

BARNSTABLE COUNTY

In the Year Two Thousand and Seven

Ordinance 07-08

Yarmouth Growth Incentive Zone Ordinance

To amend Barnstable County Ordinance 90-12, as amended through Barnstable County Ordinance 05-02, the Cape Cod Commission Enabling Regulations Governing Review of Developments of Regional Impact, to establish a Growth Incentive Zone on Route 28 in Yarmouth, Massachusetts, in accordance with Barnstable County Ordinance 05-13, Chapter G: Growth Incentive Zone Regulations of the Cape Cod Commission Regulations of General Application pursuant to Sections 6 and 7 of the Cape Cod Commission Act, Chapter 716 of the Acts of 1989 as amended.

Section 1. General Purpose

(a) Source of Authority – This ordinance concerning establishment of a Growth Incentive Zone on Route 28 in Yarmouth is adopted pursuant to Sections 6 and 7 of the Cape Cod Commission Act, Chapter 716 of the Acts of 1989 as amended through amendment of the Cape Cod Commission Enabling Regulations Governing Review of Developments of Regional Impact, Barnstable County Ordinance 90-12, as amended through Barnstable County Ordinance 05-02

(b) Effective Date – This ordinance shall become effective immediately upon approval, pursuant to Section 2(w) of the Act.

(b) Definitions –

- (1) The definitions contained within section 2 of the Act shall apply to this ordinance.
- (2) As used within this ordinance, the following terms shall have the following meanings:

Act – Cape Cod Commission Act, Chapter 716 of the Acts of 1989, as amended.

Adjusted DRI Threshold – A set of criteria that establishes when mandatory DRI review is required by Barnstable County Ordinance 90-12 as amended by Barnstable County Ordinance 05-02, Enabling Regulations Governing Review of Developments of Regional Impact, as described by Barnstable County Ordinance 05-13 in Section 8 (a) and (b) of Chapter G: Growth Incentive Zone Regulations of the Code of Cape Cod Commission Regulations of General Application.

Assembly of Delegates – Barnstable County Assembly of Delegates, created by Chapter 163 of the Acts of 1988.

Commission – Cape Cod Commission, created by Chapter 716 of the Acts of 1989, as amended.

County Commissioners – Barnstable County Commissioners.

DRI – Development of Regional Impact

GIZ – Growth Incentive Zone as defined by the plan entitled “Proposed Yarmouth Growth Incentive Zone” prepared by the Town of Yarmouth as further described in the Cape Cod Commission decision dated July 26, 2007 (GIZ07010).

Phase 1 GIZ Properties – The thirty-five (35) enumerated hotel/motel properties as identified on a map entitled “Map of Motels in Yarmouth Growth Incentive Zone” dated 6/14/07 as further described in the Cape Cod Commission decision dated July 26, 2007 (*GIZ07010*).

Section 2: Amendment of Barnstable County Ordinance 90-12

Barnstable County Ordinance 90-12, as amended through Barnstable County Ordinance 05-02, the Cape Cod Commission Enabling Regulations Governing Review of Developments of Regional Impact, is amended as follows:

Insert paragraph (m) after paragraph (l) in Section 3: DEVELOPMENTS PRESUMED TO BE DEVELOPMENTS OF REGIONAL IMPACT (DRI REVIEW THRESHOLDS):

(m) (i) In accordance with Barnstable County Ordinance 05-13 and a decision approved by the Cape Cod Commission dated July 26, 2007 (*Yarmouth Growth Incentive Zone/GIZ07010*), proposed development on the “Phase 1 GIZ properties” as identified on a map entitled “Map of Motels in the Yarmouth Growth Incentive Zone” dated June 14, 2007 is subject to adjusted DRI thresholds as set forth in subsections [1]-[4] below provided that the proposed development does not fall within the thresholds outlined in section (l)(ii) below.

[1] Proposed conversion or redevelopment of existing hotel/motel buildings within the Phase I GIZ properties to residential dwelling units is not subject to mandatory DRI review;

[2] Proposed expansion, rehabilitation, or redevelopment of existing hotel/motel buildings within the Phase I GIZ properties without changing use (i.e. continued use as either a hotel/motel) is not subject to mandatory DRI review;

[3] Proposed mixed use development or redevelopment (i.e. containing both residential and commercial use) of Phase I GIZ properties that contains less than a total of 10,000 s.f. gross floor area of either an office or commercial use or a combination of both is not subject to mandatory DRI review. In the event one of the uses is a motel/hotel within the Phase 1 GIZ properties, the square footage of that hotel/motel shall not be counted toward the 10,000 s.f. threshold for purposes of determining the threshold for DRI review.

[4] Proposed mixed use development or redevelopment of Phase I GIZ properties which contains more than 10,000 s.f. gross floor area of either office or commercial use or a combination of both shall be subject to mandatory DRI review, unless the proposed mixed use development or redevelopment also contains all of the following:

- (a) at least 40% of the gross floor area of the proposed development consists of residential dwelling units; and
- (b) the gross floor area of retail use does not exceed the gross floor area of the residential dwelling units; and
- (c) the total amount of proposed office or commercial development or a combination of both does not exceed 10,000 s.f. per Phase I GIZ property; and
- (d) in the event of an assemblage of more than one Phase I GIZ property, there is no individual occupant/unit of office/commercial or retail greater than 10,000 s.f. per Phase I GIZ property.

In the event one of the uses is a motel/hotel within the Phase I GIZ properties, the square footage of that hotel/motel shall not be counted toward the 10,000 s.f. threshold for purposes of determining the threshold for DRI review.

ii) In addition, pursuant to Section 8(c) of the GIZ Regulations, the following DRI thresholds are not eligible for modification within the GIZ and such development shall be reviewed as a DRI:

[1] 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.

[2] 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 s.f. of Gross Floor Area or 40,000 s.f. of outdoor area.

[3] Development requiring an Environmental Impact Report under MEPA.


[4] Discretionary referrals proposed by the Town and accepted by the Commission as presenting regional impacts.

Adopted by the Assembly of Delegates on October 3, 2007.

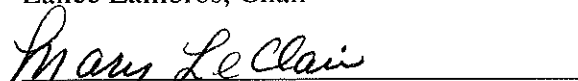


Charlotte Striebel, Speaker
Assembly of Delegates

Approved by the County Commissioners on October 10, 2007 at 10:15 A.M.,
Date Time



Lance Lambros, Chair



Mary LeClair

William Doherty