ESSEX ZONING COMMISSION

ZONING REGULATIONS

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INDEX

			PAGE
SECTION 10	**PREAMBLE**		**1**
	10A.	PURPOSES: GENERAL	1
	10B.	PURPOSES: NON-CONFORMITIES	1
SECTION 20	**DEFINITIONS**		**2-12**
SECTION 30	**DIVISION INTO DISTRICTS**		**13**
	30A.	DISTRICTS	13
		30A.1. GATEWAY CONSERVATION DISTRICT	13
		30A.2. COASTAL MANAGEMENT DISTRICT	14
		30A.3. FLOOD PLAIN DISTRICT	14
		30A.4. WATER RESOURCE DISTRICTS	14
	30B.	DISTRICT BOUNDARIES	15
		30B.1. STREETS, RAILROAD, WATERCOURSES	15
		30B.2. PROPERTY LINES	15
		30B.3. MEASURED LINES	15
	30C.	CONTENT OF DISTRICTS	15
SECTION 40	**GENERAL PROHIBITIONS**		**16**
	40A.	USE	16
	40B.	LOTS	16
		40B.1. PRE-EXISTING SUBSTANDARD PARCELS	16
		40B.2. MULTIPLE BUILDINGS	17
		40B.3. MULTIPLE USES	17
	40C.	BUILDINGS	17
	40D.	IMPROVEMENTS	17
	40E.	CHANGES	17
	40F.	SPECIAL EXCEPTIONS	17
	40G.	REQUIRED FRONTAGE AND ACCESS	17
	40H.	LOT AREA	17
		40H.1. GENERAL	17
		40H.2. STREETS	17
		40H.3. WATER	17
		40H.4. HG DISTRICTS	18
	40I.	SETBACKS	18
		40I.1. GENERAL	18
		40I.2. ACCESSORY BUILDINGS	18
		40I.3. FRONT, REAR, AND SIDE SETBACKS	18
		40I.4. REAR LOTS	18
	40J.	HEIGHT LIMITATION	18
	40K.	PROHIBITED USES	19
	40L.	LOTS PARTLY IN DIFFERENT DISTRICTS	19
		40L.1. CONDITIONS OF SPECIAL EXCEPTION	19
	40M.	ACCESS AND PARKING	19
	40N.	PATIOS	19
	40O.	DELETED JANUARY 1, 1995	19
	40P.	CORNER VISIBILITY	19
	40Q.	SWIMMING POOLS	20
	40R.	ROADWAY SETBACK	20
	40S.	STREAMBELTS	20
	40T.	MAXIMUM LOT COVERAGE	20

	40U.	GASOLINE STATIONS/MINIMARTS	20
	40V.	GAMBLING	20
		40V.1. CASINOS	20
	40W.	SINGLE FAMILY RESIDENTIAL CLUSTER DEVELOPMENT	20
	40X.	FAST FOOD RESTAURANTS	20
	40Y	DRIVE-THROUGH ACCESS	21
SECTION 45	**ACCESSORY APARTMENTS – PURPOSE**		**22**
	45A.	DISTRICTS	22
	45B.	DEFINITIONS	22
		45B.1. ACCESSORY DWELLING UNIT	22
		45B.2. LIVING AREA	22
	45C.	REQUIRED LOT CHARACTERISTICS	22
	45D.	ACCESSORY DWELLING UNIT CHARACTERISTICS	23
	45E.	MISCILLANEOUS	23
	45F.	PROCEDURES – SUBMISSION OF APPLICATION	24
SECTION 50	**NON-CONFORMING USES AND IMPROVEMENTS**		**28**
	50A.	NON-CONFORMING USES AND IMPROVEMENTS	28
	50B.	CHANGE TO CONFORMITY	28
	50C.	CHANGE TO NONCONFORMITY	28
	50D.	EXTENSION OR EXPANSION	28
	50E.	TERMINATION	28
		50E.1. CESSATION	29
		50E.2. ABANDONMENT	29
	50F.	CASUALTY	29
		50F.1. NOTICE	29
		50F.2. COMPLETION	29
		50F.3. LIMITATION	29
	50G.	SUB-DIVISION OF LOTS WITH NON-CONFORMING IMPROVEMENTS	29
	50H.	ACCESSORY USES	29
		50H.1. SIGNS	29
		50H.2. VEHICLES	29
		50H.3. BUILDING	30
		50H.4. WASTE MATERIAL	30
	50I.	USES AND IMPROVEMENTS PERMITTED BY SPEC. EX.	30
SECTION 60	**VILLAGE RESIDENCE DISTRICT**		**31**
	60A.	USES PERMITTED	31
		60A.1. GENERAL PRINCIPAL USES	31
		60A.2. SPECIAL PRINCIPAL USES	31
		60A.3. ACCESSORY USES	32
		(A) SIGNS	32
		(B) VEHICLES: GENERAL PRINCIPAL USES	32
		(C) VEHICLES: SPECIAL PRINCIPAL USES	32
		(D) BUILDINGS	33
		(E) LIVESTOCK	33
		60A.4. SIGNS	33
		(A) GENERAL PRINCIPAL USES	33
		(B) SPECIAL PRINCIPAL USES	33
	60B.	REQUIRED CHARACTERISTICS	33
SECTION 61	**RURAL RESIDENCE DISTRICT**		**35**
	61A.	USES PERMITTED	35
		61A.1. GENERAL PRINCIPAL USES	35

