

BARNSTABLE COUNTY ASSEMBLY OF DELEGATES

In the Year Nineteen Hundred and Ninety-Four

Ordinance No. 94-12

**Proposal to Allow for the Limited Application of Minimum Performance Standards to Certain Developments of Regional Impact.**

***Barnstable County Hereby Ordains:***

1) To amend Section 5 of Barnstable County Ordinance 91-8 by inserting in the first sentence after the words "Minimum Performance Standards of the Plan" the following language ", provided however, that application of these standards may be waived as provided in Section 9(g)(ii) of the DRI Enabling Regulations, Barnstable County Ordinance 90-12, as amended [as may be superseded by Chapter A, Section 9(g)(ii) of Cape Cod Commission Regulations of General Application, Barnstable County Ordinance 94-12]".

2) To amend Section 2(b)(i) of the DRI Enabling Regulations, Barnstable County Ordinance 90-12, as amended, [or as that Section may be superseded by Chapter A, Section 2(b)(i) of Barnstable County Ordinance 94-12] by: inserting in the first sentence after the words "A Municipal Agency," the words "including the board of selectmen"; and by omitting in the first sentence the words "to the Commission for review"; and by inserting in the first sentence after the words "provisions of Section 22" the words "of the Act to the Commission for review"; and by inserting the following language after the first sentence "The referring agencies listed above may make a full discretionary referral or may make a limited discretionary referral setting forth one or more issue areas of the Regional Policy Plan, namely Land Use/Growth Management, Natural Resources, Economic Development, Community Facilities and Services, Affordable Housing, Open Space and Recreation, and/or Historic Preservation/Community Character, to be applied by the Commission in a limited-scope DRI review as further authorized under Chapter A, Section 9(g)(ii) below. Whenever a referring agency makes a limited discretionary referral it must forward notice to the board of selectmen in the municipality where the development is located. The board of selectmen may forward comments to the Commission on any full or limited discretionary referral."

3) To amend Section 9(g)(ii) of the DRI Enabling Regulations, Barnstable County Ordinance 90-12, as amended, [or as that Section may be superseded by Chapter A, Section 9(g)(ii) of Barnstable County Ordinance 94-12] by amending the first sentence by placing a period after the word "available" and by inserting the following language after the period "All DRIs shall be subject to all Minimum Performance Standards in the Regional Policy Plan with the following exceptions, which shall be construed narrowly:

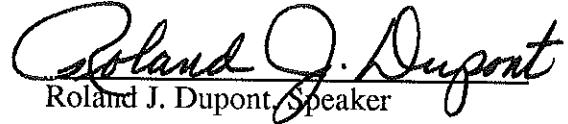
(a) Discretionary Referrals - if the Commission accepts a limited discretionary referral for DRI review as provided in Section 2(b)(i) above, the Commission shall waive application of Minimum Performance Standards outside of the scope of the subject matter of the local referral; and

(b) Historic Structures referred under Section 3(a) above - the Commission shall waive application of Minimum Performance Standards outside of Section 7 of the Regional Policy Plan, so long as the development proposal does not meet or exceed a threshold contained in Section 3(b-g) above; and

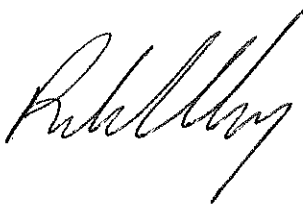
(c) Hardship Exemptions - the Commission may waive application of Minimum Performance Standards where the project complies, to the maximum extent feasible, with the Minimum Performance Standards and where any relief granted from the requirements of the Minimum Performance Standards shall be related directly 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;"

4) To amend Section 3(g) of the DRI Enabling Regulations, Barnstable County Ordinance 90-12, as amended, [or as that Section may be superseded by Chapter A, Section 3(g) of the Cape Cod Commission Regulations of General Application, Barnstable County Ordinance 94-12] by replacing the term "Section 12(c)(6)" with the term "Section 3(e)".

Adopted on December 21, 1994 by the Assembly of Delegates.

  
Roland J. Dupont, Speaker

Approved by the Board of County Commissioners December 28, 1994, at, 8:48 a.m.  
Date Time

 Victoria A. Lowell 