

BARNSTABLE COUNTY ASSEMBLY OF DELEGATES

In the Year Two Thousand and Five

Ordinance 05-13

To add the following Chapter G to the Code of Cape Cod Commission Regulations of General Application to create Growth Incentive Zone Regulations.

Section 1. General Provisions

(a) Source of Authority

These regulations concerning Growth Incentive Zones (GIZ) are adopted pursuant to Sections 6 and 7 of the Cape Cod Commission Act (Act), Chapter 716 of the Acts of 1989, as amended.

(b) Purpose

In accordance with the Act and to implement the goals of the Regional Policy Plan (RPP), the Cape Cod Commission (Commission) hereby establishes a process for designating Growth Incentive Zones. Through designated GIZs, towns may enhance village centers and other areas of existing development by encouraging a concentrated mix of residential and commercial uses within these locations while ensuring that all growth is properly served by adequate infrastructure. As part of the GIZ designation process, towns shall protect land outside these areas through the implementation of transferable development rights, downzoning, conservation restrictions, and other land protection measures.

As a means of encouraging mixed-use development inside GIZs, Developments of Regional Impact (DRIs) within these areas qualify for certain reduced Minimum Performance Standards (MPS) and requirements set forth in the RPP in the following areas: nitrogen loading, traffic mitigation, open space, and community character. In addition, as part of its GIZ application, a town may request that the Commission grant modifications to existing DRI thresholds.

(c) Effective Date

The regulations set forth herein shall be effective following passage as an ordinance and upon recording of the ordinance with the Barnstable County Registry of Deeds.

(d) Definitions

The definitions contained in the RPP, Section 2 of the Act, and the Commission's Enabling Regulations shall apply to these regulations.

Section 2. GIZ Qualifications

a) The area proposed as a GIZ shall be a contiguous geographic area with clearly delineated boundaries that may include areas in more than one town. The GIZ shall neither expand nor create strip development, as defined in the RPP.

b) A proposed GIZ shall contain existing development and infrastructure, with opportunities for redevelopment, infill, and intensification of existing uses. Undeveloped parcels isolated from existing development are not appropriate areas for GIZs and shall be avoided.

c) A proposed GIZ shall be characterized by the following types of development (existing within the zone or planned, as demonstrated by pending zoning or planning proposals):

- A compact mix of uses;
- A broad range of housing types, including multi-family dwellings and accessory apartments;
- Civic and institutional uses; and
- Pedestrian- and transit-oriented development.

d) GIZs shall avoid the following areas, as mapped by the Commission:

- Potential Public Water Supply Areas, rare species habitat, priority natural communities, wetlands, critical upland areas, unfragmented forest habitat, and land within 350 feet of vernal pools and 300

BARNSTABLE COUNTY ASSEMBLY OF DELEGATES

Ordinance 05-13: To add Chapter G to the Code of Cape Cod Commission Regulations of General Application to create Growth Incentive Zone Regulations.

June 15, 2005

page 2

feet of ponds.

- Undeveloped Velocity (V) zones as designated by FEMA

(e) A GIZ may include incidental portions of areas identified under Section 2(d) herein for the purpose of maintaining its contiguity provided their inclusion would not pose significant adverse impacts to any of the resources protected under the Act.

f) Infrastructure

A proposed GIZ shall include provisions for adequate infrastructure and services that either exist within the zone or are planned, as demonstrated by pending proposals. Such provisions shall be timed to meet the demand created by new development. Adequate infrastructure shall include:

- 1) Demonstrated capacity to provide public water supply for maximum day demand periods.
- 2) Infrastructure consistent with the goals and standards set forth under the RPP for a) collection and treatment of wastewater and effluent disposal and b) management of stormwater runoff.
- 3) Transportation infrastructure, including transit, bicycle, and pedestrian provisions to reduce the number of automobile trips made within the GIZ, as well as roadway, parking and circulation improvements, to accommodate expected traffic flow.
- 4) Sidewalks or other pedestrian facilities along all regional roadway frontage.
- 5) Marine/maritime infrastructure, where applicable, to ensure the continuance of traditional maritime industries.

