

BARNSTABLE COUNTY ASSEMBLY OF DELEGATES

In the Year Two Thousand and Three

Ordinance 03-16

To amend the Code of Cape Cod Commission Regulations of General Application, Chapter A, Enabling Regulations, for the purpose of defining the term for "Project of community benefit hardship exemption" and establishing criteria for determining such an exemption.

Barnstable County hereby ordains:

In Section 9 entitled "Procedure for Processing", change the language as follows (additions in **bold**, definitions ~~strikeout~~):

(g), ii, (c)(i) Hardship Exemptions - the Commission may waive **or alleviate** application of **one or more of the** Minimum Performance Standards ~~where the project complies, to the maximum extent feasible, with the Minimum Performance Standards and~~ where **such any** relief granted ~~from the requirements of the Minimum Performance Standards~~ shall be related directly to the nature of the identified hardship and shall be the minimum relief necessary to address the hardship. Any relief granted shall not nullify or substantially derogate from the intent and purposes of the Act, and shall not result in a substantial detriment to the public good. ~~;~~

(c)(i)(a) Project of Community Benefit Hardship Exemption - The Commission may consider whether the proposed project is a Project of Community Benefit (POCB) as defined under Section 1(c) hereof, and accordingly grant a hardship exemption. In order for a Project of Community Benefit to be granted relief under a hardship exemption, the applicant must demonstrate the project's need within and benefit to the community and specifically the difficulty full compliance with Minimum Performance Standards would entail.

(c)(i)(b) Procedures - The Commission may grant a hardship exemption to a proposed Project of Community Benefit. In determining the extent of relief, if any, to be granted, the Commission shall consider:

(1) whether the proposed project is a Project of Community Benefit (POCB) as defined under Section 1(c) hereof;

(2) the extent of which full compliance with the Minimum Performance Standards would constitute a hardship by diminishing the community benefit(s) to be conferred;

(3) the minimum extent of relief to address the hardship; and,

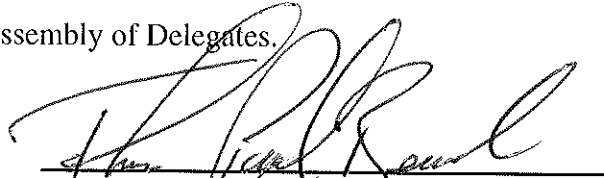
(4) whether any relief granted would nullify or substantially derogate from the intent and purposes of the Act or result in a substantial detriment to the public good.

(c) (ii) If at any point the use of the property is changed or expanded the applicant or subsequent owner or operator shall file a modification request with the Commission, consistent with the Commission Enabling and Administrative Regulations. Any and all mitigation requirements, waived in full or in part, as part of the original hardship exemption may be modified within the Commission's discretion as part of such modification request to require additional or full compliance with the Minimum Performance Standards if the Commission finds that the basis for the original hardship exemption has changed; or,

In Section 1 entitled General provisions, add the following new Definition under (c):

Project of Community Benefit: A project of Community Benefit (POCB) is one determined by the Commission to confer upon or result in distinct benefits to the community and the citizens of Barnstable County, consistent with Section 1 (a) and 1 (c) of the Act.

Adopted on September 17, 2003 by the Assembly of Delegates.


Thomas R. Bernardo, Speaker

Approved by the Board of County Commissioners, SEP 24 2003 at, 10:15 a.m.
Date Time

