

**BARNSTABLE COUNTY ASSEMBLY OF DELEGATES**

**In the Year Two Thousand Thirteen**

**Proposed Ordinance 13-08**

**Amendment to the Cape Cod Commission Regulations of General Application, Municipal Application for Revisions to Development of Regional Impact Thresholds**

Amended as follows:

Section 1(b) Function and Purpose  
“and the Commission” is inserted after “Towns”

Section 4(b) is inserted after Section 4(a) as follows:

The Cape Cod Commission may propose a revised DRI threshold on behalf of the region. Such threshold shall be revised pursuant to section 6(a) (2-4) and section 9.

**(Submitted by the Cape Cod Commission to the Assembly Clerk on August 30, 2013)**

**BARNSTABLE COUNTY ASSEMBLY OF DELEGATES**  
**Report and Minutes of the Standing Committee on Governmental Regulations**  
**Proposed Ordinance 13-08**  
**September 11, 2013**

Dear Mr. Speaker and Assembly Delegates:

This is a report on Proposed Ordinance 13-08. The proposed ordinance was submitted to the Clerk of the Assembly of Delegates by the Cape Cod Commission on August 30, 2013.

A public hearing was scheduled and held by the Standing Committee on Governmental Regulations on Wednesday, September 11, 2013 at 3:00 p.m. The public hearing was duly advertised in the Cape Cod Times on September 4, 2013.

The purpose of the proposed ordinance was to amend Cape Cod Commission Regulations of General Application, Municipal Application for Revisions to Development of Regional Impact Thresholds within Section 1 (b) Function and Purpose to insert "and the Commission" after the word "Towns", and add, after Section 4 (a), new Section 4 (b) to say "The Cape Cod Commission may propose a revised DRI threshold on behalf of the region. Such threshold shall be revised pursuant to section 6(a) (2-4) and section 9".

Committee members present: Chairman Ronald Bergstrom, Richard Anderson, Christopher Kanaga, and Teresa Martin.

Chairman Ronald Bergstrom opened the committee meeting with a moment of silence in observance of 9/11/01. The Chairman stated that the committee was meeting for the purpose of conducting a public hearing on Proposed Ordinance 13-08. The Chairman read the notice of public hearing and recognized Jessica Wielgus, Counsel for Cape Cod Commission, to explain the technical amendment to Chapter H as stated in Proposed Ordinance 13-08.

This amendment to Chapter H was unanimously passed by the Cape Cod Commission. Presently towns are allowed to change municipal thresholds for purposes of DRI reviews. This amendment will allow the Cape Cod Commission to be added to the equation and act on behalf of the region. The amendment to section 1 (b) will identify the Cape Cod Commission as an entity that can pursue threshold changes and the amendment adding Section 4 (b) will add the Cape Cod Commission's ability to effect a change on behalf of the region. This amendment would enable changes to take place. Sometimes towns have lacked the resources and ability to pursue changes.

Teresa Martin questioned what appeared to be a difference in rules between the towns and the Cape Cod Commission (reference to new Section 4 (b) to sub-section 6). Jessica Wielgus explained there was an umbrella requirement under sub-section 6 that identifies a consistent regulatory process that addresses infrastructure and capital components that are controlled by the whole. Cape Cod Commission Executive Director Paul Niedzwiecki stated that any town with a local comprehensive plan, that is certified, has already been deemed consistent with the regional policy plan and held to the same standards.

Ronald Bergstrom asked if thresholds could also be lowered under this amendment. Jessica Wielgus responded that there is a separate section related to the lowering of thresholds and under the amendment being proposed thresholds could not be lowered.

There were no comments from the public and no additional questions or comments from the committee. The public hearing was closed at 3:15 p.m.

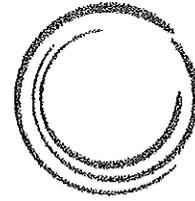
**Christopher Kanaga motioned, and it was seconded, to recommend approval of Proposed Ordinance 13-08 to amend Cape Cod Commission Regulations of General Application, Municipal Application for Revisions to Development of Regional Impact Thresholds Section 1 (b) and Section 4 (b), new Section 4 (b) to the full Assembly. Motion carried. 4-0-0.**

The meeting adjourned at 3:20 p.m.