g) Offsets

Development reduction measures (offsets) including downzoning, overlay districts, transfer of development rights, and/or conservation restrictions shall be provided outside the GIZ to offset the potential for increased development within the GIZ. The offsets shall be provided in clearly delineated geographic areas outside of the GIZ and may be provided inside or outside of the town where the GIZ is located, depending on the characteristics of the GIZ. Land purchased no more than 3 years prior to the date of the GIZ application may be eligible for consideration as an offset.

h) Plan Consistency

A proposed GIZ shall be consistent with the following documents:

1. The town's certified Local Comprehensive Plan (LCP). For towns that do not have a certified LCP, other relevant town-approved planning documents including but not limited to master plans, housing plans, open space plans, comprehensive wastewater management plans, and economic development plans may serve as the basis for a GIZ proposal.
2. The goals of the RPP in effect at the time of the opening of the Commission's public hearing.
3. The Regional Transportation Plan.

Section 3. Who May Propose a GIZ

(a) A GIZ may be proposed to the Commission by a Planning Board or Local Planning Committee, with concurrence from the Board of Selectmen (Town Manager for the Town of Barnstable).

Section 4. Procedure for Proposing a GIZ

(a) The party proposing a GIZ shall schedule a pre-application meeting during which submission requirements and possible waivers will be identified

(b) The proposing party shall conduct at least one advertised public hearing prior to submitting a GIZ application. Such party is encouraged to invite broad-based community participation in the GIZ development process through additional meetings and design forums.

(c) Following the pre-application meeting with Commission staff and the public hearing, the

BARNSTABLE COUNTY ASSEMBLY OF DELEGATES

Ordinance 05-13: To add Chapter G to the Code of Cape Cod Commission Regulations of General Application to create Growth Incentive Zone Regulations.

June 15, 2005

page 3

proposing party may propose a GIZ by submitting two copies of a completed GIZ application to the Clerk of the Cape Cod Commission. An application may be prepared and submitted jointly by multiple towns if the GIZ geographic area or its associated offsets involve more than one town.

(d) The application shall include the GIZ Application Form and the supporting materials specified therein.

Section 5. Procedure for processing a GIZ Application

(a) The Commission's Planning Committee (Planning Committee) or its designee shall conduct a public hearing after receipt of a completed GIZ application, as determined by the Commission's Executive Director or its designee.

(b) The Commission shall provide notice of a public hearing to consider the GIZ application by publication as required by Section 5(a) and (b) of the Act.

(c) The Planning Committee or its designee shall make a recommendation to the Commission regarding the proposed GIZ and the Commission shall vote at a public hearing whether to approve, approve with conditions, or deny the application. The Commission shall issue a written decision in a form suitable for recording with the Barnstable County Registry of Deeds. A Certificate of Compliance shall be issued upon completion of the requirements of the GIZ decision. In cases where a GIZ application includes a request for modification to DRI thresholds (as provided under Section 8 herein), the written decision shall also set forth conditions for allowing such threshold modification.

Section 6. Review and Approval Criteria

(a) To receive approval for a proposed GIZ, a town applying for such designation must demonstrate the following to the Commission:

1) That the proposed GIZ can accommodate additional growth without harming the resources protected under the Act and the RPP;

2) That increases in development potential and intensification of use within the GIZ will be offset by a commensurate reduction in development potential and reduced intensification of use in specific offset area(s) outside the GIZ. Offsets shall be proportional to increases in development potential inside the GIZ and may be measured in terms of acres or units for residential development or square feet for commercial development, based on the characteristics of the area(s) to be protected; and

3) That the proposed GIZ is consistent with the criteria set forth under Section 1(b) Purpose and Section 2 Qualifications of GIZs of these regulations.

(b) Where a town has requested modification of DRI thresholds within its proposed GIZ (as provided under Section 8 herein), the Commission shall consider whether sufficient review standards and mitigation measures, including appropriate infrastructure, will be provided to ensure that local review will protect resources that otherwise would be protected under the RPP. The Commission may approve a DRI threshold modification request where it finds that such threshold modification is appropriate for achieving the purposes of the GIZ.