61A.2. SPECIAL PRINCIPAL USES 35
61A.3. ACCESSORY USES 36
(A) SIGNS 36
(B) VEHICLES: RESIDENCE USES 36
(C) VEHICLES: OTHER USES 36
(D) BUILDINGS 37
61A.4. SIGNS 37
(A) RESIDENCE USES 37
(B) OTHER USES 37
61B. REQUIRED CHARACTERISTICS 37

SECTION 62 RURAL RESIDENCE - MULTI-FAMILY DISTRICT 38
62A. USES PERMITTED 38
62A.1. GENERAL PRINCIPAL USES 38
62A.2. SPECIAL PRINCIPAL USES 38
62A.3. ACCESSORY USES 38
62A.4. MULTIPLE DWELLING AN9
MULTIPLE DWELLING PROJECTS 38
62A.5. SIGNS 38
62B. REQUIRED CHARACTERISTICS 38

SECTION 63 RESIDENTIAL LIFE CARE DISTRICT 39
63A. USES PERMITTED 39
63A.1. GENERAL PRINCIPAL USES 39
63A.2. SPECIAL PRINCIPAL USES 39
63A.3. ACCESSORY USES 41
(A) SIGNS 41
(B) VEHICLES; RESIDENCE USES 41
(C) VEHICLES; OTHER USES 41
(D) BUILDINGS 41
63A.4. SIGNS 42
(A) RESIDENCE USES 42
(B) OTHER USES 42
63B. REQUIRED CHARACTERISTICS 42
63B.1. REQUIRED CHARACTERISTICS 42
63B.2. REQUIRED CHARACTERISTICS 43
63B.3. REQUIRED CHARACTERISTICS 43
63B.4. REQUIRED CONDITIONS 44

SECTION 63-2 ACTIVE ADULT COMMUNITY DISTRICT 46
63-2A. USES PERMITTED 46
63-2A.1. GENERAL PRINCIPAL USES 46
63-2A.2. SPECIAL PRINCIPAL USES 46
63-2B. REQUIRED CHARACTERISTICS 46
63-2C. REQUIRED CHARACTERISTICS 46
63-2D WAIVER 47

SECTION 64 RIVER ROAD RESIDENTIAL DISTRICT 48
64A. USES PERMITTED 48
64A.1. GENERAL PRINCIPAL USES 48
64A.2. SPECIAL PRINCIPAL USES 48
64A.3. ACCESSORY USES 49
(A) SIGNS 49
(B) VEHICLES; RESIDENCE USES 49

(C) VEHICLES; OTHER USES 49
(D) BUILDINGS 49
64A.4. SIGNS 49
(A) RESIDENCE USES 49
(B) OTHER USES 49
64B. REQUIRED CHARACTERISTICS 50

SECTION 70 ESSEX VILLAGE DISTRICT 51
70A. USES PERMITTED 51
70A.1. GENERAL PRINCIPAL USES 51
70A.2. SPECIAL PRINCIPAL USES 51
70A.3. ACCESSORY USES 52
(A) SIGNS 52
(B) LIVESTOCK 52
70A.4. SIGNS 52
(A) RESIDENCE USES 52
(B) OTHER USES 52
70B. REQUIRED CHARACTERISTICS 53
70C. SPECIAL PROVISION RELATING TO MULTIPLE BUILDINGS AND MULTIPLE USES 53
70D. EXISTING BUSINESSES 53
70D.1. VILLAGE BUSINESS USE 53
70D.2. OTHER REQUIREMENTS 53

