**2019 Standards and Criteria (DRI Checklist) Revision**

**Executive Summary**

DRI Checklist Review Committee, November 20, 2019

As part of its statutory mandate, every two years the Martha’s Vineyard Commission is required to review its checklist of development activities that must be referred to the Commission. The checklist has been revised on 13 occasions previous to this effort.

This iteration seeks to address a number of concerns. First, it seeks to introduce greater clarity in the description of review process. Accordingly, section 1 now provides a more detailed explanation of the review process. Further it also clarifies that each checklist item requires a mandatory referral. In addition, each checklist item now specifically identifies whether it is subject to a DRI hearing and review, or an initial concurrence review to determine regional impact.

This iteration also seeks to clarify certain provisions. In some cases, explanatory text or notes have been added. In addition, many definitions have been simplified or eliminated.

Substantively, this iteration seeks to take account of the critical ‘character’ questions facing the island – namely the aggregate impact of incremental development. For many years the Commission (and the checklist) was focused on the review of increasingly larger projects on the assumption that only those large projects were of sufficient size and scale to have regional impact. However, with the ongoing press of development, it appears that even ‘smaller’ developments (especially in some locations) may have regional impacts. In addition, we have recently revised our Housing Policy and our Water Quality Management Policy and this revision looks at our checklist with these two vital concerns in mind. Accordingly, and for instance, the checklist revisions lower the threshold for division of land. In addition, the checklist introduces a trigger for ‘large residential structures’ as they may have visual, energy, nitrogen, materials use and other regional impacts.

Please note significant revisions made in the draft Checklist since version V4 that was distributed for comment in September are noted in ***Italics***

Text boxes describe the rational for the proposed change immediately preceding the text box.

S**ection 1. General Information**

This section has been revised to make the DRI process clearer for town officials and applicants. Among other things, it clarifies that referral for each checklist item is mandatory but that the process thereafter may differ depending on the specific checklist item. Note also that, under each checklist item, there is now a clear indication as to whether the item triggers the DRI hearing process or the Concurrence review standard (to determine regional impact).

**1.3 D Modifications to a Previously approved DRI**

This type of referral includes any modification of a **Development** that is on land which has been, in part or in whole, the subject of a previously approved DRI application **or is on adjacent land which is, or is proposed to be, incorporated into the business operation.**

The addition of the above text in bold formalizes our current practice.

1.5 This section (Definitions) has been moved from section 10 to the beginning of the document for ease of reference. Some definition wording has been revised to improve clarity. Some definitions that apply to only one section have either been incorporated into that section or have become a footnote to that section. Some definitions have been deleted where they were deemed unnecessary. No substantive changes have been intended to any definition.

**Section 2**. **Division of Land**

2.2 a) The 10-lot threshold has been reduced to 5 lots.

2.2 b) The 6-lot threshold applicable in rural areas has been reduced to 3 lots.

These two changes recognize that many impactful developments happen on smaller acreage as the island approaches buildout and that developments of this size have impacts in wastewater and housing

2.2 c) This new section appeared as former section 2.3 d). Former sections 2.3 a, b, and c have been eliminated as they are considered to now be incorporated in sections 2.2 a) and b) with the proposed revisions to those sections. ***It has now been eliminated***.

2.5 This section retains the 3-lot threshold for ANRs. In addition, it now applies not only to lots created by prior ANRs, but also to those created by prior subdivision.

This revision seeks to prevent developments by sequential ANR’s which might have material regional impacts. As before, this is a Concurrence review and is not a Mandatory review, and the section only covers ANRs that create new lots and not those that are only lot line adjustments.

**Section 3. Commercial Development** (*Note:* The general threshold remains at 3500sqft.)

3.1 ***Section 3.1.a and b. have swapped positions***

The swap highlights that developments from 2500 sqft to 3499 sqft are concurrence and 3500 and above are mandatory

3.1.A ***This is the former 3.2 section with the sqft allowance reduced from 2000sqft to 1400***

The current trigger exempts from review a mixed-use structure as large as 5500 sq ft. Despite the importance of providing an incentive for residential construction, the Checklist Review Committee felt that such a large mixed-use development might have potentially significant regional impact.  Accordingly, the Committee decided to propose a lower threshold — by reducing the exempted residential square footage to 1400 - space adequate for two small units. However, a 3499 sqft project with the same 1400 sqft exemption would not be a reviewed.

3.2 a) This section has been added for clarity.