Respectfully submitted:

Ronald Bergstrom, Chairman  
Richard Anderson  
Christopher Kanaga  
Teresa Martin

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CAPE COD  
COMMISSION

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Memorandum

To: Cape Cod Commission  
From: Jessica Wielgus, Commission Counsel  
Re: Amendment to Chapter H  
Date: August 21, 2013

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Enclosed in your packets is a copy of Chapter H which contains two small redlined changes to add the Cape Cod Commission to the process at sections 1(b) and section (4).

Specifically, in Section 1(b), "the Commission" is added to the section as follows:

(b) Function and Purpose

These regulations establish the requirements and criteria for Towns **and the Commission** to propose revisions to certain DRI thresholds described in the Cape Cod Commission's (Commission) Enabling Regulations as amended by Barnstable County Ordinance

In Section 4, which is entitled "Who May Propose a Revised Local DRI Threshold for Threshold Change", the following is added:

(b) The Cape Cod Commission may propose a revised DRI threshold on behalf of the region. Such threshold proposal shall be revised pursuant to section 6 (a) (2-4) and section 9.

These technical changes will enable the Commission to propose changes on behalf of the region. This proposed amendment was reviewed by the Regulatory Committee at its last meeting. The Regulatory Committee unanimously voted to recommend it to the full Commission for its vote to approve and forward to the Assembly of Delegates for enactment.

**CAPE COD COMMISSION**

**Chapter H**

**Municipal Application for Revisions to Developments of Regional Impact  
Thresholds  
Barnstable County Ordinance 09-13**

December, 2009

**Chapter H of the Cape Cod Commission Regulations of General Application  
Municipal Application for Revisions to DRI Thresholds**

**Section 1. General Provisions**

**(a) Source of Authority**

These regulations concern proposed revisions by Towns to the Development of Regional Impact (DRI) thresholds in Chapter A of the Cape Cod Commission Regulations of General Application, Enabling Regulations Governing Review of Developments of Regional Impact, Barnstable County Ordinance 90-12, as amended by Barnstable County Ordinance, and are adopted pursuant to Section 12(f) of the Cape Cod Commission Act (Act), Chapter 716 of the Acts of 1989, as amended.

**(b) Function and Purpose**

These regulations establish the requirements and criteria for Towns and the Commission to propose revisions to certain DRI thresholds described in the Cape Cod Commission's (Commission) *Enabling Regulations* as amended by Barnstable County Ordinance. The purpose of these regulations is to help implement a regulatory approach at the regional level to guide growth toward areas that are adequately supported by infrastructure and away from areas that must be protected for ecological, historical, or other reasons.

**(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 Section 2 of the Act, the Regional Policy Plan (RPP) in effect at the time of the first substantive public hearing on an *Application* filed according to these regulations, and in Chapter A of the Cape Cod Commission Regulations of General Application, Enabling Regulations Governing Review of Developments of Regional Impact, Barnstable County Ordinance 90-12, most recent amendment by Barnstable County Ordinance 05-02, March 2005, (*Enabling Regulations*) in effect at the time these regulations are effective shall apply to these regulations.

**(e) Discretionary Referrals**

Notwithstanding these regulations, in accordance with Section 12(e) of the Act and Section 2(b) of the *Enabling Regulations*, Municipal Agencies or the County Commissioners may at any time make Discretionary Referrals to the Commission of a proposed development that does not meet or exceed 1) any of the standards and criteria in the *Enabling Regulations* nor 2) the revised thresholds enacted through these regulations.

**Section 2. DRI Thresholds Eligible for Revision**

(a) DRI thresholds in Sections 3(d), 3(e), 3(f), 3(g) and 3(k) of the Commission's *Enabling Regulations* revised as of March 2009 are eligible for possible revision through Chapter H.

**Section 3. Threshold Mapped Areas and Square Footage Ranges**

(a) Subject to the limitations specified in Section 2, a Board of Selectmen or Town Council, and Planning Board may propose within one or more of the identified *Regional Land Use Vision Map – RPP Mapped Areas* a revision to one or more of the DRI square footage thresholds in the *Enabling Regulations*. Such proposed revision must fall within the ranges specified in the table as outlined below. Such proposed revision must be to the approved and endorsed *Regional Land Use Vision Map*.

