

## 2020 Standards and Criteria (DRI Checklist) Revision Executive Summary

DRI Checklist Review Committee, April 2020

Despite the fact that the world as we knew it has changed, the need to continue our statutory responsibility in reviewing the Checklist has not. At our last meetings of the Checklist Review Committee, we determined that if we did not have a workable procedure in place to guide our section 4.2 (Residential Structures) provision by the beginning of May, we would go ahead with submitting the rest of the Checklist for approval and return to work on this section later. Given the uncertainty and loss of work in the construction community, we believe that this is now the best path forward. Please note that this summary will try to be as comprehensive as possible. Realizing that those reviewing this may have come to the process at different points during the one-year gestation process, it is the most definitive and, hopefully, effective means to show simply what has been changed.

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 thirteen versions of the DRI Checklist since 1976 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 the review process. Accordingly, section 1 now provides a more detailed explanation of that process. Further, it also clarifies that each Checklist item requires a mandatory referral, if not the full hearing process. Accordingly, 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. Under each Checklist item, there is a specific notation – either “Mandatory Referral Requiring MVC Concurrence” or “Mandatory Referral and MVC Review”.

Finally, please note that many changes are ‘administrative’ in nature – they seek to rearrange some of the sections to improve logical sequencing, or the text has been modified again to improve clarity. In some cases, explanatory text or notes have been added. In addition, many definitions have been simplified or eliminated. Accordingly, in looking at a red-lined change from the existing checklist to this one, many changes do not seek to effect any change in meaning.

The Checklist Review Committee sought 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, the Commission has recently revised its Housing Policy and Water Quality Management Policy, and this revision looks at our Checklist with these two vital concerns in mind.

Since reviewers come to this revision with various histories and familiarities with the changes from the existing checklist, we offer the following guidelines:

- Significant revisions made in the draft Checklist since version V8 that was distributed for comment in December are noted in ***highlighted Italics***
- 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.

## Section 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).

### 1.3D 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 (Existing Section 10) The Definitions section has been moved 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. In the Checklist, words that are in **Boldface** type are defined in this section.

## Section 2. Division of Land

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

- 2.2 b) (Existing 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 build-out and that developments of this size may well have regional impacts particularly with regard to wastewater and housing.

***Existing section 2.3 exempting limited divisions of large acreage Parcels has been eliminated.***

It was felt that this section was confusing and not consistent with other checklist triggers.

- 2.5 This section retains the 3-lot threshold for ANRs but includes in the calculation of that number any lots created by ANR or subdivision within the preceding five years.

This revision seeks to allow for the review of cumulative 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 reviews and 3500 and above are Mandatory reviews.

#### **3.1.A This is the former 3.2 section on mixed use 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 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 Mandatory review and 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 ***This is a placeholder for a future trigger for large residential buildings***

As outlined in the opening statement, this item has been removed from consideration at this time. The intention is to complete consideration of this item and propose a revision to the Checklist at that time.

**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 residents of other towns do 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. Previously, the inclusion of alteration was in the definition of "demolition" but not spelled out in 8.1

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.

8.2.b ***Adds review to any project on archeologically significant land.***

The Checklist Review Committee felt that 8.1 could be construed to mean that it only applied to the division of land. The proposal would include all development on archeologically significant land. This conforms to our current practice.

- 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 trigger relates to certain DCPC regulations that require a DRI referral. Although this provision is written in general terms, at the moment and as a practical matter 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. **Clarified by now saying "covering an area" of 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. It is also adjusted to specify that the 25,000 sqft refers to the ground covered and not the sq ft of the array itself.