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I. PURPOSE OF PUBLIC POLICY GUIDE

The Cape Cod & Islands Association of REALTORS® (CCIAOR) is a non-partisan organization and does not endorse any specific political party. The Association takes action and reviews policy proposals made by the municipal, county, state and federal governments that relate to real estate, private property rights, or a REALTOR®'s ability to work and earn a living, and the quality of life of the region. Any recommendations for an official position must be approved by the CCIAOR Board of Directors for approval, prior to these positions being made public, if it not covered in this subsequent policy.

II. GUIDING PRINCIPLES OF REALTOR® PUBLIC POLICY

The Cape Cod & Islands Association of REALTORS® ("CCIAOR" or "The Association") promotes the highest standards of professionalism, ethics, education, and technology, ensuring REALTOR® members are the primary source for real estate on Cape Cod, Martha's Vineyard and Nantucket.

- REALTORS® are dedicated to the opportunity for ownership of real property for all who desire it, within the framework of a democratic free enterprise system. Real property ownership positively impacts neighborhoods, communities, and the region's economic stability.
- REALTORS® believe the right of property ownership confers with it the freedom to use for highest and best use and should not be abridged.
- REALTORS® are committed to the protection and preservation of private property rights. Private, individual ownership of land should be respected at all levels of government and the value of that land should not be artificially affected by government intrusion.
- REALTORS® believe in the free transfer of real property. The fundamental right to own property is guaranteed in the Constitution of the United States and that right should not be infringed upon, nor should property be taken by the government for a public use without just compensation.
- REALTORS® support policies which encourage property choice, economic development, and adequate infrastructure to protect the quality of life on Cape Cod, Nantucket, and Martha's Vineyard.
- REALTORS® are committed to the proposition that all persons, regardless of race, color, religion, national origin, familial status, disability, sex, or sexual orientation, have a right to own real property. Equal opportunity in housing can best be achieved through education and observance of the law, and cooperation of the real estate industry and the public in a free and open housing market.

III. ZONING

Overview

Zoning is put into place by governing jurisdictions to protect the health, safety and welfare of its citizens. Zoning was ruled constitutional by the United State Supreme Court in 1926 in a case challenging the zoning laws of Euclid, Ohio.

Post-World War II zoning traditionally has separated properties based on use (commercial, residential, industrial, and multi-family) with separate sectors assigned minimum lot sizes and buffers. However, traditional zoning pre-World War II exhibited more compact, mixed use and walkable land use patterns. A mix of lot sizes, building footprints and uses gave a greater number of choices for housing and commercial properties.

Historically this can be seen throughout Cape Cod, Nantucket, and Martha's Village in the village concept with examples in villages like Osterville, Chatham, Provincetown, Edgartown, and Nantucket.

Position

CCIAOR supports property owners' exercising choice with respect to zoning. Zoning policies should provide for the flexibility of the free market, account for use change over time, and allow for the highest and best use of the subject parcel.

Every citizen should have the right to acquire real property with the confidence and certainty that the value of such property will not be diminished by governmental action without just compensation or the owner's express consent.

No committee, panel, board, or organization shall prevent zoning matters from being given open, fair and timely hearings before the appropriate legislative body. CCIAOR supports the village concept, where appropriate, and the ability to create a mix of uses, density and housing types to create sustainable communities.

IV. HOUSING AFFORDABILITY

Overview

A basic need for an individual or family is shelter. This means that the housing stock in area neighborhoods must be diverse and compliment the community's needs. Traditionally, Cape Cod's government regulation of larger lot size requirements, lack of infrastructure and suburban zoning has driven up costs and made housing more unattainable.

Position

CCIAOR supports initiatives increasing the availability and affordability of housing and believes the increase in the housing stock will result in more housing affordability allowing more people to achieve the goal of homeownership. Among the initiatives CCIAOR supports, includes:

- The expansion of property rights by permitting by-right accessory units, which increases the affordability of single-family homes and increases the affordability of available year-round rental housing.
- Consideration of programs that alleviate homelessness and encourage housing for low-income individuals and first-time home buyers—programs that can help instill the sense of pride and stability that comes with home ownership and increase the percentage of owner-occupied homes in area neighborhoods.
- The use of market-based incentives and public and private partnerships as vehicles for the promotion of housing affordability. When the government is involved, however, it must consider its fiscal responsibility to taxpayers.
- Increased communication within and between governments to expedite the development approval process. Improved coordination of the permitting process at the local levels could result in lower building costs. Often the various levels of governmental authorities do not have effective communication and co-approval systems, which causes unnecessary delays, increases construction costs, and ultimately hinders housing affordability.
- A consistent zoning code that permits by-right to allow mixed-use, cluster, multi-family, accessory dwelling, and small lot zoning in appropriate locations. This will encourage diverse growth patterns to sustain and enhance a town's affordability.