3.2 b) This section previously appeared as a note at the end of former section 3.1.

3.2 c) This section previously appeared as former section 3.3. It has been revised to eliminate specification of the square footage threshold, as it is assumed that all relevant thresholds will be set out in any Commission- and Town-approved Area Development Plan.

Please note Section 3.2 from the previous checklist regarding Mixed Use Developments has been eliminated and replaced by 3.1.A (Please see above)

3.3 d) Increased the 50+ seats threshold for restaurants to 80+, retaining the DRI hearing process.

The Checklist Review Committee felt that B-1 infrastructure (parking and transportation) could support and towns could regulate restaurants of up to 79 seats on their own.

3.3 e) Changed the restaurant seats threshold for Concurrence review from 0-50 to 50+.for projects outside of the B-1 or B-2

Previously, any restaurant outside of the B-1 had to be reviewed. This revision now only requires review of restaurants of 50 or more seats. The Checklist Review Committee felt that a food establishment under 50 seats would have a limited Island wide impact.

**Section 4. Residential Development**

4.1 Reduced the multi-unit threshold from 10 to 5 units in all cases.

***Proposed units that are deed restricted for Affordable and Community housing and meet water quality stay at the 10 unit number***

The Checklist Review Committee felt that market rate housing developments may present regional impacts (including wastewater and housing) and that a lower trigger point would enable the MVC to require mitigation where appropriate. However, the committee recommends retaining the former threshold for Affordable and Community housing

4.2 *New section*: REVISED ‘***Total combined condition floor area from 4000 sqft to under 8000 sqft is concurrence review. Conditioned floor area 8000 sqft and above is mandatory.***

***Developments in the 4000 sqft to 7999 sqft range would be exempted if they met the listed requirements.***

The Checklist Review Committee felt that large residential structures have the potential for significant regional impact (including energy, nitrogen, Island character and housing). The change from the previous version would commit applicants to reducing some of the greatest impacts of large house development, without DRI review. This section would now go into effect with the checklist approval.

**Section 6. Institutional Development**

6.2 ***This section excludes incidental uses of a municipal facility that may technically serve residents of another town. In addition, the trigger for DRI review has been changed from Mandatory to Concurrence.***

Note that this section has been revised since the earlier iteration of the draft Checklist that was distributed to Commissioners and the public. That version did not specify that the building had to be ‘designed to serve’ the residents of more than one town. On further consideration, the Checklist Review Committee feels the text from Checklist Version 12 is more appropriate and has reverted to that language. In addition, the Committee proposes that minor services provided to other to residents of other towns not have sufficient ‘regional impact’ to warrant DRI review. Finally, the revision changes the review from Mandatory to Concurrence.

**Section 7. Transportation**

7.2 *New section*: A new section clarifies a required referral (with Concurrence) for the creation or alteration of certain roads.

In recognition of the effect that traffic and transportation have on the island, while we have an Island Roads DCPC, there is currently no MVC review of these developments except as those that have been sent as Discretionary referrals.

**Section** 8. **Natural or Cultural Resources**

8.1.a ***Adds as triggers the alteration of any significant historic exterior detail and the relocation of an historic structure.***

Note that this section has been added since the earlier iteration of the draft Checklist that was distributed to Commissioners and the public. Recent developments have made us aware that it is not just demolition that needs to be reviewed, but other aspects of alterations to or relocation of historic structures may also have negative impacts.

8.1.b The 1900 cutoff for demolitions has been changed to 1920 in an effort to preserve the conceptual approach of a 100-year cutoff. (If this revision is approved, a corresponding amendment will be made to the Demolition Policy.)

The Checklist Review Committee felt that having a date certain was a better trigger than 100 years. This is a date that we would revise at regular intervals to keep close to the 100-year standard.

8.3 The trigger for any site alteration of Significant Habitat has been reduced from 2 acres to 1 acre.

With increased development and climate change threatening these resources, the Checklist Review Committee felt it was important to enable increased protection of these resources as appropriate.

8.5 This revision changes the review from Mandatory to Concurrence. (This section was previously section 8.6.)

This narrow checklist triggers relates to certain DCPC regulations that require a DRI referral. Although this provision is written in general terms, at the moment it applies only to one DCPC.

**Section** 9. **Communications and Energy**

9.3 The threshold for ground-mounted solar arrays has been reduced from 50,000 sq ft to 25,000 sq ft.

This change does not reflect a bias against solar arrays. It is meant to enable review to mitigate any possible adverse visual impacts.