Section 7. Procedure for GIZ Designation and DRI Threshold Modification

(a) The Board of Selectmen (Town Manager for Barnstable) shall determine whether the proposed GIZ requires approval by Town Meeting or Town Council.

(b) The GIZ shall be considered designated upon approval by the Commission, except where Town Meeting or Town Council approval is required.

(c) Where Town Meeting or Town Council approval is required, a vote shall be taken on the

BARNSTABLE COUNTY ASSEMBLY OF DELEGATES

Ordinance 05-13: To add Chapter G to the Code of Cape Cod Commission Regulations of General Application to create Growth Incentive Zone Regulations.

June 15, 2005

page 4

proposed GIZ (including associated maps, proposed zoning changes, and capital expenditures) following an approval vote from the Commission. Adoption for all items shall be by the majority necessary for local adoption. Town Meeting or Town Council amendments to the approved GIZ shall be reviewed by the Commission in accordance with Section 9 Modifications to GIZs. The GIZ shall be considered designated upon approval by the Commission and Town Meeting or Town Council.

(d) Where an application includes a request for modification of DRI thresholds, the town shall obtain a Certificate of Compliance from the Commission stating that all conditions of the decision have been met. Following the issuance of a Certificate of Compliance, the Commission shall submit the threshold modification request to the Assembly of Delegates for approval and adoption as ordinance. Threshold modifications shall be considered in effect upon recording of the ordinance adopted by the Assembly of Delegates.

Section 8. DRI Thresholds for GIZs

(a) As part of its application, a GIZ applicant may request modifications to certain Standards and Criteria (DRI thresholds) contained in the Commission's Enabling Regulations, Section 3, Developments Presumed to be Developments of Regional Impact within a GIZ. Modifications to existing DRI thresholds may be granted in accordance with the specifications provided below in Sections 8(b) and 8(c) of these regulations. Requests for DRI threshold modifications shall be included with the GIZ application. All proposed DRI threshold modifications must be approved by votes of both the Commission and the Assembly of Delegates.

(b) A town seeking to modify the existing DRI thresholds may choose either type of threshold modification as specified under Section 8(b)(1) and (2) below.

1. Adjusted GIZ DRI Threshold: A town may request to establish new DRI thresholds and criteria for the GIZ by modifying existing DRI thresholds as follows:

- Inside the GIZ: Existing DRI thresholds may be adjusted as needed to achieve the purposes of the GIZ and to encourage new development to locate inside the zone.
- Outside the GIZ: Existing DRI thresholds may be reduced (made more restrictive) to achieve the purposes of the GIZ and to discourage new development from locating outside the zone.

A town seeking this type of modification shall specify in its GIZ application the requested modifications/thresholds. The Town shall also monitor and report development within the zone in accordance with the GIZ decision.

2. Cumulative GIZ DRI threshold: A town may request to establish new DRI thresholds and criteria for the GIZ by modifying existing DRI thresholds as follows:

- Inside the GIZ: a limit (i.e. cap) may be established on the total amount of development allowed within the GIZ before mandatory DRI review is required, such that proposed commercial and residential development that would be considered a DRI under the existing thresholds would not be subject to DRI review by the Commission until the total amount of development within the GIZ reaches the designated cap/threshold. A town seeking this type of DRI threshold must specify the cap/threshold amount in its GIZ application. Following the establishment of the cap/threshold, the town shall also monitor and report development within the GIZ in accordance with the terms and conditions of the decision.
- Outside the GIZ: existing DRI thresholds may be reduced (made more restrictive) to achieve the purposes of the GIZ and to discourage new development from locating outside the zone.

(c) The following DRI thresholds are not eligible for modification within the GIZ. Proposed development that meets or exceeds these thresholds shall be reviewed as a DRI.

BARNSTABLE COUNTY ASSEMBLY OF DELEGATES

Ordinance 05-13: To add Chapter G to the Code of Cape Cod Commission Regulations of General Application to create Growth Incentive Zone Regulations.

