

ATTACHMENT 3 HARDSHIP EXEMPTION APPLICATION

This attachment is for an APPLICATION pursuant to section 23 of the Cape Cod Commission Act (Act), chapter 716 of the Acts of 1989, as amended, for a DEVELOPMENT OF REGIONAL IMPACT (DRI) HARDSHIP EXEMPTION from Commission review of a proposed development, including a Project of Community Benefit, which qualifies as a DRI and for which the applicant may show that a literal enforcement of the provisions of the act would involve substantial hardship, financial or otherwise, to the applicant and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the act.

SECTION I. FILING PROCEDURES:

STEP ONE: PRE-APPLICATION MEETING

It is strongly recommended that Applicants contact the Cape Cod Commission (the Commission) regulatory staff to set up a pre-application meeting. This meeting is best held prior to the Applicant's filing of development plans at the local level. Its purpose is to provide an important opportunity for staff, Applicants and the town to discuss the application requirements and the Hardship Exemption review process. Applicants should bring any conceptual plans, sketch plans, studies, or information on the property and/or development proposal to this meeting. This is especially important for the Applicant in order to receive clear direction prior to investing in design and engineering costs. Additionally, the pre-application meeting may help to reduce the likelihood of problems or delays later in the review process. (Note that if, in the Commission staff's opinion, the Applicant has all required materials prepared and is ready to proceed with filing at this meeting, then the pre-application meeting may also serve as the Application Filing Appointment (see Step Two).

STEP TWO: APPLICATION FILING APPOINTMENT

Applicants shall file all Required Submittals (according to Section II below) with the Commission at its office during an Application Filing Appointment, which must be scheduled **at least two business days** in advance with the Chief Regulatory Officer, or his/her designee. Applicants **shall submit 3 sets** (one original, plus 2 unbound copies) of all required information and **one set of plans** (see Section III for additional copying requirements). **Application packages submitted will not be accepted at this appointment unless they contain the Application Cover Sheet and its required filing materials.** Please note that Commission staff may waive some of the requirements of Section II. of the DRI Application Form at the pre-application meeting.

STEP THREE: REVIEW OF ACCEPTED APPLICATIONS

Once accepted at the Application Filing Appointment, Hardship Exemption Applications will then be reviewed for *completeness* by planning and technical staff. In order to be deemed *complete*, a Hardship Exemption Application must contain all items listed below in Section II. Required Submittals (unless waived by the Executive Director). This review of submitted materials is to ensure that all materials have been provided and that Commission staff have the information necessary to proceed with writing a Staff Report in preparation for a substantive public hearing.

Staff will notify the Applicant in writing within fourteen (14) calendar days of receipt whether the Hardship Exemption Application has been deemed *complete*. This letter will include the date, time and place of the public hearing to consider the Hardship Exemption request. Staff will also notify the Applicant in writing if the Hardship Exemption Application is *incomplete*, the letter will specify the materials/information still required. A substantive public hearing will not be scheduled until Commission staff determines that the Application is *complete*.

STEP FOUR: HARDSHIP EXEMPTION REVIEW

Once a Hardship Exemption application is deemed *complete*, a public hearing will be scheduled and Commission staff shall review the application as to whether a literal enforcement of the provisions of the act would involve substantial hardship, financial or otherwise, to the applicant and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the act. The Regional Policy Plan and technical bulletins in effect at the time of opening of the first public hearing on the project will be used as a guide in making this determination.

SECTION II. REQUIRED SUBMITTALS:

- 1. Application Cover Sheet and its Required Filing Materials.**
- 2. Required Submittals in Section II of Attachment 1, DRI Application.**
- 3. Documents and analysis supporting the request for a Hardship Exemption.** Provide a clear and concise written statement/narrative of the reasons the proposed development, which qualifies as a DRI under Section 3 of the DRI Enabling Regulations, should be exempted from Commission review for reasons of hardship. The Applicant should also demonstrate that the Hardship Exemption would not result in substantial detriment to the public good and would not substantially derogate from the intent or purpose of the Act.
 - A. For financial hardship with respect to the property/project:**
 - A certified (by a C.P.A.) pro forma or financial statement for the project, developed using generally accepted accounting principles, or similar certified evidence of financial hardship.
 - Documentation of funds expended to date on the project, distinguishing those expenditures made in reliance on previously granted local permits, and anticipated costs including both soft (land acquisition, engineering and design) and hard (construction) costs.
 - B. For other forms of hardship:**
 - A history of the permitting process for the project, including any pending deadlines.
 - A description of any unique features of the land or existing structures that may create a hardship.
 - For Projects of Community Benefit, a description of the project's need within and benefit to the community.
- 4. Certification of local filing.** Provide certification of filing copies of **this** completed application with the Planning Board, Building Inspector, Town Clerk and any other local board before which a permit is pending or action is required for this proposed project. It is the ongoing responsibility of the Applicant to continue to provide these municipal agencies

and boards with all materials provided to the Commission throughout the Hardship Exemption review process.

SECTION III. IMPORTANT NOTES:

If you have any questions or require assistance in completing this application form, please contact a member of the Commission's regulatory staff at (508) 362-3828. A copy of the current Regional Policy Plan and Commission Regulations are available at the Commission office or on the web at www.capecodcommission.org.

Copying Requirements

Note that additional copies of all submitted materials will be requested prior to scheduled meetings and hearings throughout the review process in accordance with the schedule below; however, the project planner will contact the Applicant to discuss the required copies at each stage in the Hardship Exemption review process:

- Once the Hardship Exemption Application is deemed *complete* and the project planner has scheduled a public hearing, the Applicant should provide seven (7) copies of the completed application (for distribution to Commission Subcommittee members).
- Fourteen (14) calendar days prior to any scheduled Subcommittee public hearing or meeting, seven (7) copies of any supplemental materials, revised reports or plans should be provided.
- Seven (7) business days prior to a final hearing before the full Commission, up to nineteen (19) copies of all materials should be submitted for distribution by Commission staff to Commission members (staff will advise Applicant of exact number required).

If the Applicant fails to provide the necessary copies in a timely manner, any copies that must be produced by the Commission will be charged to the Applicant in accordance with the Schedule of Fees. In the event that a significant volume of copying needs to be undertaken by the Commission that necessitates the services of an outside vendor, the Applicant will be charged for this copying.

In an effort to reduce non-recyclable materials, the Commission would prefer that all materials be submitted on **recycled content paper** and be **printed double-sided**. Additionally, please avoid the use of metal or plastic ring binders and plastic report covers.

Applicant's Responsibility to Provide Requested Information in a Timely Manner

The Commission staff and Commission members may not consider documents or information that are not submitted at least fourteen (14) calendar days prior to any scheduled public hearing or meeting. Additionally, failure to provide information in a timely manner may result in cancellation of such meeting or hearing. This rule is intended to ensure that all documents received by the Commission will have ample time to be reviewed by project staff and to be routed to and reviewed by all necessary Commission/Subcommittee members.

Applicant's Responsibility to Pay Costs of Legal Notices and Other Fees

The Applicant is responsible to pay for the actual costs of publishing and mailing legal notices throughout the review process. Please see the Schedule of Fees (within the Enabling Regulations) for these and other charges that are the responsibility of the Applicant. All fees must be paid in full prior to issuance of a Certificate of Compliance from the Commission.