BARNSTABLE COUNTY

In the Year Two Thousand and Twelve

Ordinance No. 12-05

To amend Barnstable County Ordinance 90-12, as amended through Barnstable County Ordinance 11-04, the Cape Cod Commission Enabling Regulations Governing Review of Developments of Regional Impact, to allow for the application of a cumulative DRI threshold in the newly established Growth Incentive Zone in Buzzards Bay, Massachusetts, in accordance with Barnstable County Ordinance 05-13, as amended through Barnstable County Ordinance 10-19, 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.

BARNSTABLE COUNTY hereby ordains:

SECTION 1.0 General Purpose

(a) Source of Authority – This ordinance concerning establishment of a Growth Incentive Zone in Downtown Buzzards Bay in Bourne 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 11-04.

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

(c) 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
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
Cumulative DRI Threshold – A cap on total amount of development allowed within the Growth Incentive Zone before mandatory DRI review is required by Barnstable County Ordinance 90-12 as amended by Barnstable County Ordinance 11-04, Enabling Regulations Governing Review of Developments of Regional Impact, as described by Barnstable County Ordinance 05-13 as amended by Barnstable County Ordinance 10-19

in Section 3 (a) and (b) of Chapter G: Growth Incentive Zone Regulations of the Code of Cape Cod Commission Regulations of General Application
DRI – Development of Regional Impact as defined by the Act
GIZ – Growth Incentive Zone as defined by the plan entitled "Map 3 – Downtown District Zoning with GIZ Boundary" prepared by the Town of Bourne as further described in the Cape Cod Commission decision dated April 26, 2012 (GIZ12010).
Remaining Wastewater Allocation – An Inter-Municipal Agreement (IMA) exists between the Towns of Bourne and Wareham that allocates 200,000 gallons per day (gpd) of wastewater capacity to Buzzards Bay. Remaining Wastewater Allocation is the difference between the total IMA wastewater allocation (200,000 gpd) and the portion of this allocation used by existing development in the Buzzards Bay sewer service area.
Remaining Water Supply Capacity – The Buzzards Bay Water District supplies public drinking water supplies to Buzzards Bay and has a permitted withdrawal of 530,000 gpd. Remaining Water Supply Capacity is the difference between total water supply capacity and the portion of this capacity used by existing development in the Buzzards Bay Water District service area.

SECTION 2.0 Amendment of Barnstable County Ordinance 90-12

Barnstable County Ordinance 90-12, as amended through Barnstable County Ordinance 11-04, the Cape Cod Commission Enabling Regulations Governing Review of Developments of Regional Impact, is amended as follows:

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

(o) (i) There is a Growth Incentive Zone (GIZ) in Buzzards Bay in accordance with Barnstable County Ordinance 05-13 as amended by Barnstable County Ordinance 10-19, as approved by the Cape Cod Commission in a decision dated April 26, 2012 (GIZ12010) and whose boundaries are fully defined on a plan entitled "Map 3 – Downtown District Zoning with GIZ Boundary" prepared by the Town of Bourne dated December, 2011, which is appended to the decision GIZ12010 and shall be on file with the Town of Barnstable clerk and the Cape Cod Commission clerk.

(ii) Within the Buzzards Bay Growth Incentive Zone, any proposed development that meets or exceeds the threshold adopted in subsections (a) through (n) of this section shall not require referral to the Commission as a DRI, provided the following criteria are met:

(a) The proposed development is below the Cumulative DRI threshold approved by the Cape Cod Commission as described in its decision dated April 26, 2012 (GIZ 12010) of 128 residential units and 265,000 square feet of commercial development potential. Phase 1 development may not exceed Remaining Wastewater Allocation and/or Remaining Water Supply Capacity;

(b) The proposed development does not fall within any of the following categories:

(i) 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.

(ii) The construction or expansion of any bridge, ramp, road or vehicular way that crosses or provides direct access to an inland pond, barrier beach, coastal bank, dune, beach, or tidal wetland or waterbody (as defined by MGL Ch. 131, Section 40) except a bridge, ramp or driveway serving no more than three single-family dwellings.

(iii) 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 and/or accessory uses are greater than 10,000 square feet of Gross Floor Area or 40,000 square feet of outdoor area.

(iv) Construction of any Wireless Communication Tower exceeding 35 feet in overall height, including appurtenances, from the natural grade of the site on which it is located, except for a new Concealed Antenna Monopole less than or equal to 80 feet in overall height from the natural grade of the site on which it is located that is designed to accommodate at least two carriers and with an Occupied Area limited to no more than 1300 square feet.

(v) Reconstruction of, attachment to or replacement of any existing Wireless Communications Tower, power transmission structure, or utility pole for the purpose of supporting antenna(s) for transmitting and/or receiving radio frequency communications that increases its overall height above existing grade by more than 20 feet.

(vi) Site alterations or site disturbance greater than two 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.

(vii) Development requiring an Environmental Impact Report under MEPA.

(viii) Wind energy conversion facility threshold.

(ix) Discretionary DRI referrals proposed by a town and accepted by the Commission as presenting regional impacts.

Adopted by the Assembly of Delegates on June 20, 2012.

Ronald Bergstrom, Speaker
Assembly of Delegates

Approved by the Board of Regional Commissioners 6/27/12 at 3:15pm
Date Time

Mary Pat Flynn

Sheila Lyons

William Doherty