V. REAL ESTATE TRANSFER TAX

Overview

A real estate transfer tax, or a deed recordation fee or stamp, is a state or local tax assessed on real property when ownership of the property is exchanged between parties. Although the tax is generally calculated based upon the value of the property, it is assessed only on the sales transaction instead of on an annual basis like the general property tax. Real estate transfer taxes may be assessed on either the buyer or seller, but both are usually jointly and severally liable for the tax.

Position

CCIAOR opposes real estate transfer tax for its negative impact on housing and property cost, for using a sale as a trigger, and because it is a detriment to entire real estate industry.

As the tax is levied only on buyers and sellers of property, the burden per taxpayer is much greater than the burden from a more broad-based tax designed to generate the same amount of revenue. Inherently, a real estate transfer tax is an unstable revenue source and discriminatory, as it is unpredictable, and it only targets a specific action of the public and yet the revenues are typically used to benefit the community.

Since such a tax is inherently unstable, for existing real estate transfer taxes, collections should not be attached to a general operating budget of either state or local government and only used for non-reoccurring expenses.

VI. TRANSPORTATION

Overview

Transportation is the mode to navigate people whether it is by bicycle, foot, rail, vehicle air or water. Expansion of capacity to transport people represents an important investment in the future growth of our economy and the quality of life in the region.

By investing in roads and public transportation, the quality of life is maintained and enhanced, and economic potential is increased with the ability to move people efficiently to shopping, work, and schools.

Position

CCIAOR supports coordination of transportation networks with the surrounding land use to ensure compatible usage. CCIAOR supports the construction of additional capacity in our current transportation infrastructure, adding more connections to make mobility more accessible, and adding new routes and options to increase efficiency in our transportation system resulting in a full menu of transportation options including but not limited to roads, bridges, and public transportation.

CCIAOR supports the construction of complete streets that allow all modes of transportation to operate safely, including sidewalks and bicycle lanes. CCIAOR supports the replacement of the bridges to Cape Cod. It also supports the Cape Flyer program expansion of rail service to Bourne, and exploration of further expansion onto Cape Cod. It also supports expanding air service serving Cape Cod, Martha's Vineyard, and Nantucket.

For any mass transit, CCIAOR recommends considering both year-round and seasonal populations and their sometimes-disparate needs when planning service routes, frequency, and destinations.

VII. SHORT-TERM RENTALS

Overview

Massachusetts has a law regulating and adding room occupancy tax to short-term rentals. The law provides a definition of a short-term rental (a stay that is 31 days or less) and requires short-term rentals to register with the state and provide \$1 million in legal liability insurance. It also requires the entity collecting rent to assess, collect, and remit the taxes. The state law explicitly allows cities and towns to create a registry and inspection process for short-term rentals.

Short-term rentals are a significant driver of the Cape Cod, Martha's Vineyard, and Nantucket economies. The use of short-term rentals drives jobs directly and indirectly associated with the rentals and economic activity associated directly with the rental of the unit itself and the underlying tourism and service economy.

STR Zoning

CCIAOR believes short-term rental regulations should not be in the zoning bylaw that could affect property rights and are better handled through regulations that affect all homeowners. Most issues can be handled through nuisance laws or other avenues, rather than through restricting zoning, which infringes on the property rights of homeowners.

Community Impact Fees

CCIAOR opposes cities and towns enacting Community Impact Fees on short-term rentals. Community Impact Fees create an unlevel playing field between similar properties and penalize investment in the Cape Cod economy. In addition, it is too difficult and would be burdensome to enforce the community impact fee – especially with the little revenue associated with implementing the fees.

In addition, there is no provision in state law to exempt housing units that are not – either by town bylaw or state environmental regulations – able to be occupied on a year-round basis. Since the purpose of the community impact fee is to offset the stress on housing prices that short-term rental units place on the market, the lack of an ability to exempt these units creates difficulty in fairly implementing a community impact fee.