(b) Each area proposed for a revised DRI threshold(s) shall be a contiguous geographic area with clearly delineated boundaries. A Town may propose more than one such area in its *Application*.

**THRESHOLD RANGES ELIGIBLE FOR APPLICATION**

<i>Regional Land Use Vision Map – RPP Mapped Areas</i>	Economic Centers (EC)	Industrial Service and Trade Area (ISTA)	Village	Resource Protection Areas (RPA)	Other
Commercial (square feet)	Zero to 30,000	Zero to 40,000 (Industrial uses only)	Zero to 10,000	Zero to 7,500	Zero to 10,000
Residential (units/lots)	Zero to 30	Zero to 10	Zero to 15	Zero to 15	Zero to 30
Mixed Use (Minimum 40% Residential):	Zero to 60,000 Total Mixed Use Cap (square feet)	Zero to 40,000 Total Mixed Use Cap (square feet)	Zero to 20,000 Total Mixed Use Cap (square feet)	Zero to 15,000 Total Mixed Use Cap (square feet)	Zero to 20,000 Total Mixed Use Cap (square feet)

**Section 4. Who May Propose a Revised Local DRI Threshold for Threshold Change Application**

- (a) A Board of Selectmen or Town Council, and Planning Board, upon an affirmative majority vote of both Boards, may propose a revised DRI threshold(s) to the Commission.
- (b) The Cape Cod Commission may propose a revised DRI threshold on behalf of the region. Such threshold proposal shall be revised pursuant to section 6 (a) (2-4) and section 9.

**Section 5. Application Procedure**

(a) The Board of Selectmen or Town Council, and Planning Board shall submit two copies of a *complete DRI Threshold Change Application (Application)* or a *DRI Threshold Change Repeal Application (Repeal Application)* to the Commission Clerk.

(b) The Board of Selectmen or Town Council, and Planning Board shall also file a copy of such *Application* or *Repeal Application* with the Town Clerk of all abutting Towns at the same time such *Application* or *Repeal Application* is filed with the Commission Clerk.

(c) All *Applications* and *Repeal Applications* shall include:

1) A narrative description of the rationale for the proposed changes to a DRI threshold(s).  
2) A map showing the area(s) proposed for revised DRI threshold(s) corresponding to the boundaries of an area(s) as identified on the approved and endorsed *Regional Land Use Vision Map* and a narrative description of the new proposed threshold(s) (*i.e.* 30,000 square feet). The map showing the area(s) proposed for revised DRI threshold(s) must include an identified scale and must be provided as a digital format as a Geographic Information Systems (GIS) *ShapeFile* or in AUTO/CADD format.

3) Evidence that prior to submitting the *Application* or *Repeal Application* that at least one advertised public hearing has been held by elected officials of the municipality on the proposed change to DRI threshold(s).

(d) Applications for Higher DRI Threshold(s)

1) An *Application* for a higher DRI threshold(s) shall also include the following information for the area(s) proposed for higher threshold(s):

- a) A build-out analysis.
- b) A description of the capital facilities and/or infrastructure improvements proposed for the area to address anticipated growth.
- c) A description of existing or proposed funding mechanisms to provide for capital and infrastructure improvements to address anticipated growth. Such mechanisms could include: Town Meeting warrant articles or evidence of votes and ballot measures and evidence of their outcome as may be necessary to secure funding; local impact fee programs; District Increment Financing; and/or betterments.
- d) Copies of current Town zoning maps.
- e) Copies of current or proposed municipal bylaws, ordinances, overlay districts, design guidelines, health regulations or other applicable local regulations that address anticipated growth in the area.
- f) Copies of technical studies or management plans that are current, ongoing, completed or proposed.
- g) Evidence of measures taken to address underlying resource constraints as identified in the Regional Policy Plan in effect at the time of the *Application*.