SECTION 71 WATERFRONT BUSINESS DISTRICT 54
71A. USES PERMITTED 54
71A.1. GENERAL PRINCIPAL USES 54
71A.2. SPECIAL PRINCIPAL USES 54
71A.3. ACCESSORY USES 55
(A) SIGNS 55
(B) BUILDINGS 55
(C) FUEL 55
(D) LIVESTOCK 55

71A.4. SIGNS 55
(A) RESIDENCE USES 55
(B) OTHER USES 55
71B. REQUIRED CHARACTERISTICS 56

SECTION 80 COMMERCIAL DISTRICT 57
80A. USES PERMITTED 57
80A.1. GENERAL PRINCIPAL USES 57
80A.2. SPECIAL PRINCIPAL USES 57
80A.3. ACCESSORY USES 60
(A) SIGNS 60
(B) BUILDINGS 60
(C) LIVESTOCK 60
80A.4. SIGNS 60
(A) RESIDENCE USES 60
(B) OTHER USES 60
80B. LANDSCAPING 61
80B.1. ADJOINING RESIDENCE DISTRICT 61
80B.2. OTHER CONDITIONS 61
80C. REQUIRED CHARACTERISTICS 61

SECTION 81 HERITAGE GATEWAY DISTRICT 62

81A. PURPOSE 62
81B. PETITION FOR CHANGE TO AN HG DISTRICT 62
81B.1. PETITION FOR CHANGE 62
81B.2. PRE-PETITION CONFERENCE 62
81B.3. REVIEW AND REFERRAL 63
81B.4. ADOPTION 63
81C. CONCEPT PLAN AND STANDARDS 63
81C.1. EXISTING CONDITIONS 64
81C.2. CONCEPT PLAN 64
81C.3. STANDARDS 65
81C.4. IMPACT STATEMENTS 66
(A) MUNICIPAL FISCAL IMPACT STATEMENT 66
(B) PUBLIC SAFETY AND TRAFFIC IMPACT STATEMENT 67
(C) PUBLIC WORKS IMPACT STATEMENT 67
(D) CULTURAL, AESTHETIC OR HERITAGE IMPACT STATEMENT 68
(E) NATURAL RESOURCES IMPACT STATEMENT 68
81D. ADOPTION AND FINDINGS 69
81D.1. FINDINGS 69
81D.2. ACCEPTANCE BY PETITIONER, FILING 70
81E. USES PERMITTED 70
81F. AMENDMENTS, SPECIAL EXCEPTION USES 71
81G. CONDITIONS FOR A ZONING PERMIT 71

SECTION 81 HG-1 DISTRICT CONCEPT PLAN AND STANDARDS 73-80

SECTION 82 BUSINESS DISTRICT 81
82A. USES PERMITTED 81
82A.1. GENERAL PRINCIPAL USES 81
82A.2 SPECIAL PRINCIPAL USES 81
82A.3. ACCESSORY USES 83
82A.4. SIGNS 83
82B. OTHER CONDITIONS 83
82B.1. LANDSCAPING 83
82B.2 STORMWATER 84
82B.3 BEST MANAGEMENT PRACTICES 84
82B.4. ADDITIONAL CONDITIONS 84
82C. REUIRED CHARACTERISTICS 84

SECTION 90 LIMITED INDUSTRIAL DISTRICT 87
90A. USES PERMITTED 87
90A.1. GENERAL PRINCIPAL USES 87
90A.2. SITE PLAN USES 89
90A.3. SPECIAL PRINCIPAL USES 89
90A.4. ACCESSORY USES 90
90A.5. SIGNS 90
90B. CONDITIONS OF APPROVAL 90
90B.1. GENERAL 90
90B.2. ODOR, DUST AND SMOKE 91
90B.3. NOISE LEVELS 91
90B.4. HEAT, GLARE, VIBRATION AND RADIATION 92
90B.5. EXTERIOR LIGHTING 92
90B.6. STORAGE 92
90B.7. STORMWATER 92
90B.8. BEST MANAGEMENT PRACTICES 92