Local Short-Term Rental Revenue

CCIAOR believes revenue derived from local room occupancy tax (on both hotel rooms and short-term rentals) should be used to fund long-term, chronically underfunded initiatives that are related to the tourism economy of Cape Cod, Martha's Vineyard, and Nantucket. CCIAOR supports every town adopting a Community Investment Stabilization Fund where it directs at least 50% of the local option rooms excise tax to be used for housing, wastewater, broadband, transportation, and competitive marketing of Cape Cod, or a subset of a combination thereof.

STR Signs

CCIAOR believes allowing vacation rental signage promotes the safety of a town. It allows visitors to find what at times can be confusing and hard to find locations and allows for the proper marketing of a property. However, CCIAOR does support restrictions around short-term rental signage as long as the Association does not deem the restrictions to be overly restrictive and an impediment to commerce.

VIII. COASTAL RESILIENCY

Overview

Cape Cod, Martha's Vineyard, and Nantucket coastal communities face significant risks from coastal storms, flooding, erosion, and sea level rise, which have the potential to threaten private property on and near the coast, but also the places—coastal access and recreation areas, habitats (e.g., wetlands, coastal bluffs, dunes, and beaches), and coastal agricultural lands—that provide cultural resources and scenic quality.

Residential development is the foundation of many of Cape Cod's coastal communities. Failure to protect our coastal real estate would adversely affect the market as well as the regional economy. Depending on their locations and measures that were taken to mitigate risks, individual properties within coastal communities experience a variety of situations that must be understood before policies are incorporated and investment in resiliency action is taken.

All Cape Cod towns have made strides to understand their coastal vulnerabilities, and some towns have begun to take appropriate actions. The Commonwealth of Massachusetts and NOAA both provide financial and technical support for local and regional efforts to:

- increase awareness and understanding of climate impacts,
- identify and map vulnerabilities,
- conduct adaptation planning,
- redesign and retrofit vulnerable public facilities and infrastructure, and
- restore shorelines to enhance natural resources and provide storm damage protection.

Position

CCIAOR opposes unreasonable restrictions on the use of privately owned property, including but not limited to coastal and shoreland zone controls, open space requirements, public/private water supply regulations, moratoriums and no-growth policies having adverse economic effects on employment, housing, and the tax base.

We oppose efforts to restrict development and take private property rights away from those in special flood hazard areas and encourage governments to incentivize redevelopment to meet new building code standards for floodplain management. In instances where property cannot be protected, we support voluntary buy-back programs

We support legislation allowing municipalities to establish coastal resilience incentive zones. Properties in these zones would be eligible for tax relief and other incentives for measures designed to increase a property's resiliency. Such measures may include elevation and free-board renovations, elevation of mechanicals, construction of resilient natural features, enhancement, or creation of tidal marshes, or even movement to a higher area within the municipality.

CCIAOR supports towns enrolling in the National Flood Insurance Program and the Community Rating System. However, towns should seek credits and initiatives under the CRS program that complies with respecting private property rights.

IX. CLIMATE CHANGE

Overview

Development of public climate change policy should be guided by, and be respectful of, the key principles of protecting private property rights, maintaining housing affordability and availability, long-term sustainability, and Smart Growth principles.

Understanding that commercial and residential buildings account for 40% of all energy consumption in the United States, CCIAOR will be an active participant in discussions involving energy, conservation and any legislation intended to regulate those interests. CCIAOR is committed to the principles of sustainability and energy conservation and supports policies which are environmentally sound and remain true to the core values of REALTOR® membership. Energy conservation and a diversity of energy types can lower energy costs and make the region a more affordable place to live.

Position

CCIAOR supports commercially reasonable strategies with voluntary, performance-based incentives to support sustainability, energy conservation and the reduction of greenhouse gas (GHG) emissions. Development of climate change/energy conservation policy should be guided by the key principles of protecting private property rights, maintaining affordability/availability, and Smart Growth principles, which accommodate commercial and residential growth. Environmental initiatives and responsible development are not mutually exclusive, and therefore energy initiatives should not create barriers to the ability to own, use or transfer property.

CCIAOR encourages energy efficiency, environmental responsibility, and education of REALTORS®, affiliates, and the community regarding the benefits of voluntary, market-based reductions in GHG and energy conservation.

