



# CAPE COD COMMISSION

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## **Local Comprehensive Plan Regulations February 18, 1993**

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### **Section I. General Provisions**

#### A. Source of Authority

These regulations concerning Local Comprehensive Plans are adopted pursuant to Section 9 of the Cape Cod Commission Act, Chapter 716 of the Acts of 1989, as amended.

#### B. Effective Date

The regulations set forth herein shall be effective after adoption by the Cape Cod Commission ("the Commission") upon filing with the Registry of Deeds.

#### C. Purpose

In accordance with Section 9 of the Act, each municipality on Cape Cod may develop a Local Comprehensive Plan (LCP) that is consistent with the RPP and the goals of the Act. These regulations describe the required content of such Plans and the process of their adoption and certification.

#### D. Definitions

The definitions contained in Section 2 of the Cape Cod Commission Act and in the Regional Policy Plan apply to these regulations. In addition, the following terms shall have the following meanings:

Act: An Act establishing the Cape Cod Commission, Chapter 716 of the Acts of 1989, as amended.

Local Comprehensive Plan Guidelines: The document, entitled "Technical Bulletin 93-001, Local Comprehensive Plan Guidelines" adopted by the Cape Cod Commission on February 4, 1993, as amended.

Local Planning Committee: A municipal body established pursuant to Section 2(o) and Section 9 of the Cape Cod Commission Act.

Planning Committee: A standing committee of the Cape Cod Commission.

Regional Policy Plan (RPP): Barnstable County Ordinance 91-6, Cape Cod Regional Policy Plan.

Scope of Work: The description of tasks included in the Memorandum of Agreement signed by the town, the Commission, and the County Commissioners.

## **Section II. Minimum Criteria for Content of Local Comprehensive Plan**

### **A. Required Plan Elements**

1. A LCP shall address each of the issue areas in the RPP, including but not limited to:

- a. Land Use/Growth Management
- b. Natural Resources
  - i. Water Resources
  - ii. Coastal Resources
  - iii. Wetlands
  - iv. Wildlife and Plant Habitat
- c. Economic Development
- d. Community Facilities and Services
  - i. Transportation
  - ii. Solid and Hazardous Waste Management
  - iii. Capital Facilities/Infrastructure
  - iv. Energy
- e. Affordable Housing
- f. Open Space and Recreation
- g. Historic Preservation/Community Character

2. For each issue area, the LCP shall generally include the information in the Local Comprehensive Plan Guidelines as further described by the scope of work, including but not limited to the following:

- a. **Goals and Policies**: A statement of the municipality's goals and policies relevant to that issue area. The municipality's goals and policies shall include goals and policies consistent with each of those contained in the RPP unless the municipality can demonstrate in the

LCP that a particular goal or policy is not applicable to the municipality pursuant to Section IV below. The goals and policies, taken together, shall set a direction for the municipality's future growth and development;

b. **Inventory:** An inventory of existing resources;

c. **Description and Analysis:** A description and analysis of existing conditions, problems and future needs with sufficient data to justify the recommended actions;

d. **Graphics:** Maps, charts and graphs illustrating pertinent information. All maps should be produced at a scale of 1"=600', unless the LCP scope of work indicates a different scale would be appropriate;

e. **Actions:** A statement of actions needed to achieve the goals and policies, including necessary revisions to local bylaws and ordinances (hereinafter referred to as "bylaws") and regulations. The actions contained in each section of the LCP shall either include each action in the corresponding section of the RPP, indicate that the action has already been completed, or explain why such action is inappropriate for the municipality to undertake. Additional actions may be included; and

f. **Implementation Schedule:** A timetable for implementing actions. This section shall indicate the approximate time frame for the completion of each action identified in the LCP and the party responsible for implementing the action. Where regulations and bylaws must be revised to be consistent with the LCP, this must be accomplished within two years of the date of certification of the Plan by the Commission. For the purposes of this section, bylaw or regulatory revisions identified in the LCP which go beyond the minimum changes needed to achieve consistency with the Plan need not be completed within this two year period, but within a reasonable period of time. Other nonregulatory actions shall also be completed within a reasonable period of time.

3. The LCP shall also include:

a. A description of the process used to develop the plan, including public participation and coordination with adjacent municipalities; and

b. A coherent statement of a vision for the future of the municipality.

4. These regulations are not intended to limit the scope of LCPs. They should not be interpreted to discourage or prohibit a municipality from

developing a plan that is more specific or detailed, or that covers additional issue areas beyond those specified in the RPP and these regulations.

5. More detail regarding information to be included in LCPs is contained in the "Local Comprehensive Plan Guidelines" prepared by and available from the Commission.