June 15, 2005

page 5

- Any proposed demolition or substantial alteration of an historic structure or destruction or substantial alteration to an historic or archaeological site listed with the National Register of Historic Places or Massachusetts Register of Historic Places, outside a municipal historic district or outside the Old King's Highway Regional Historic District.
- Any development providing facilities for transportation to or from Barnstable County, including but not limited to ferry, bus, rail, trucking terminals, transfer stations, air transportation and/or accessory uses parking or storage facilities, so long as such auxiliary or accessory uses are greater than 10,000 square feet of Gross Floor Area or 40,000 s.f. of outdoor area.
- Development requiring an Environmental Impact Report under MEPA.

Section 9. Modifications to GIZ Designations

(a) A Planning Board or Local Planning Committee, with concurrence from the Board of Selectmen (Town Manager for the town of Barnstable) shall apply in writing to the Planning Committee for consideration of a modification request. The Planning Committee shall determine which modification category listed in Section 9(b) of these regulations is applicable to the proposed modification. When making its determination, the Planning Committee shall consider the following factors: proposed changes to the GIZ geographic boundaries; changes in zoning regulations, changes to the findings or conditions of the Commission's original decision; and other factors which the committee deems relevant to the determination. The Committee shall review any such modifications for consistency with the GIZ criteria set forth in Section 2, GIZ Qualifications and Section 6, Review and Approval Criteria.

(b) Modification Categories

1. Minor Modification: Includes but is not limited to small changes to the GIZ or changes to findings or conditions of the original decision that would not entail different or increased impacts to the resources protected by the Act or the RPP. The Planning Committee may approve such modifications without a public hearing.

2. Major Modification: Includes but is not limited to significant changes to the GIZ or changes to findings or conditions of the original decision, any of which would result in different or increased impacts to the resources protected by the Act or the RPP. The proposing party shall conduct a public hearing on the proposed modification. Major Modifications shall also require a public hearing before the full Commission where the Commission may vote either to approve, approve with conditions, or deny the modification request.

Section 10. Duration

Unless specified otherwise in the Commission's decision, GIZ designations shall be valid for a period of up to 10 years, in accordance with Section 7(b) and 7(c) of these regulations. The designation period may be extended by mutual agreement between the town and the Commission. A duly noticed public hearing pursuant to Section 5 of the Act shall be conducted by the Commission to consider the extension request. An extension of the designation period shall be reviewed for its consistency with Section 2 and Section 6 above and with the goals of the RPP in effect at the time of the opening of the public hearing on the extension request. Approved DRI threshold modifications shall be valid and in effect only while the GIZ is valid and in effect.

Section 11. Revocation

Should the town fail to implement zoning, funding, and other requirements to comply with Section 2 and Section 6 of these regulations, the Commission shall have the ability to revoke the GIZ designation. Revocation may occur only after conducting a public hearing in accordance with Section 5 (a) and (b) of the Act.

Draft GIZ Application Form

Important note: Proposing parties must schedule a pre-application meeting with Cape Cod Commission staff before submitting a GIZ application.

Directions: Answer all questions as completely and concisely as possible.

A. General Information

1. Applying entity:

Name (Board/Committee) _____
Contact Person _____
Address _____
Telephone _____
Email _____

2. Describe the location of the proposed GIZ, including roads, structures, or geographic features that may act as boundary limits. The boundaries should be delineated and described as accurately as possible, both on the maps submitted with this application and in the narrative below.

3. Describe the location of the proposed offset area(s), including roads, structures, or geographic features that may act as boundary limits to the proposed zone. The boundaries should be delineated and described as accurately as possible, both on the maps submitted with this application and in the narrative below.

4. Describe the vision for this area and what has been done within the community to develop this vision (e.g. public visioning sessions, workshops, etc.) Approximate area of the proposed zone:
_____ # acres total

5. Is a DRI threshold modification being requested? If so, please specify the proposed DRI threshold(s).

6. Explain why the area would be appropriate for a GIZ designation.

7. Describe the zoning/regulatory tools and other techniques (including the expected timeframes for their establishment and adoption) that have been or will be implemented to encourage compact mixed use development within the GIZ and reduce development potential outside the GIZ.

8. List any additional supporting documentation submitted with this application that is not among the requirements below.

