

BARNSTABLE COUNTY ASSEMBLY OF DELEGATES

In the Year Nineteen Hundred Ninety Eight

Ordinance 98-18

Proposed modifications to the Code of Cape Cod Commission Regulations of General Application, Chapter A, DRI Enabling Regulations.

Barnstable County hereby ordains:

To amend Subsection 1(c), Definitions - by adding the following language to the end of the first sentence of the definition of the term "Change of Use": ", as determined by the Commission's Chief Regulatory Officer or the Commission's Regulatory Committee, consistent with the Commission's Change of Use Policy".

To amend Section 3, Developments Presumed to be DRIs, as follows:

Subsection (b) - Delete the words "excepting any development accessory to one or more single family dwellings (e.g. driveway, pier)" and replace with the words "excepting a bridge, ramp or driveway serving up to three single family dwelling(s)".

Subsection (c) - Delete in its entirety and replace with the following - "Any development which proposes to divide parcel(s) of land totaling 30 acres or more in common ownership on or after September 30, 1994 including assembly and recombination of lots. This threshold shall include any development activity in conjunction with any land division not otherwise exempted from review under Section 22 (e) of the Cape Cod Commission Act."

Subsection (e), third asterisked paragraph - add the phrase "(see definition)" so that the paragraph reads as follows: "(3) use changes (see definition) which have a gross floor area greater than 10,000 square feet except as provided in (f) below;"

Subsection (e), fourth asterisked paragraph and the paragraph following - Delete in its entirety and replace with the following: "(4) new construction or use changes involving as a principal use outdoor commercial space with a total project area greater than 40,000 sq. ft."

The calculation of total project area shall include but not be limited to outdoor sales/storage/display, parking areas, landscaped areas and/or any site alteration or site disturbance associated with the proposed development including the footprint of all buildings and structures."

Subsection (h) - Delete the words "slips". Delete the words "meet the criteria of Section 3(e) above" and replace with the words "are greater than 10,000 square feet of Gross Floor Area or 40,000 sq. ft. of outdoor area. For the purposes of this threshold the amount of outdoor area shall be calculated as set forth in 3(e)(4) above."

To add a Subsection 3(j) as follows: "(j) site alterations or site disturbance greater than 2 acres including but not limited to clear cutting, grading, and clearing land, unless such alteration or disturbance is conducted in conjunction with a building permit for a structure or a DRI approval or in conjunction with a municipal project;"

To add a Subsection 3(k) as follows: "(k) mixed use residential and non-residential developments with a total floor area greater than 20,000 sq. ft., or greater than 10,000 sq. ft. of commercial space. For the purposes of this threshold the gross floor area of residential dwelling unit(s) shall be included in the gross floor area calculation of the total development;"

To add a Subsection 3(l) as follows: "In determining review threshold status the entirety of a proposed project, including likely future expansions, shall be considered, and not separate phases or segments thereof. Ownership by different entities does not necessarily indicate that two projects are separate. It is the intent of this rule that projects not be segmented or phased to evade or defer review."

To amend Subsection 5(c), Procedure for Referral - By adding the following language to the end of the subsection "Upon a vote of the Commission to accept a discretionary referral for review as a DRI, municipal agencies shall suspend their review of pending local development permit applications. The suspension of municipal agency review shall extend all constructive grant periods for municipal agencies for a period equal to the duration of Commission review, such periods to resume running after a final Commission decision is rendered.

To amend Subsection 5(d), Procedure for Renewal - By deleting the first sentence and replacing it with the following: "Upon receipt by the Commission of a mandatory referral of a proposed DRI, or upon a vote to review a project which should have been referred to the Commission for DRI review, or upon acceptance by the Commission of a discretionary referral from a municipal agency or under MEPA, the Commission shall notify, by certified mail, the town clerk and the building inspector of the municipality(ies) in which the proposed development is located, and the municipal agency(ies) before which a development permit is pending, of the Commission's intent to review the proposed development as a DRI."

To amend Subsection 8(j) as follows: Add the following sentence to the end of the subsection "Development plans shall identify all contiguous land in common ownership or control and all contiguous lands held by a corporation, a realty trust or by any other entity or form of ownership."

To amend Subsection 9(f) - By numbering the existing paragraph as paragraph (f)(1) and by adding a Section 9(f)(2) as follows: "2. Applicants shall provide requested information in a timely manner. A timely manner means that information must be submitted to the Commission at least five (5) business days in advance of a meeting or hearing. The Commission or its designee may postpone consideration of information submitted less than five (5) business days prior to a scheduled meeting or hearing. In addition, failure to provide information in a timely manner may result in cancellation of a meeting or hearing."

To add a Subsection 9(o) as follows: "Applicants shall provide the Commission with a written request for a Certificate of Compliance at least thirty days prior to issuance of such Certificate of Compliance. The Commission shall provide a form for such notification. The Commission retains the right to enter property which is the subject of a DRI approval in order to inspect the property to determine compliance with said DRI approval."

To amend Subsection 7(a) as follows: Replace the term "Section 6(a) - (1)" with the term "Section 8(a) - (k)".

To amend Subsection 9(e)(1) as follows: Add an "s" after the word "Section".

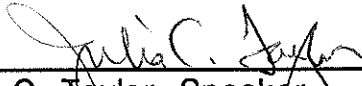
To amend Subsection 9(e)(6) as follows: Capitalize the word "commission".

To amend Subsection 9(g)(ii)(b) - By deleting the words "Section 7" and replace with the words "the Heritage Preservation/Community Character Section" and to replace the term "3(b - g)" with the term "3(b - k)".

To amend Subsection 9(g)(ii)(a) and (b) as follows: Delete the word "and" after the semicolon.

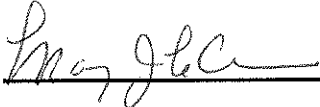
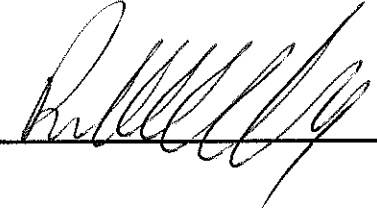
To amend Subsection 9(g)(ii)(c) as follows: Replace the period at the end of the paragraph with "; or".

Adopted on August 19, 1998 by the Assembly of Delegates.



Julia C. Taylor, Speaker

Approved by the Board of County Commissioners, Aug. 26, 1998, at, 11:15 a.m.
Date **Time**

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