#### **B. Level of Detail**

1. For each issue area the LCP must contain background information and analysis to show whether or not there is a problem or need relating to the issue area. The degree to which the plan addresses a goal, policy or action shall reflect the extent of the municipality's problems within a particular issue area.

2. If the information and analysis required in Section II. B(1) show that there will be a problem or need relating to an issue area, the plan must contain data to explain how the particular policies and actions chosen are expected to address the problem or need.

3. In cases where an identified problem requires study or detailed planning outside of the scope of work of the LCP, the Plan shall identify as an action item what further study is needed, how such study should be funded and an approximate timetable for its completion.

4. Each municipality is encouraged to incorporate existing master plans, open space plans, housing plans, harbor plans and similar planning documents into its LCP. Where necessary, such plans shall be modified and augmented in order to be consistent with the RPP and the goals of the Act.

### **Section III. Local Comprehensive Plan Process**

#### **A. Plan Preparation**

Each municipality's Local Planning Committee has primary responsibility for development of its LCP. The Local Planning Committee may be either the Planning Board or a specially designated committee as determined by the Board of Selectmen. If Planning Board is not designated to serve as the Local Planning Committee, the Committee should be representative of geographic areas within the municipality and of interests related to local land use and growth management.

#### **B. Public Participation**

The Local Planning Committee must ensure broad-based community participation in development of the LCP. Unless otherwise specified in the Scope of Work, the Committee shall conduct one advertised public meeting

or hearing at each stage of the development of the Plan, including, but not limited to: 1) identification of issues; 2) development of goals and policies; and 3) presentation of a draft plan. The Committee's citizen participation program shall encourage involvement at all stages of the planning process by town officials, citizens' groups, environmental groups, businesses, minorities and others in the community. Opportunity for submission of written comments shall be provided and educational efforts such as newspaper articles, public service announcements, newsletters, surveys, workshops, forums and public meetings should be employed.

### C. Existing Plans

1. If a municipality has already adopted a comprehensive plan or master plan within five years of the effective date of these regulations, it may be certified as the LCP to the extent that it is consistent with the RPP and these regulations.

2. The municipality's Local Planning Committee shall review the existing plan and notify the Commission that it wishes to submit the existing plan, with any necessary modifications, to the Commission for review and certification.

3. The Commission shall provide guidance and assistance to municipalities that have completed a comprehensive or master plan to aid them in bringing their existing plan into consistency with the RPP and these regulations.

4. An existing or modified existing plan must be reviewed and certified by the process described in Section V below.

## Section IV. Consistency

### A. Regional Policy Plan

#### 1. Goals and Policies

a. In order to be consistent with the RPP, the goals and policies of a LCP shall include the Goals and Minimum Performance Standards identified in the RPP. These goals and policies shall be considered minimums; municipalities may develop more stringent goals and policies.

b. If a municipality demonstrates through the inventory and analysis sections of its LCP that a particular Goal or Minimum Performance Standard is not applicable to that municipality, the Commission may waive its inclusion in the LCP. The municipality shall demonstrate the unique or special local circumstances that prevent attainment of a Goal

or application of a Minimum Performance Standard contained in the RPP. If a particular Goal or Minimum Performance Standard is waived by the Commission, the LCP shall identify any possible alternative minimum performance standards that would achieve the intent of the waived regional Goals and/or Minimum Performance Standards.

## 2. Actions

The Actions contained in each issue area of the LCP shall either include each town action in the corresponding section of the RPP, indicate that the action has already been completed, or explain why such actions may be inappropriate for the municipality to undertake.

## 3. Interpretation

The Planning Committee of the Cape Cod Commission shall provide formal written guidance to municipalities on interpretation of consistency provisions upon request. Informal guidance will also be provided by the Commission staff.

### B. Contiguous Municipalities

The LCP shall be compatible with the LCPs of contiguous municipalities where there is a relationship between or among these plans, as determined by the Cape Cod Commission.

### C. Internal Consistency

The LCP shall be internally consistent in its policies, forecasts and standards.

## **Section V. Procedure for Adoption and Certification of Local Comprehensive Plans**

### A. Time for Completion

A municipality's LCP shall be completed for initial submission to the Commission within two years of the approval of a scope of work for the plan or other date as contained in the Scope of Work. The Commission may grant an extension of this time frame where warranted by special circumstances.

