



## GUIDANCE FOR EXEMPTIONS FROM DCPC MORATORIA

### What is a DCPC moratorium?

If the MVC votes to consider a nominated area as a Critical District, then a special moratorium will take effect, suspending the town's authority to issue development permits within the area being considered.

### What types of permits are covered by the moratorium?

The moratorium extends to all "development permits", defined by the statute as "any permit, license, authority, endorsement or permission required from a municipal agency prior to the commencement of construction, improvement or alteration made to buildings or land".

### What is the legal authority for the moratorium?

The authority for the moratorium comes from Section 9 of Chapter 831 of the Acts of 1977, as amended, (the statute), which states "The acceptance of a nomination for consideration for designation of a district of critical planning concern shall suspend the power of a municipality to grant development permits applicable within the district..."

### Why is the moratorium important...is it worth the inconvenience?

The moratorium suspends development temporarily, in order to make an assessment of the special needs of the area, and possibly, to put new regulations in place before more development is allowed. The Commission does not initiate a moratorium lightly. Nominations are made because of a perceived critical need to protect special resources that would otherwise be damaged or lost to inappropriate development.

Property owners who may be impacted by the moratorium are also protected by the same moratorium from inappropriate development by others, which might otherwise negatively impact their properties.

### How long will the moratorium last?

**The moratorium is temporary.** If the Commission votes not to designate the nominated area as a Critical District, then the district moratorium will end with that vote. The designation vote must be taken within sixty (60) days of voting acceptance for consideration. This abbreviated time frame is an important check on the first part of the moratorium. The Commission will act swiftly to ensure that the nomination is considered and a designation decision made in good order. In the case of a nomination that does not result in designation, the moratorium will be dispatched quickly.

If the Commission votes to designate the area as a Critical District, the moratorium, already in place since the vote to accept the nomination for consideration, will continue throughout the planning phase to establish regulations to govern the district. The extended moratorium will give the town boards a chance to produce effective regulations for the district, without undue pressure for development that might be inappropriate. The moratorium will end after regulations have been approved by the Commission and voted by the town, a process which may take up to one year from the date of the designation vote.

### Is there an exemption procedure?

Exemptions from the moratorium may be granted.

### What are the criteria for exemption?

According to the statute, an exemption may be granted if:

- (a) the commission has certified that the type or class of proposed construction, improvement, or alteration is essential to protect the public health, safety and general welfare because of an existing emergency certified by the commission; **and**
- (b) a development ordinance or by-law had been in effect immediately prior to the nomination of such area and development permits would have been granted under such ordinance or by-law.

### How may an exemption be requested?

A request for exemption may be made from the Commission, by submitting the following to the DCPC Coordinator:

- A signed application form for request for exemption
- A written referral from the appropriate town permitting authority
- Two sets of plans; one will be retained in the Commission's files; in the event that the exemption is granted, the second set will be forwarded to the referring town board marked to identify it as the plan seen by the Commission; in the event that the request is denied, the applicant may request return of the second set
- A filing fee of \$115, payable to the Martha's Vineyard Commission

Once these items have been received, the request will be scheduled to be heard at the next available meeting, after allowing time for the Commissioners to be sent and to review study materials regarding the proposal, and for meeting notice requirements.

### Is it necessary to appear in person to make a request?

No, it is not necessary to appear in person, but a representative should attend the meeting in order to present the plans and answer any Commissioner questions. Letters may be submitted, and will also be considered by the Commissioners.

### How does the Commission hear requests for exemption?

Requests are evaluated by peer review, heard and decided by a group of Commissioners dedicated to the task. Once a nomination has been accepted for consideration, the Commission Chairman will name a DCPC Committee for the District. The DCPC Committee will generally include the Commissioners from the town where the proposed district is located, plus one or two veteran Commissioners familiar with DPCC Committee functions. Each DCPC Committee is unique to a particular district (or proposed district). Because the DCPC Committee is a transitory group, the meeting times tend to be flexible, in order to accommodate the Commissioners' schedules. The DCPC Committee Chairman will call the meetings, setting the time and place, generally late afternoons and in the town where the proposed district is located, in order to accommodate site visits. The meetings are open to the public, and the agenda is posted in the town hall and e-mailed to the sponsors and to anyone requesting to be put on the e-mail list.

### What about immediate health and safety emergencies?

In the case of an immediate emergency, such as a failed well, the Commission staff DCPC Coordinator has been authorized to grant exemptions in-house, so long as the applicant submits plans, a completed application form, and adequate documentation from the Board of Health or Building Official attesting to the immediacy of the health or safety emergency.

### What are the responsibilities of the referring town authority?

Upon request of an applicant, the referring town authority is responsible for providing a simple written referral, indicating receipt of an application for a development permit and referral to the Commission.

Note: The Commission requires two sets of plans from the applicant. In the event that the exemption is granted, one set will be forwarded to the referring authority and identified as the specific plan that was reviewed.

### How may I get more information?

For more information, contact the Commission's DCPC Coordinator, Jo-Ann Taylor, 508-693-3453, Extension 19, or [taylor@mvcommission.org](mailto:taylor@mvcommission.org).

Related Documents:s: Chapter 831 of the Acts of 1977, as amended  
DCPC moratorium exemption request form  
Guidance on Nomination and Designation of DCPCs

Note: This guidance is intended for general information and user-friendly assistance. For legal purposes, the content of Chapter 831 of the Acts of 1977, as amended, takes precedence over this or any other general guidance.