CCIAOR supports:

- Solutions that are guided by market and smart-growth principles of protecting private property rights and maintaining real estate affordability and availability
- Educating property owners and consumers about the benefits of energy efficiency
- Voluntary programs and investments that incentivize retrofits or upgrades infrastructure, water availability, and risk management about energy policy
- Consumer choice regarding inspections and document disclosure as related to energy efficiency

CCIAOR opposes:

- Transaction-triggered mandatory energy upgrades or audits
Energy efficient rating system or labeling which may stigmatize properties

CCIAOR believes that the development of water resources policies should consider traditional state, local, and private water rights and uses, supporting cost-effective strategies that facilitate a positive, voluntary market response to energy efficiency, resiliency, and sustainability.

While CCIAOR recognizes that encouraging green energy alternatives—including solar panel power and innovative heat pumps—is crucial to mitigating residential living’s carbon footprint, it does not support fossil fuel bans in Cape Cod communities.

X. ENERGY BUILDING CODE

Overview

There are three codes for measuring the stringency of building energy standards: Base, Stretch, and Specialized. These codes aim to increase energy efficiency in housing construction throughout the Commonwealth.

The minimum or ‘base’ energy code is the latest version of the IECC code, with some amendments added by the Massachusetts State Legislature. In 2023, the Massachusetts base code was updated by adding wiring for electric vehicles and maintaining solar-ready roof requirements.

The next level, known as the Stretch code, increases energy efficiency requirements for all new residential and commercial buildings as well as additions or renovations requiring building permits. The most stringent energy standard is the Specialized Code. This code was written to help the Commonwealth achieve Green House Gas emission limits. All compliance pathways under this code are designed to ensure new construction is consistent with a net-zero Massachusetts economy in 2050.

Towns can choose to remain on the base energy code, adopt the Stretch energy code, or adopt the Specialized energy code as their mandatory energy code requirement. A town remains on the base energy code until it adopts the Stretch or Specialized code. Once a municipality adopts the Stretch or Specialized code, all future amendments and modifications are automatically adopted unless the municipality rescinds its adoption of the code itself.

Three hundred out of 351 Massachusetts cities and towns have adopted the Stretch Code. Across Cape Cod, Martha's Vineyard, and Nantucket, only the Town of Barnstable has not adopted the Stretch Code. In addition, five towns have adopted the stricter Specialized Code: Aquinnah, West Tisbury, Truro, Wellfleet, and Eastham.

Position

CCIAOR supports energy efficiency as an essential tool to fight climate change and promote climate resiliency. CCIAOR encourages environmental responsibility and education of REALTORS®, affiliates, and the community regarding the benefits of voluntary, market-based reductions in GHG and energy conservation.

CCIAOR opposes additional amendments to the state's Stretch codes or adoption of the Specialized Energy Code by towns for the following reasons:

- The increased costs of new construction could decrease housing production, which is needed to solve the region's housing crisis. Energy efficiency measures should be encouraged in construction but should not be further mandated by the state unless financial incentives are offered to offset the increased costs.
- The region's electric grid is deficient and unreliable and urgently needs to be upgraded. Coastal storms regularly cause multiple power outages. Until the state invests in a more robust electrical grid that can handle renewable energy distribution and higher electrical demand, increasing energy standards in commercial and residential buildings is premature. CCIAOR supports upgrades to the grid that will provide safe, reliable, and clean energy without raising ratepayers' rates.

While CCIAOR recognizes that encouraging green energy alternatives—including solar panel power and innovative heat pumps—is crucial to mitigating residential living's carbon footprint, it does not support fossil fuel bans in Cape Cod communities.

While a net zero target is an important goal, CCIAOR only supports building codes that are economically attainable. CCIAOR remains focused on agent education about the value of energy-efficient building solutions and promoting voluntary upgrades and new construction at higher energy efficiency standards.

XI. WASTEWATER POLICY

Overview

For decades, Cape Cod relied on Title 5 septic systems to manage wastewater across the region. In fact, approximately 85% of Cape Cod properties use septic systems. While these septic systems are effective ways to protect the public from harmful bacteria and pathogens, these conventional systems do not remove nitrogen and phosphorus from wastewater.

In 2001, the [Massachusetts Estuaries Project \(MEP\)](#), was created by Massachusetts Department of Environmental Protection (MassDEP) to study the accumulation of excess nitrogen in southeastern Massachusetts estuaries. MEP identified wastewater as the primary source of nitrogen to the Cape's coastal embayments, with septic systems contributing 94% of wastewater nitrogen and nearly 80% of the controllable nitrogen load on Cape Cod. Nitrogen and phosphorus have severely degraded water quality in the region's bays, estuaries, and freshwater ponds.