### B. Review and Certification

#### 1. Preliminary Draft

Upon completion of a Preliminary Draft of the entire LCP, the Local Planning Committee shall:

- a. provide notice of a public hearing published at least two weeks in advance in a newspaper of general circulation in the municipality;
- b. make a copy of the Preliminary Draft Plan and associated maps available for public inspection at the town hall or other convenient location(s) for 15 days prior to the public hearing on the Preliminary Draft Plan and provide notice of such availability;
- c. send a notice of availability of the Preliminary Draft Plan and maps and a notice of the public hearing at least two weeks in advance to the Cape Cod Commission and to all contiguous municipalities. A copy of the notice shall also be placed in the Massachusetts Environmental Monitor and the Cape Cod Commission Reporter;
- d. conduct a public hearing on the Preliminary Draft Plan within the municipality and accept written and oral comments for a specified period of time; and
- e. Upon closing the public hearing, the Local Planning Committee shall revise the plan as necessary and shall formally vote to submit the Final Draft Plan to the Cape Cod Commission.

## 2. Final Draft

- a. The Final Draft Plan and associated maps shall be submitted to the Clerk of the Cape Cod Commission for a preliminary certification review by the Cape Cod Commission. A copy of all written comments and a summary of the public hearing testimony on the Preliminary Draft Plan shall be included.
- b. Within one week of receipt of the information in Section V.B.2.(a) by the Clerk of the Commission, the Commission shall provide written notice to all contiguous municipalities that preliminary certification review is underway and shall solicit their comments for a 30 day period following such notice.
- c. Within 45 days after the close of the comment period the Planning Committee of the Commission shall submit written comments regarding the Final Draft Plan to the Cape Cod Commission. The Planning Committee shall invite the Commission representative from the town whose plan is under consideration to participate in its review. The Planning

Committee's comments will:

- i. specifically describe any substantive deficiencies with regard to the Final Draft Plan;
  - ii. specifically describe any procedural deficiencies with regard to the Final Draft Plan;
  - iii. specifically describe any conflicts with the plans of contiguous communities;
  - iv. recommend measures for remedying any deficiencies
  - v. note any deficiencies which would prevent the Commission from certifying the Plan as consistent with the RPP; and
  - vi. include as attachments copies of any written comments received by the Commission.
- d. The Commission's certification review will be guided by the following criteria:
- i. The data used in the Plan are sufficiently accurate, complete and up-to-date to develop goals, issues, policies and implementation strategies;
  - ii. Accepted techniques and methodologies are used to analyze collected data and make projections, and assumptions used are clearly stated;
  - iii. The Plan's goals and policies are consistent with the goals and policies set forth in the RPP and potential conflicts among the established goals and policies are identified and addressed;
  - iv. The policies promote achievement of established goals and reflect established priorities among the goals where necessary. Alternative policies are considered for resolving issues where appropriate. Reasons for choosing one alternative over others are clearly explained;
  - v. The Plan's actions include the actions set forth in the RPP. Actions and other implementation strategies are designed to carry out the policies;

vi. The plan contains evidence that broad citizen participation occurred at all stages of the planning process, including consultations with adjacent municipalities; and

vii. The plan meets the consistency requirements of Section IV of these regulations.

e. The Cape Cod Commission shall review the Planning Committee's report, make any necessary modifications, and shall vote to transmit comments to the municipality.

f. After joint consultation between the Local Planning Committee and the Planning Committee of the Cape Cod Commission, the Local Planning Committee may revise its Final Draft Plan as appropriate to reflect comments made by the Commission.

g. Following preliminary certification review by the Commission, the Local Planning Committee shall conduct a second public hearing with notice as provided in Section V.B.1(a-c) above if any revisions were made to the Final Draft Plan.

h. Upon closing the public hearing, the Local Planning Committee shall make any necessary revisions and vote to transmit the Final Plan to the municipality's town meeting or town council. Substantial changes should be forwarded for review by the Planning Committee prior to town meeting. The Planning Committee will review such changes at its next scheduled meeting and provide written comments on any issues not addressed based on the preliminary certification review.

### 3. Final Plan

a. The Final Plan and associated maps shall be voted upon by the municipality's town meeting or town council. Adoption shall be by majority vote.

b. Within 30 days of adoption by the town, the final LCP and associated maps shall be forwarded by the Town Clerk to the Clerk of the Commission for certification of consistency with the RPP pursuant to Section 9(b) of the Act.

i. Within 30 days of receipt by the Clerk of the Commission, the Planning Committee shall conduct a public hearing on the Final Plan with notice pursuant to Section 5(a) and (b) of the Act.

ii. Following the public hearing, the Planning Committee shall recommend to the Commission:

- A) certification of the Final Plan; or
- B) conditional certification of the Final Plan based on minor amendments to the Plan by a specified date; or
- C) denial of certification.

