to enjoin violations thereof through any lawful process, and the election of one remedy by the Town shall not preclude enforcement through any other lawful means.

13-8-5-2. Non-Criminal Disposition. Whoever violates any provision of this bylaw, or a regulation promulgated hereunder 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 (Chapter 2). If non-criminal disposition is elected, then any person who violates any provision of this bylaw or regulation 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

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day or portion thereof shall constitute a separate offense. The Board of Health or its agent, or any police officer of the Town, shall be the enforcing authority.

13-8-5-3. Suspension of Certificate of Registration. If a notice of violation of this bylaw or any regulation promulgated hereunder or other order is issued to the Owner of a dwelling unit operated as a Short-Term Rental by the Board of Health or its designee, after a Certificate of Registration is issued, the Board of Health, after a hearing, may suspend for a period of time determined by the Board of Health or revoke said Certificate of Registration until the violation has been cured or otherwise resolved. Multiple violations by any Owner may, at the discretion of the Board of Health and after a hearing, disqualify that Owner from obtaining a Certificate of Registration for a period of up to three years.

13-8-5-4. Civil Penalty. In accordance with G.L. c. 64G, §14(v), the Town may assess a civil penalty not to exceed \$5,000 for any violation of this bylaw or a regulation issued hereunder. Each day a violation continues shall be considered a separate offense.

13-8-6. Severability.

If any provision in this chapter shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

In the event that the motion under this Article and the previous Article are approved, the Town Clerk is hereby authorized to publish the bylaw incorporating the substantial changes in both articles.

Or to take any other action relative thereto.

*[Requested by the Select Board]*

**Explanation of Article 12:** *In the event that Article 11 is adopted by Town Meeting, this article amends the General Bylaw to regulate short-term rentals by adding Subsection 13-8-3-2 allowing individuals to obtain no more than two (2) short-term rental certificates. Any person or other legal entity who holds a current Certificate(s) of Registration on the effective date of this bylaw may continue to engage in Short-Term Rentals in accordance with the existing Certificate of Registration, until the dwelling unit is transferred or conveyed, or the certificate of registration is not renewed. This includes individuals/entities who may have three (3) or more STR certificates. If a property is bequeathed to a person or other beneficiary through a will, the new owner may continue to engage in Short-Term Rental activities in accordance with this section.*

**ARTICLE 13. Zoning Bylaw Amendment – Ban on Fractional Ownership.** To see if the Town will vote to amend the Provincetown Zoning By-Laws by adding a new Section 4195, entitled: Time Share, Interval and Fractional Ownership Units, as set forth below:

## Time Share, Fractional and Interval Ownership Units:

**1. Findings and Purpose.** The purpose of this section is to preserve and protect limited housing stock in the Town from the market pressures attendant to time share, interval and fractional ownership uses and to protect neighborhoods from the impacts of such uses.

- a. Fractional ownership, interval and time share units have similar character as commercial hotels, motels, lodges, and other commercial occupancy uses due to their transient nature and multiple short-term occupancies. Such commercial or quasi-commercial use is inappropriate in residential areas due to the increased traffic generation and multiple occupancies disturbing the peace and quiet of residential neighborhoods.
- b. The needs of transient occupants are averse to the interests sought to be protected and preserved in residential neighborhoods, because commercial uses for transient occupants may sacrifice other values critical to residential neighborhoods.
- c. The Town deems it necessary and appropriate to protect the existence of year-round residences and the quiet and peace of the Town by preventing unwarranted commercialization from encroaching therein, including commercialization caused by the misuse of single-family residences.

## 2. Definition.

- a. Time Share, Interval or Fractional Ownership Unit. Any Dwelling Unit which is owned by a limited liability company, corporation, partnership, or other joint ownership structure in which unrelated persons or entities own, sell, purchase or otherwise for consideration create or acquire any divided property interest including co-ownership or fractional or divided estates, shares, leaseholds,

or memberships which are subject to, or subsequently bound by any agreement limiting the right or functional ability of interest holders or their designees to occupy or use the property to their respective interests or any other agreement which limits interest holders' or their designees' use of the property to fractional reservations through stay limitations of any duration. Such use is established by any of the following elements:

1. co-ownership or fractional or divided estates, shares, leaseholds, or memberships which are openly advertised, marketed, or offered for sale and sold individually at separate times.
2. centralized or professional management.
3. reservation systems.
4. maximum or minimum day limits on each interest holder's occupancy or use of the property; or
5. management agreements or fees reflective of interval use or ownership, irrespective of whether the agreement may be cancelled individually or by any party.

## 3. Prohibition of fractional ownership, interval, and time share units.

The use of any dwelling unit in the Town as a fractional ownership, interval or time share unit is prohibited in all zoning districts.

### a. Exceptions.

1. This section shall not be deemed to preclude the creation of mortgages, liens, easements or other similar interests encumbering the residential property as a whole to secure a loan or for any other legitimate purposes.
2. This section shall not apply to non-commercial groups, such as families, partnerships, associations, or trusts with divided interests or agreements in which the real estate is held and transferred within the family, partnership, association or trust, as opposed to sold in fractional or divided interests on the open market.

