

Article 6 - Growth Management By-Law

Section 6100 Purpose

The purpose of this Article is to maintain the rate of development in the Town at a level which will allow the Town to provide in a planned and rational manner adequate public services and facilities to meet the needs of its current and future population without overburdening the Town's natural resources or the capacities of existing and planned public facilities, particularly with respect to provision of potable water, wastewater disposal, and solid waste disposal. The regulations provided in this Article are designed to effectuate the purposes of zoning in :

- facilitating adequate provision of water, drainage, sewerage, and other public health safety and welfare requirements;
- protecting and enhancing the character of the community and its historical and natural resources; and
- ensuring that the rate of development does not overly burden the capacity of the Town to absorb the costs of meeting water, sewerage and waste disposal service demands in light of both fiscal constraints and limited availability of natural resources;

while at the same time, encouraging affordable housing development and year-round economic development, and minimizing hardship to persons of limited incomes who live, or may choose to live, in the town.

Section 6200 Applicability

1. Except as provided below this Growth Management By-law shall apply to all new construction, including new structures and enlargement, alteration or renovation of existing structures, to all new uses, and to all expansions, changes, or alterations of existing uses, which will result in an increase, no change, or a decrease in Title 5 Design Flow (pursuant to 310 C.M.R. 15.203 (2) through (6), and Board of Health Regulations Part 7 Local Title V Supplements) as determined by the Health Agent.
2. No building permit shall be issued for a new structure or for the enlargement, reduction, renovation or alteration of an existing structure and no occupancy permit shall be issued for any new use or any reduction, expansion, change or alteration of an existing use for which no building permit is required; until and unless:
 - (a) The Health Agent determines the amount, if any, by which Title 5 Design Flow will increase or decrease as a result of the proposed structure or use; and
 - (b) In the event the Health Agent determines the amount of Title 5 Design Flow will increase, the property owner obtains a Growth Management Allocation Permit sufficient to allow the increase.
3. If the Health Agent determines under Section 6200-2a that a decreased Title 5 Design Flow will result, then during a two-year period following the issuance of the building permit or occupancy permit, whichever is earlier, for such structure or use, no Growth Management Allocation Permit will be required for any subsequent change in such structure or use that increases its Title 5 Design Flow up to and including the Title 5 Design Flow amount so determined by the Health Agent prior to the decrease in Title 5 Design Flow, unless the owner has abandoned the prior use or intensity of use. Such abandonment shall occur by wholly changing such use to a different principal use, or by issuing a written statement or covenant to the Town expressly abandoning the prior use or intensity of use.
4. This Growth Management Zoning By-law shall not apply to:
 - a. Municipal Uses;
 - b. approved Laundromats;

- c. construction of a single-family dwelling, one per lot, upon a vacant lot by the record owner(s) thereof appearing at the Barnstable County Registry of Deeds as of March 1, 2000 which is intended to be occupied and is subsequently occupied for a continuous period of at least two (2) years by said owner(s) as his/her/their permanent principal residence. An Affidavit of Intention setting forth the owner(s) certification of intended commitment to compliance with the requirements of this subsection and signed and notarized under the pains and penalties of perjury by said record owner(s) shall be filed with the Inspector of Buildings with any building permit application filed pursuant to this exception. No property utilizing this exception shall be eligible to receive an additional Growth Management Allocation Permit for a period of five (5) years from the date of issuance of the original Growth Management Allocation Permit nor may a qualifying person or persons under this exception ever re-qualify for a further exception under this subparagraph c;
- d. single family dwellings where the owners are the resident and have a private well suitable for drinking. Said lot shall not be permitted to connect to the Town's water system;
- e. health care related uses in the Health Care Overlay District.

Section 6300 Procedure

1. Application for a Growth Management Allocation Permit may be made in writing to the Permit Coordinator only after having first received all other permits, (except building and occupancy permits), licenses, special permits, variances, determinations and/or orders of conditions for the proposed construction and/or use as deemed necessary by the Permit Coordinator including, if applicable, Affordable Housing and/or Community Housing Permits awarded by the Provincetown Community Housing Council (PCHC) or Economic Development Permits awarded by the Board of Selectmen. For purposes of such application, statutory appeal periods relative to said permits, variances, special permits, determinations and/or orders of conditions, need not have expired without appeals for the Permit Coordinator to determine that an application for a Growth Management Allocation Permit is completed.
2. In order to be considered complete, a Growth Management Allocation Permit application must be accompanied by the application for any building permit required for the proposed construction or, if no building permit is required, the application for an occupancy permit.
3. Growth Management Allocation Permits shall be issued, after completion of the annual growth management review by the Board of Selectmen, in the order that the completed applications have been received, and after the Department has had 30 days to review the completed application.
4. Affordable Housing Permits and/or Community Housing Permits will be authorized on a priority basis as established by the PCHC, using criteria including but not limited to housing quality standards, quality of design, degree of affordability in terms of cost, and financial feasibility of the proposal. No Affordable Housing Permit and/or Community Housing Permit shall be issued without prior authorization of the PCHC. Each property in which 100% of the dwelling units are Affordable Housing and/or Community Housing, and for which an Affordable Housing Permit or a Community Housing Permit is granted, shall be deemed a public service use under Section 3 of Chapter 157 of the Acts of 2000.”
5. Discontinued and Abandoned Uses.
 - a. Discontinued. The Health Agent shall, two years after a determination of decreased Title 5 Design Flow pursuant to section 6200.2(a), provided that such Title 5 Design Flow has not increased during the two year period, or two years after actual discontinuance of use pursuant to a growth management allocation permit, assign the difference in gallonage

between the prior, higher Title 5 Design Flow and the current Title 5 Design Flow back to the corresponding General Use Category.