iii. The Commission shall act on certification of the Final Plan at a public meeting within 45 days of the close of the Planning Committee's public hearing. If the Commission fails to certify the Final Plan, it shall state its reasons in writing and refer the Final Plan back to the municipality. These reasons must:

- A) Relate to changes that were recommended during the Commission's preliminary certification review as described in V.B.2(c) that were not made by the municipality; or
- B) Relate to material added or deleted by the municipality since the preliminary certification review; or
- C) Relate to changes in law or circumstance since the preliminary certification.

c. The Plan shall be considered certified upon vote of the Commission that it is consistent with the RPP. The Commission shall notify the municipality's Local Planning Committee, Board of Selectmen, and Town Clerk in writing that the Plan has been certified. The Commission shall also notify the Boards of Selectmen of contiguous municipalities.

d. If a Plan fails to receive certification, revisions may occur pursuant to Section V.B.2(f) to V.B.3.(b) above until the Plan attains consistency certification.

## **Section VI. Implementation of Local Comprehensive Plans**

### **A. Oversight**

After certification of a LCP, the chief elected officials of the municipality or their designee(s) shall oversee implementation of the actions contained in the Plan and provide notice of any such delegation to the Cape Cod Commission. Where the chief elected official(s)/designee(s) do not directly

carry out these actions, they shall initiate their implementation by providing the responsible parties with clear direction as to the meanings, intents, purposes and scheduling of the LCP's implementation strategy. The Cape Cod Commission may provide technical assistance to assist towns with implementation of their LCPs.

#### B. Development Agreements and Impact Fees

Pursuant to the Cape Cod Commission Act, municipalities with certified LCPs may enter into development agreements with persons proposing developments and with the Commission, other municipalities and state agencies in accordance with section 14 of the Act, and may impose impact fees on proposed developments in accordance with section 15.

#### C. Revisions to Bylaws

Within two years of the date of certification, the municipality shall ensure that its development bylaws and regulations are consistent with its LCP. The chief elected official(s)/designee(s) shall work with other municipal boards to see that such bylaws are prepared and adopted in a timely manner. For the purposes of this section, bylaws and regulatory revisions identified in the LCP which go beyond the minimum changes needed to achieve consistency with the Plan need not be completed within this two year period.

#### D. Reporting

At the end of this two year period after certification, the chief elected officials/designee(s) shall provide the Commission with a written report on the status of implementation of actions contained in the plan, including the status of proposed revisions to bylaws and regulations.

#### E. Revocation of Certification

1. The Commission may revoke certification of a municipality's LCP if the municipality fails to make its development bylaws consistent with its Plan within this two year period as described in § VI.(C) above.
2. The Commission may extend the amount of time allowed for revision of the municipality's development bylaws. In order to receive such an extension a municipality shall demonstrate a good faith attempt to undertake such revisions.
3. The Commission shall revoke the certification of a municipality's LCP if the municipality fails to implement that portion of the Plan which provides for the development of low and moderate income housing consistent with local needs within a reasonable period of time following certification of the LCP. For the purpose of this section, the Commission will consider good

faith efforts of the municipality in making progress toward affordable housing goals and policies.

4. The Commission shall not revoke the certification of a LCP without conducting a public hearing pursuant to Sections 5(a) and (b) of the Act.

5. Revocation of certification will result in loss of ability to assess impact fees and enter into development agreements, but shall not affect the validity of any development agreement fully executed prior to the date of revocation. Nor shall revocation of certification affect the validity or retention of any impact fees collected by a town or required under a binding agreement or development permit fully executed or issued prior to such revocation.

## **Section VII. Revision of Local Comprehensive Plans**

### **A. Five Year Review**

At five year intervals, each municipality shall review and update its LCP. Such review shall be conducted by the chief elected officials/designee(s) in accordance with Section VII. C below.

### **B. Regional Policy Plan Amendments**

1. In the event that the RPP is amended, any municipality with a certified LCP shall bring its LCP into conformance with the amended RPP per Section 9(a) of the Act and Section IV of these regulations.

2. The Commission shall notify communities with certified LCPs of the need for revisions to address these amendments to the RPP.

### **C. Amendment Procedure**

Any revisions or amendments to the LCP shall be reviewed and certified for consistency with the RPP in accordance with Section V.B.2(f) through V.B.3(b) above.

### **D. Other Plans**

These regulations shall not prohibit a municipality from considering, adopting, enforcing or in any other way administering a comprehensive plan which does not comply with these regulations so long as it is not administered or enforced in a manner which otherwise violates the Cape Cod Commission Act. However such municipalities shall not be considered to have certified LCPs in accordance with the Act.