## 4. Severability.

If any section, subsection, sentence, clause or phrase of this section is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this section.

Or to take any other action relative thereto.

*[Requested by the Select Board]*

**Explanation of Article 13:** *Zoning Bylaw to restrict fractional ownership in Provincetown. "Fractional ownership" describes properties owned by multiple parties who each own a percentage, along with sharing usage rights. Similar to timeshares, fractional ownership properties operate through central management agreements and by limiting shareholders' occupancy to a certain time frame. Under the joint ownership structure, share owners have full discretion regarding selling, purchasing, renting, or further dividing their interest in the property. Many believe fractional ownership poses a direct risk to the year-round residents and their access to stable, year-round housing. West Tisbury passed a similar bylaw at their 2023 Annual Town Meeting, and Nantucket and communities on Martha's Vineyard are proposing similar bans.*

**ARTICLE 14. Zoning Bylaw Amendment – Accessory Dwelling Units.** (~~Deletions shown in strike-through and new text shown as underlined.~~) To see if the Town will vote to amend the Provincetown Zoning Bylaws, Article 2 Districts and District Regulations, Section 2450 Permitted Accessory Uses as follows:

## 2450 Permitted Accessory Uses

### Footnotes

6. One accessory dwelling unit may be allowed in the Res1 Zoning District, for a total of two dwelling units per lot; and in Res2 Zoning District for a total of three dwelling units per lot; and in the Res3, ResB, TCC and GC Zoning Districts when the lot area limits the number of dwelling units to one or two, and there are no more dwelling units on the lot than the number allowed under this Bylaw, for a total of no more than ~~three~~ four dwelling units per lot. All accessory dwelling units shall meeting the following criteria: ~~the accessory dwelling unit is deed-restricted for year-round rental only cannot be used for Short-Term Rentals, i.e. rentals of 31 days or less, as defined by the Massachusetts Department of Revenue;~~ it is limited in size to 600 square feet if it is a free-standing dwelling unit or 40% of the gross floor area if it is located with-

# PROVINCETOWN SPECIAL TOWN MEETING WARRANT

in the a principal residence or accessory to a principal commercial unit; and shall remain under the same ownership as the principal residence or principal commercial unit, such that the accessory dwelling unit cannot be converted into a condominium, cannot be divided onto a separate lot from the principal unit, nor be under separate ownership from the principal dwelling.

or to take any other action relative thereto.


[Requested by the Planning Board]

**Explanation of Article 14:** Even though accessory dwelling units have been allowed by-right in every residential district in Town since 2017, very few units have ever been created. The proposed amendment removes the deed restriction limiting accessory dwelling units to year-round rental only; allows accessory dwelling units to be accessory to a principal commercial unit; prohibits accessory dwelling units from being used for Short-Term Rentals; and prohibits converting accessory dwelling units into condominiums. The purpose of this amendment is to make creating an accessory dwelling unit easier by allowing greater flexibility for occupancy, such as allowing seasonal rental for workers.


**HEREOF FAIL NOT and make a due return of this WARRANT with your doings thereon to the TOWN CLERK, at the time and place of the meeting aforesaid.**

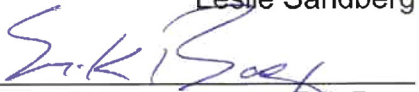
**Given unto our hands the 22nd day of September in the year Two Thousand Twenty-Three.**

Provincetown Select Board.

  
David Abramson, Chairman

John Golden, Vice-Chairman

  
Leslie Sandberg

  
Erik Borg

  
Austin Miller

A TRUE COPY, ATTEST:

Elizabeth Paine

Town Clerk

Date of publishing: [www.provincetown-ma.gov](http://www.provincetown-ma.gov) September 22, 2023  
Provincetown Independent October 5, 2023



## Public Hearings Articles in the October 23, 2023 Special Town Meeting Warrant

In accordance with §2-3-g of the Provincetown Charter, the following committees will hold public hearings on the warrant:

Select Board on Tuesday, October 10, 2023 at 7:00 pm

Board of Health on Thursday, October 5, 2023 at 4:00 pm

Finance Committee on Tuesday, October 10, 2023 at 1:00 pm

Finance Committee on Tuesday, October 10, 2023 at 7:00 pm

Planning Board on Thursday, October 12, 2023 at 6:00 pm

In accordance with Article 2 of the Acts of 2023, these meetings will be conducted in person and, as a courtesy via remote means, in accordance with applicable law. Please note that while an option for remote attendance and/or participation is being provided as a courtesy to the public, the meeting/hearing will not be suspended or terminated if technological problems interrupt the virtual broadcast, unless otherwise required by law.

A link to the agenda for these meetings can be found on the Town's website [www.provincetown-ma.gov](http://www.provincetown-ma.gov)