B. Supporting Materials

Commission staff will discuss the application requirements at the pre-application meeting. Submission requirements and degree of detail will vary depending on the size and complexity of the proposed GIZ. Applicants should be prepared to provide the following materials unless directed otherwise by staff.

1. A map or maps showing the boundaries of the proposed GIZ, including relevant geographical features, existing zoning districts, and the area/s proposed for reducing potential development.

2. A description of existing structures and uses within the proposed GIZ, including an inventory of

BARNSTABLE COUNTY ASSEMBLY OF DELEGATES

Ordinance 05-13: To add Chapter G to the Code of Cape Cod Commission Regulations of General Application to create Growth Incentive Zone Regulations.

June 15, 2005

page 7

municipal properties and historic structures.

3. A map or maps of the proposed GIZ showing all protected open space and undeveloped land.
4. A natural resources inventory of open space areas within the proposed GIZ.
5. A description of existing transportation infrastructure and operations including area roadways and intersections, parking (public and private), sidewalks, pedestrian facilities, bicycle facilities, transit routes, transit service, and transit facilities. This submittal should also include traffic studies, Level of Service analysis, and other performance studies of current conditions and build-out conditions for key transportation infrastructure under current regulations.
6. An inventory of existing water resources infrastructure within the GIZ including water supplies, wastewater treatment, stormwater structures, and management practices.
7. For proposed GIZs that include municipal harbors, provide a land-use strategy for the harbor that includes maintenance of public access and maritime infrastructure.
8. A description of existing housing stock within the GIZ. Include total units, totals of occupied and vacant units, totals of year round and seasonal units, totals of rental and ownership units, types of housing units (single family detached or attached, 2 units, 3-4 units, 5-9 units, 10-19 units, 20+ units), and age of structures. Include an inventory within the GIZ of affordable housing as recognized by the most current Department of Housing and Community Development count for Chapter 40B purposes.
9. Attach a list of all current municipal bylaws and regulations applicable to the proposed GIZ; a list of proposed bylaws and regulations for providing compact mixed use development within the GIZ; and a list of proposed bylaws and regulations for reducing development potential outside the GIZ.
10. A build-out analysis for the GIZ including any outlying areas proposed as offsets that provides the following: 1) a build-out analysis under current zoning; 2) an analysis of future increase in the total development potential within the GIZ resulting from proposed zoning/regulatory amendments; and 3) an analysis of future reduction in potential development outside the GIZ resulting from zoning/regulatory amendments.
11. An analysis of the impact of proposed zoning/regulatory changes on transportation resources, including comparison to the current and build-out conditions. This should include a description of proposed infrastructure changes and additions such as traffic signalization and/or update, additional turning lanes, new transit routes or service changes, parking changes/additions, bicycle and pedestrian facilities and accommodations, trip reduction programs (transportation demand management), and other proposed transportation related improvements/mitigation.
12. An analysis of the impact of proposed zoning/regulatory changes on water resources including comparison to the current and build-out conditions. This should include a) wastewater and stormwater infrastructure needs and management plans for the proposed GIZ, and b) the offsets to be provided outside the GIZ, including a description of how the offsets would mitigate water-quality impacts. This analysis should include anticipated wastewater flows; treatment capacity; provision of treatment and discharge facilities; stormwater management needs; and nutrient mitigation needs both inside the GIZ and for areas outside the GIZ to offset impacts within the GIZ.

BARNSTABLE COUNTY ASSEMBLY OF DELEGATES

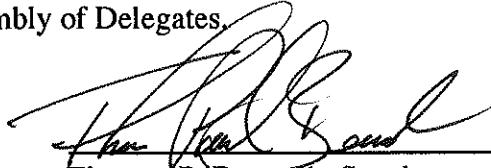
**Ordinance 05-13: To add Chapter G to the Code of Cape Cod Commission Regulations of
General Application to create Growth Incentive Zone Regulations.**

June 15, 2005

page 8

13. A capital plan to finance the major infrastructure elements and offsets necessary for the GIZ.

Adopted on June 15, 2005 by the Assembly of Delegates.



Thomas P. Bernardo Speaker

Approved by the Board of County Commissioners, 6/29/05 at, 11⁰⁰ AM
Manuela _____ William DeBate
Date Time