

Town of Essex

Zoning Regulations  
Text Amendment  
Draft

November 25, 2013

Prepared for the Zoning Commission November 25, 2013

Attached is the revised section only. For a full copy of the zoning regulations go to [www.essexct.gov](http://www.essexct.gov) or visit the land use office.

Proposed text is in **bold black**.

AMENDED NOVEMBER 1, 1999  
AMENDED SEPTEMBER 1, 2000  
AMENDED NOVEMBER 1, 2001  
AMENDED OCTOBER 15, 2004  
(40S STREAMBELTS – REPEALED ENTIRELY)  
AMENDED NOVEMBER 22, 2004  
AMENDED DECEMBER 1, 2007  
AMENDED SEPTEMBER 1, 2013

## SECTION 40

### GENERAL PROHIBITIONS

40A. USE. Except as expressly and specifically permitted by these regulations, no land or improvement thereon within the Town shall be used for any purpose.

**40A.1. For a period of twelve (12) months commencing from the effective date of (\_\_\_\_\_) no applications will be accepted, considered or approved and no zoning permits will be issued to permit the establishment of Medical Marijuana Dispensaries and/or Producers within any zoning district within the Town of Essex. For the purposes of this section Dispensary, Licensed Dispensary, Producer and Licensed Producer are defined in Public Act #12-55. The expiration date of this Moratorium shall be (\_\_\_\_\_) unless extended by the Zoning Commission.**

40B. LOTS. Except as provided in 40B.1, no lot shall have an area or width or setback which is less in size than that required by these regulations. The area of every lot shall be such that no building or buildings thereon shall occupy, in the aggregate, a greater percentage of the Lot Area than that prescribed by these regulations.

40B.1. PRE-EXISTING SUBSTANDARD PARCELS. A parcel of land which has an area (determined in conformity with the rules prescribed in 40H. for determining Lot Area) of not less than 1/3 of the Lot Area otherwise prescribed therefore in these regulations and a width of not less than 1/3 of the Lot Width otherwise prescribed therefore in these regulations or 50 feet, whichever is greater, shall not be required to conform to the Lot Area or Lot Width requirements of these regulations if such parcel of land, at the effective date of these regulations, abutted, and has continuously thereafter abutted, no other land simultaneously under the same ownership as such parcel of land. However, nothing in this section shall be construed to authorize the construction or use of a multifamily dwelling upon a parcel of land, which does not conform to the Minimum Lot Area Per Family Dwelling Unit prescribed therefore in Section 62 of these regulations.

40B.2. MULTIPLE BUILDINGS. No building intended or used for a single principal use shall be built, placed, or used on any land unless the required Lot Area is provided therefor, except that, in determining Lot Area required, all buildings, when under common ownership in contiguous premises, which are

used exclusively for a single institutional or commercial use, shall be considered as a single building, and all buildings in a multiple dwelling project shall be considered as a single building.

40B.3. MULTIPLE USES. No building intended or used for two or more principal uses shall be built, placed, or used on any land unless the required Lot Area is provided for each such principal use, except that, in determining required Lot Area, two or more principal commercial uses within a single building used solely for such commercial uses, or two or more principal industrial uses within a single building used solely for such industrial uses, shall be considered a single use, and the individual dwelling units in a multiple dwelling shall be considered as a single principal use.

40C. BUILDINGS. No building shall be so built or placed in any location as to leave less than the prescribed space of the setbacks required for it in these Regulations. No building shall be greater in height than that prescribed in these Regulations.

40D. IMPROVEMENTS. No improvement shall be made except in conformity with these Regulations

40E. CHANGES. No change shall be made in the use of any land or improvement, in the location of any improvement, or in the size or shape of any lot or improvement except in conformity with these Regulations.

40F. SPECIAL EXCEPTIONS. Whenever a special exception shall have been granted by the Commission under these Regulations authorizing a specified use of a parcel of land or improvement thereon, no use shall be made of such land or improvement, no other improvement shall be used, built, or placed upon such land, and no change shall be made in location of any such improvement or in the size or shape of any such parcel of land or improvement except as authorized by such special exception or by an amendment thereto.

40G. REQUIRED FRONTAGE AND ACCESS. No building shall be used, built, or placed on any lot unless such lot has frontage of not less than 25 feet on a street or, in the case of a rear lot, a permanent easement of not less than 25 feet in width for access to and from a street.