- b. Abandoned. In the event a property owner abandons the prior use or intensity of use pursuant to Section 6200-3, the Health Agent shall immediately assign the difference in gallonage between the prior, higher Title 5 Design Flow and the new Title 5 Design Flow back to the corresponding General Use Category.

Section 6400 Priorities

Growth Management Allocation Permits shall be issued on the basis of the order of use priorities listed within each General Use Category in the following Table, and within each use priority in order of the date of the completed applications. The first listed use within each General Use Category shall be the highest use priority within that General Use Category.

Section 6500 Table of Use Categories and Priorities

GENERAL USE CATEGORY 1

- 1a. Affordable Housing Units
- 1b. Community Housing Units

GENERAL USE CATEGORY 2

- 2. The non-affordable/community housing components of project consisting of:
 - 2a. The creation of any deed-restricted, year-round rental unit or units, including accessory units
 - 2b. Any project that consists of a minimum of 16.67% affordable and/or community housing units granted under the Inclusionary and Incentive Zoning Bylaw.

GENERAL USE CATEGORY 3

- 3a. Expansions or alterations to existing residential structures that result in increased Title 5 flow, not to exceed the Title 5 Design Flow pursuant to 310 CMR 15.203(2). A total of 330 gallons per year will be reserved for one bedroom per year per applicant.
- 3b. Single-family dwelling on one lot;
- 3c. Two-family dwelling on one lot; two single-family dwellings on one lot;
- 3d. All other market rate residential projects without affordable housing components that result in increased Title 5 flow, except that no one applicant may gain access to 65% of allowable growth within this category within any given year.

GENERAL USE CATEGORY 4

- 4a Projects that receive an Economic Development Permit
- 4b Non-Profit or Community Service Uses which meet a critical community need as determined by the Board of Selectmen
- 4c Boarding, Lodging or Tourist Homes, Hotel, Motel, Inn, Camp, Cabin, Dormitory Housing
- 4d All other non-residential uses, expansions or alterations to existing structures or uses and any change in use or increase in posted occupant load that results in increased Title 5 Design Flow.

Section 6600 Growth Limitation Goal Allocations

1. Annually, during the Growth Management Review, the Board of Selectmen may allocate up to 2750 gpd to General Use Category 1 and General Use Category 2, provided that the Board of Selectmen shall have made a finding that the Town is in compliance with the water withdrawal permit issued by the Department of Environmental Protection (“DEP”) pursuant to 310 CMR 36.00 and all applicable rules and regulations promulgated by DEP with respect thereto.

The Selectmen shall have the flexibility with the General Use Category 1 and General Use Category 2 to distribute the gallons amongst the Use Categories based on the recommendation of the Community Housing Council within the Annual Growth Management Report.

All unassigned gallonage remaining at the end of each calendar year for General Use Category 1 and General Use Category 2 shall remain available for assignment in the next calendar year for those same General Use categories.

2. The Growth Limitation Goal shall be allocated for categories 3 and 4 each year as follows:

(a) Annually, during the Growth Management Review, the Board of Selectmen may allocate up to 1,870 gpd to General Use Category 3, provided that the Board of Selectmen shall have made a finding that the Town is in compliance with the water withdrawal permit issued by the Department of Environmental Protection (“DEP”) pursuant to 310 CMR 36.00 and all applicable rules and regulations promulgated by DEP with respect thereto. Within this allocation, 330 gpd shall be reserved for General Use Category 3a (expansions to existing residential structures). All unassigned gallonage remaining at the end of each calendar year for General Use Category 3 shall remain available for assignment in the next calendar year for General Use Category 3.

(b) Annually, during the Growth Management Review, the Board of Selectmen may allocate up to 3,750 gpd to General Use Category 4, provided that the Board of Selectmen shall have made a finding that the Town is in compliance with the water withdrawal permit issued by the Department of Environmental Protection (“DEP”) pursuant to 310 CMR 36.00 and all applicable rules and regulations promulgated by DEP with respect thereto. The Selectmen shall have the flexibility with the General Use Category 4 to distribute the 3,750 gallons between the General Use Category 4 and Use Category 4a, Projects that receive an Economic Development Permit. All unassigned gallonage remaining at the end of each calendar year for General Use Category 4 shall remain available for assignment in the next calendar year for General Use Category 4, and all unassigned gallonage available at the end of each calendar year for Use Category 4a, shall remain available for assignment in the next calendar year for Use Category 4a.

3. Growth Management Review. Annually, by January 31st, the Town Manager, in consultation with the DPW Director, Water Superintendent, Permit Coordinator, Planning Board, Board of Health, Water & Sewer Board, and Provincetown Community Housing Council (PCHC) shall evaluate the effects of growth on our resources over the past year, including but not limited to potable water supply, solid waste disposal, wastewater disposal, and the inventory of affordable housing and a review of the demand for Category 4a and issue an Annual Growth Management Report to the Board of Selectmen on those impacts and their recommendations therefor. The Board of Selectmen shall hold a Public Hearing on the Report within 30 days, and make a determination as to the amount of the Growth Limitation Goal Allocations, not to exceed the assigned allocations in Section 6600 for the upcoming year.

Section 6700 Scope and Validity of the By-law

Nothing in this Growth Management Zoning By-law shall nullify or exempt any property or use from any other provisions of these By-laws or other Town regulations.

The invalidity of any section or provision of this By-law shall not invalidate any other section or provision hereof, nor shall it invalidate any building permit, occupancy permit or special permit issued in reliance on said section or provision prior the determination of its invalidity.

Town Warrant

Special Town Meeting – Monday, October 23, 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]