**Section 6. Review and Approval Criteria for Higher DRI Thresholds**

(a) To receive approval for a higher DRI threshold(s) according to Section 5(d), a Board of Selectmen or Town Council, and Planning Board must demonstrate to the Commission and the Commission must find that the proposed higher DRI threshold(s) is:

1) Consistent with the Town's Commission-certified Local Comprehensive Plan (LCP). For Towns that do not have a certified LCP, the proposed revision must be consistent with 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,

2) Consistent with Section 1(b), *Function and Purpose* of these regulations,

3) Consistent with the Goals of the Regional Policy Plan,

4) Consistent with Section 1 of the Commission Act,

5) Supported by plans and funding for capital facilities and/or infrastructure improvements necessary to address anticipated growth,

6) Supported by a regulatory framework that is consistent with the narrative submitted according to Section 5(c)(1) and with the information submitted according to Section 5(d)(1)(a) – (g) and which is designed to guide growth toward areas that are adequately supported by infrastructure and away from areas that must be protected for ecological, historical, or other reasons.

(b) The Commission may not approve any DRI threshold(s) higher than those set out in the table in Section 3 through these regulations.

**Section 7. Review Criteria for Lower DRI Thresholds**

a) To receive approval for a lower DRI threshold(s) according to Section 5, a Board of Selectmen or Town Council, and Planning Board must demonstrate to the Commission and the Commission must find that the proposed lower DRI threshold(s) is:

1) Consistent with Section 1(b), *Function and Purpose* of these regulations,

2) Consistent with the Goals of the Regional Policy Plan, and

3) Consistent with Section 1 of the Commission Act.

**Section 8. Procedure for Processing Applications**

(a) In order to be deemed *complete*, all *Applications* for a revised DRI threshold(s) must:

1) Be reviewed in consultation with the Commission staff at a pre-application meeting.

2) Include evidence of the filing of a copy of the *Application* with the Town Clerk of all abutting Towns.

3) Include evidence that prior to submitting an *Application* that at least one advertised public hearing has been held by the municipality on the proposed change to DRI threshold(s).

4) Include all of the items listed in Section 5(c).

5) Comply with Section 8(b), below, if applicable.

(b) In order to be deemed complete, *Applications* for a higher DRI threshold(s) shall also include all of the items listed in 5(d) unless waived by the Commission's Executive Director or his/her designee.

#### **Section 9. Process for Review**

(a) Upon receipt of a complete *Application*, a Subcommittee of the Commission shall conduct at least one public hearing in accordance with Section 5(a) and 5(b) of the Act.

(b) The Subcommittee shall make a recommendation to the Commission regarding the proposed *Application*, and the Commission shall vote at a public hearing whether to approve or deny such *Application*.

(c) Within fourteen (14) calendar days, the Commission Clerk shall file a certification of the Commission's decision on an *Application* with the Clerk of the Assembly of Delegates.

(d) Any revised DRI threshold(s) shall take effect fourteen (14) calendar days after the Commission Clerk files a certification of the Commission's decision to approve an *Application* with the Clerk of the Assembly of Delegates.

(e) The Commission shall issue a written decision on the *Application* in a form suitable for recording with the Barnstable County Registry of Deeds or Land Court, and, in the case of an approval of such *Application*, shall make such changes as may be necessary to the *DRI Threshold Map*. The written decision and *DRI Threshold Map* shall also be filed by the Commission with the Town Clerk, Building Inspector, Planning Board and Conservation Commission of the Town making the *Application* to revise a DRI threshold(s).

#### **Section 10. Appeal**

(a) A Board of Selectmen or Town Council, and Planning Board, upon an affirmative majority vote of both Boards, may nonetheless request the Assembly of Delegates re-examine its *Application* provided they can prove to the Assembly of Delegates 1) that the Commission was in error in making its decision in accordance with these regulations and 2) receive a three-fourths determination by the Assembly of Delegates for such error. Upon such vote, such *Application* shall be remanded to the Commission for a subsequent review and vote pursuant to Section 9.0 of these regulations.

#### **Section 11. Petition for Repeal of a Revised DRI Threshold(s)**

(a) A Board of Selectmen or Town Council, and Planning Board upon an affirmative majority vote of both Boards, may petition the Commission for repeal of a revised DRI threshold(s).

(b) A Board of Selectmen or Town Council, and Planning Board seeking to repeal a revised DRI threshold(s) shall follow the procedure outlined in Sections 5(a) through 5(c).

(c) Upon receipt of a complete *Repeal Application*, the Commission shall vote at a public hearing whether to approve or deny such *Repeal Application*.