40H. LOT AREA. The following rules shall govern the determination of lot area:

40H.1. GENERAL. No land shall be included in computing the required lot area of more than one lot;

40H.2. STREETS. No part of a roadway (which term includes a private right-of-way, easement or other way for private use) other than a driveway shall be included in computing required lot area;

40H.3. WATER. Not more than 10 percent of the required lot area may be represented by wetlands and/or watercourses.

40H.4. HG DISTRICTS. In an HG District the lot areas of the parcels as

approved under Section 81G of the Regulations, Separate Parcels under unified development will have lot areas, shape and frontage as provided in the Concept Plan and Standards for such unified development, if any.

40I. SETBACKS. The following rules shall govern the determination of required setbacks:

40I.1. GENERAL. Except as otherwise prescribed in 40I.2. required setbacks shall be open and unobstructed to the sky, except for the ordinary projection, not exceeding 2 feet of windowsills, beltcourses, cornices, eaves, chimneys and other architectural features of the building for which such setbacks are require and except for trees and shrubs. Where an existing building or structure is nonconforming with respect to a setback or setbacks, an increase in the height of that portion of the building or structure which does not conform with the required setback therefore, shall constitute an impermissible enlargement, extension or expansion of a nonconforming characteristic. No land shall be included in computing the required setback or other open space of more than one building.

40I.2. ACCESSORY BUILDINGS. Except within a Gateway Buffer Area required under Section 101D.1 (Gateway Conservation District) detached accessory buildings, not more than 15 feet in height and not used for the housing of humans or animals, may be located in the required rear set-back of the principal building to which they are accessory, but not less than 5 feet from any lot line, provided that such accessory buildings do not, in the aggregate, occupy more than 20 percent of the area of such rear setback.

40I.3. FRONT, REAR, AND SIDE SETBACKS. Front, rear, and side setbacks are measured perpendicularly from all points on front, rear, and side lot lines respectively.

40I.4. REAR LOTS. Anything in these Regulations to the contrary notwithstanding, for the purpose of determining the required setbacks for a rear lot, all lot lines shall be considered side lot lines.

40J. HEIGHT LIMITATION. (Amended September 1, 2013) No building or other structure shall be constructed, reconstructed, enlarged, extended, moved or structurally altered in such a manner as to contain more than two stories and an attic above grade. However, spires, cupolas, towers, flagpoles, tanks and other similar structural features occupying no more than ten percent of the building area and not designed for human occupancy may be constructed, reconstructed, enlarged, extended, moved or structurally altered to a reasonable and necessary height upon the granting of a special permit therefor by the Town authority having jurisdiction.

40K. PROHIBITED USES. Although otherwise permitted under these Regulations nevertheless no building, structure or improvement shall be erected, used, or maintained or no lot shall be used or maintained for any use, trade, or business or process which is obnoxious or offensive by reason of gas, odor, dust, smoke, vibration, illumination, or noise, or which constitutes a public hazard whether by fire, explosion, or otherwise.

40L. LOTS PARTLY IN DIFFERENT DISTRICTS. Except for maximum building

coverage, where portions of any lot are in different districts, the Commission may, by the grant of a special exception, except from the requirements of all but one of such districts, a particular use or improvement upon such portion of the lot as is within 30 feet of the boundary of the district the requirements of which are to apply. Where portions of any lot are in different districts, the provisions of that district which prescribe the smallest percentage for maximum building coverage shall govern the entire lot.

40L.1. CONDITIONS OF SPECIAL EXCEPTION. The grant of a special exception excepting from the Regulations a particular use or improvement upon a portion of a lot hereunder shall be subject to the conditions prescribed in a pursuant to Section 130.

40M. ACCESS AND PARKING. No use of any land or improvement thereon shall be commenced until the required off-street parking and truck loading facilities have been provided and completed in accordance with Section 110. The increase of any factor with reference to which off-street parking or truck loading spaces are prescribed in Section 110F, without providing the number of spaces, with access areas, of the size and nature prescribed therefore in Section 110 is prohibited. No land shall be used for access to, or parking in connection with, a use which is not permitted in the district in which such land is located, except that land in a Commercial District may be used for access to a permitted use in an Industrial District and land in any district may be used for access to a use in a Residence District.

40N. PATIOS. A paved patio shall not be considered a building or part of a building in determining maximum building coverage or in determining required setbacks under these Regulations if such patio is unroofed, by canvas or otherwise, and without walls, parapets or other forms of enclosure, (except for one wall of the building to which it is accessory and except for shrubs not exceeding 3 feet in height), and does not project into any setback to a point closer than 10 feet from any lot line.