In recent years, Cape Cod towns have created and appropriated funding to implement blended, adaptive, Comprehensive Wastewater Management Plans (CWMP) to reduce excess nitrogen and phosphorus levels to restore water quality on Cape Cod.

Nitrogen Sensitive Areas

In 2023, the Mass DEP adopted new regulations "to set Cape Cod on a path to reverse decades of nitrogen pollution and restore estuaries to their natural state." MassDEP identified 31 watershed districts across Cape Cod that were labeled "Nitrogen Sensitive Areas (NSA)." The regulations required all new construction in NSAs to use the Best Available Nitrogen Reducing Technology (BANRT) for septic systems in those areas starting in July 2025. Martha's Vineyard and Nantucket were not included in the new regulations.

However, MassDEP regulations also allowed towns to delay the timeline for upgrades if a town filed a Notice of Intent (NOI) to file a watershed permit, a watershed permit, or a De Minimis Nitrogen Load Exemption application before the deadline. All Cape Cod towns with NSAs have filed a NOI except for the Town of Bourne. What this means is that all towns with NOI filings will have 20-year watershed permits enabling them to design and implement strategies to combat nitrogen pollution on behalf of their residents.

If towns do not submit a Notice of Intent, a Watershed Permit application, or a De Minimis application during the 2-year NOI period, homeowners of existing septic systems in NSAs or building new construction, must upgrade to BANRT starting July 2025.

Local Boards of Health

Regardless of whether a NOI, watershed permit, or De Minimis application has been filed, the Board of Health in each Town has additional powers to regulate septic systems. Some Towns have bylaws/regulations that are more restrictive than the DEP Title 5 BANRT upgrade requirements.

This can include requiring an upgrade to an I/A system upon certain conditions, even when the property has an existing, passing Title 5 septic system. Some proposed requirements include installation of an I/A system upon transfer of a property, if located in a specific area, or upon making any changes or enhancements to a property, even when it doesn't increase habitable space or affect flow.

According to MassDEP, if a town has a bylaw/regulation that requires installation of I/A systems independent or more restrictive of Title 5 BANRT upgrade requirements, then these requirements must be followed as directed by the Local Boards of Health.

Position

CCIAOR supports clean water infrastructure as one of our top priorities across our region. Clean water is vital to our region's economy and quality of life. To that end, CCIAOR believes towns must provide municipal sewer systems to homeowners whenever possible.

- Municipal Sewers are the most efficient system to reduce harmful nutrients (nitrogen and phosphorus) in groundwater to achieve the targeted Total Maximum Daily Loads (TMDLs) for a town to support a healthy ecosystem.
- Municipal Sewers are also the most cost-effective for homeowners (versus installing Alternative Systems).
- Municipalities are allowed to offer town subsidies to homeowners for sewer connection, but it cannot subsidize homeowners installing BANRT systems.
- Sewer systems allow for more density in housing production needed to create inventory for the region's year-round workforce.
- CCIAOR supports towns dedicating room occupancy tax for the funding of municipal sewer systems.

CCIAOR opposes local boards of health promulgating regulations more restrictive or broader than MassDEP Title 5 regulations. For example:

- Defining 'new construction' more restrictively than MassDEP. New construction should mean an increase in actual or design flow.
- Requiring a working, passing Title 5 septic system or nitrogen reduction system to upgrade to a BANRT at real estate transfer of title. This is allowed in DEP regulations.

CCIAOR believes Best Alternative Nitrogen Reduction Technology (BANRT) should not be the primary choice to clean up nitrogen pollution:

- BANRT systems do not reduce phosphorus and are not as effective as sewers in reducing nitrogen pollution.
- Requiring BANRTs in seasonal homes hampers the performance of the system due to the fluctuations of use.
- Monitoring and regulating individual homes will be an enforcement challenge for towns.
- BANRT Systems impose a financial burden of BANRT installation on homeowners who upgrade with limited environmental and public health benefits. The average cost of a BANRT system ranges from \$46,000 to \$50,000, and that doesn't cover the removal of the current septic system, all the landscaping work needed when a new system is installed, and the ongoing costs of monitoring and maintaining the BANRT system.

CCIAOR strongly supports restoring water quality in saltwater embayments and freshwater ponds. We believe towns should make decisions in their comprehensive wastewater management plans that balance public health concerns without saddling homeowners with unfair financial burdens. Adaptive, phased-in wastewater management plans should prioritize municipal sewer. Mandatory BANRT systems should only be used sparingly.