- (d) The Commission may through a majority vote approve a petition for repeal of a revised DRI threshold(s).
- (e) Within fourteen (14) calendar days of the Commission's decision to repeal a revised DRI threshold(s), the Commission Clerk shall file a certification on the Commission's vote with the Clerk of the Assembly of Delegates.
- (f) Any repealed DRI threshold(s) shall take effect fourteen (14) calendar days after the Commission Clerk files a certification of the Commission's decision on an application to repeal a revised DRI threshold(s) with the Clerk of the Assembly of Delegates.
- (g) The Commission shall issue a written decision on the *Repeal Application* in a form suitable for recording with the Barnstable County Registry of Deeds or Land Court, and, in the case of an approval of such *Repeal Application*, shall make such changes as may be necessary to the *DRI Threshold Map*. The written decision and *DRI Threshold Map* shall also be filed by the Commission with the Town Clerk, Building Inspector, Planning Board and Conservation Commission of the Town making a request for repeal of a revised DRI threshold(s).

#### **Section 12. Revocation**

- (a) Should the Town fail to implement zoning, funding, and other requirements to comply with Sections 3, 5, and 6 of these regulations, and with the findings of the Commission's decision on an *Application*, the Commission may revoke the revised DRI threshold(s) by a majority vote of the Commission.
- (b) Revocation may occur only after the Commission conducts a public hearing in accordance with Section 5(a) and 5(b) of the Act.
- (c) The Commission shall issue a written decision revoking the revised DRI threshold(s) in a form suitable for recording with the Barnstable County Registry of Deeds, and shall make such changes as may be necessary to the *DRI Threshold Map*.
- (d) Revocation of the revised DRI threshold(s) shall take effect upon the majority vote of the Commission.

**BARNSTABLE COUNTY**

In the Year Two Thousand and Thirteen

**Proposed Resolution 13-04**

To approve certain budget transfers for fiscal year 2014 in accordance with Barnstable County Ordinance 13-03.

NOW, THEREFORE,

*BE IT HEREBY RESOLVED* that the Barnstable County Assembly of Delegates Proclaims:

The following transfers between budget groups one, six, eight, and nine for fiscal year 2014 are approved:

For the Resource Development Office, Americorps Cape Cod Program:

Decrease                    0011117-5750 by \$ 58,920

Increase                    0011111-5101 by \$ 32,900  
                                  0011112-5203 by \$ 600  
                                  0011112-5204 by \$ 3,450  
                                  0011112-5213 by \$ 1,500  
                                  0011112-5221 by \$ 2,200  
                                  0011112-5223 by \$ 1,800  
                                  0011112-5225 by \$ 700  
                                  0011112-5291 by \$ 400  
                                  0011112-5295 by \$ 550  
                                  0011113-5399 by \$ 9,525  
                                  0011115-5547 by \$ 500  
                                  0011115-5599 by \$ 1,400  
                                  0011119-5980 by \$ 1,600  
                                  0011119-5982 by \$ 1,315  
                                  0011119-5984 by \$ 480

Offered for Consideration by the Barnstable County Commissioners,

**(Submitted by the Board of Regional Commissioners at a regular Assembly of Delegates meeting held on September 18, 2013)**

## INTEROFFICE MEMORANDUM

**TO:** Mark Zielinski, County Administrator  
**FROM:** Katherine Garofoli, Resource Development Officer  
**DATE:** September 26, 2013  
**RE:** Transfer Request Justification  
**CC:** Darlene Johnson Morris, RDO Manager, Janice

This memo is in regards to the transfer request submitted to Mark Zielinski for Assembly of Delegate approval by the Resource Development Office on 9/4/2013.

Federal grant funding for AmeriCorps programs require up to a 50 percent funding match from the grant recipient. Matching funds to support AmeriCorps Cape Cod come from a variety of sources, including in-kind services from local organizations, volunteer trainings, donations, housing and, most importantly, funding through the annual Barnstable County operating budget.

As part of the budgeting process – in an effort to ensure fiscal accountability and budget transparency – each year a percentage of the total match funding from Barnstable County is held in fund 0111-5750 for the first 2.5 months of the Fiscal Year – this time period coincides with the start of each new AmeriCorps program year and the arrival of new AmeriCorps Cape Cod members in September and October. After program start-up, funds are transferred from 0111-5750 to various budget line items based upon the foreseen programmatic and community needs for the remainder of the program year.