40O. Deleted January 1, 1995.

40P. CORNER VISIBILITY. On a corner lot no wall, fence or other improvement shall be erected, and no hedge, shrub, tree or other growth shall be maintained, between the building line and the street line, as to create a traffic hazard by obstructing the view. On a corner lot in any Residence District no fence, wall, hedge, or other improvement or planting more than 3 feet in height shall be erected, placed, or maintained within the triangular area formed by the intersecting street lines and a straight line joining said street lines at points which are 50 feet distance from the point of intersection measured along said street lines.

40Q. SWIMMING POOLS. No swimming pool or artificial pond shall be located closer than 20 feet to any boundary of the lot to the use of which it is accessory.

40R. ROADWAY SETBACK. The lateral paved or surfaced portion of any driveway, common driveway or private roadway (other than a public street) shall not be located closer than five (5) feet to any side or rear lot line. Driveway grades shall not exceed twelve (12) per cent. (November 22, 2004)

40S. STREAMBELTS. Repealed in its entirety, October 15, 2004.

40T. MAXIMUM LOT COVERAGE. The maximum combined coverage of all above ground improvements, including but not limited to buildings, accessory structures, and parking areas, traffic lane areas, turning areas, entrances, and exit areas, shall not exceed 65% of the lot area. The remaining 35% shall be landscaped or left in a natural state.

40U. GASOLINE STATIONS/MINIMARTS. The retail sale of grocery items (other than the sale of small amounts of prepackaged snack items and tobacco products displayed in an area not to exceed 50 sq. ft.) shall not be permitted in conjunction with the operation of an automobile service station or gasoline station in any zoning district in the Town of Essex.

40V. No land or building, or any portions thereof, shall be used in the Town of Essex for gambling purposes as a principal or accessory use (including land used for parking or other uses to benefit water based gambling). Where such land or building is used solely for the benefit of charitable or non-profit institutions this section shall not apply. Nothing in this section shall be construed to prohibit the sale of State of Connecticut lottery tickets in the Town of Essex.

40.V.1. CASINOS. No gambling casino shall be permitted in any district in the Town of Essex.

40V.2. No manually or automatically operated gambling devices, video or otherwise, including, but not limited to slot machines, shall be permitted as a principal or accessory use in any district in the Town of Essex.

40W. SINGLE FAMILY RESIDENTIAL CLUSTER DEVELOPMENT. Anything to the contrary in these regulations notwithstanding, lots and structures contained within a single family residential cluster development subdivision, as defined by Section 8-18 of the Connecticut General Statutes (which development is entitled Open Space Preservation Subdivision in the Essex Subdivision Regulations), shall not be subject to the required characteristics for the zoning district in which the property is located. Rather, the lot and buildings shall be subject to the following characteristics:

<u>Min. Area of Subdivision</u>	<u>Min. Lot Area With or Without Public Water Supply</u>		<u>Min. Lot Width</u>	<u>Front Setback</u>
10 Acres	50% of the lot area otherwise required in the district		125 ft.	25 ft.
<u>Side Setbacks, Each</u>	<u>Rear Setback</u>	<u>Max. Bldg. Coverage</u>	<u>Max. Impervious Coverage</u>	<u>Max. Bldg. Height</u>
15 ft.	30 ft.	15%	25%	30 ft.

Each lot shall contain a contiguous building site of at least 42% of the minimum lot area, which is considered buildable land.

Perimeter Buffer Between Cluster Development Subdivision  
Boundary Line and Boundary Line Of Any Lot Therein

75 ft.

IT IS NOT THE INTENT OF THIS REGULATION TO INCREASE THE DENSITY OF LAND DEVELOPMENT IN ESSEX. THE NUMBER OF LOTS IN A CLUSTER DEVELOPMENT SUBDIVISION SHALL NOT EXCEED THE NUMBER OF LOTS WHICH COULD REASONABLY BE CREATED IN A STANDARD SUBDIVISION LAYOUT.

This section shall apply only to property located within the Rural Residential District.

“Buildable Land” shall mean all land that is not inland or tidal wetlands or watercourses as defined in Sections 22a-29 and 22a-38 C.G.S., or slopes with an incline of 20% or greater.

40X. FAST FOOD RESTAURANTS. No building or lot shall be so used for the establishment of a fast food restaurant as defined in Section 20 of these regulations.

40Y. DRIVE-THROUGH ACCESS. Except for financial institutions, no vehicle drive-through lanes for the purpose of conducting any business shall be permitted in any district in the Town of Essex.