90C. CONDITIONS RELATING TO BUILDINGS 92
90C.1. LANDSCAPING 92
90C.2. STORAGE AREAS 94
90C.3. LOADING AND UNLOADING AREAS 94
90D. CONDITIONS NOT APPLICABLE IN THE CASE OF EXISTING INDUSTRIAL BUILDINGS 94
90E. REQUIRED CHARACTERISTICS 94

SECTION 91 MUNICIPAL AND INDUSTRIAL SERVICE ZONE 95
91A. USES PERMITTED 95
91A.1 SPECIAL PRINCIPAL USES 95
91A.2 ACCESSORY USES 96
(A) SIGNS 96
91B. BACKGROUND AND PURPOSE 96
91B.1 GENERAL 96
91B.2 ODOR, DUST, AND SMOKE 96
91B.3 NOISE LEVELS 97
91B.4 HEAT, GLARE, VIBRATION, AND RADIATION 97
91B.5 EXTERIOR LIGHTING 97
91C. CONDITIONS RELATING TO BUILDINGS 97
91C.1 LANDSCAPING 98
91C.2 TIMBER CUTTING PLAN 99
91C.3 SOIL EROSION AND SEDIMENT CONTROL 99
91C.4 SOIL EROSION AND SEDIMENT CONTROL MINIMUM STANDARDS 100
91C.5 CONDITIONS OF APPROVAL 100
91D. STORAGE AREAS 101
91E. INSPECTION AND ENFORCEMENT 101
91F. LOADING AND UNLOADING AREAS 101
91G. CONDITIONS NOT APPLICABLE IN THE CASE OF EXISTING INDUSTRIAL BUILDINGS 101
91H. REQUIRED CHARACTERISTICS 101

SECTION 92 DESIGN MUNICIPAL/INDUSTRIAL DISTRICT 102
92A. USES PERMITTED 102
92.A.1 GENERAL PRINCIPAL USES 102
92A.2 SPECIAL PRINCIPAL USES 102
92B.- 92E. - CONDITION OF GENERAL PRINCIPAL USES 103
92F. MULTIPLE USES 103

SECTION 100 CONSERVATION DISTRICT 104
100A. USES PERMITTED 104
100A.1. GENERAL PRINCIPAL USES 104
100A.2. ACCESSORY USES 104
(A) SIGNS 104
100B. IMPROVEMENTS 104
100B.1. CONDITIONS OF SPECIAL EXCEPTIONS 104
(A) ARCHITECTURAL DESIGN 104
(B) SITE PLAN 104
(C) GENERAL 105

SECTION 101 GATEWAY CONSERVATION DISTRICT 106
101A. USES PERMITTED 106
101B. GENERAL PROHIBITIONS 106
101B.1. DUMPING AND STORAGE OF REFUSE 106
101B.2. REMOVAL OFSOIL AND EARTH MATERIAL 106

101B.3. CUTTING OF TIMBER 106
101C. EROSION AND SEDIMENTATION CONTROL 107
101D. GATEWAY BUFFER AREA 107
101D.1. EXCEPTION 107
101E. BURNING OF UNDERGROWTH 108

SECTION 102 COASTAL MANAGEMENT DISTRICT 109
102A. COASTAL SITE PLANS 109
102B. EXEMPTIONS 109
102C. " 110
102D. CONTENTS OF COASTAL SITE PLAN 110
102E. PROCEDURE 110
102F. FEE 111

SECTION 103 FLOOD PLAIN DISTRICT 112
103A. PURPOSE 112
103B. OTHER RESTRICTIONS 112
103C. INTERPRETATION 112
103D. WARNING AND DISCLAIMER OF LIABILITY 113
103E. DEFINITIONS 113
103F. ZONE DESIGNATIONS 118
103G. LAND USE AND DESIGN REQUIREMENTS 118
103H. FLOODWAYS 123
103I. FLOOD HAZARD AREA PERMITS 123
103J. APPEALS AND VARIANCES IN FLOOD PLAIN DISTRICT 126
103K. ENFORCEMENT 127
103L. PENALTIES FOR VIOLATION 129

SECTION 104 WATER RESOURCE DISTRICT 130
104A. PURPOSE 130
104B. ESTABLISHMENT OF DISTRICTS 130
104C. DEFINITIONS 130
104D. USE REGULATIONS 130
104D.1. PRINCIPAL USES 131
104D.2. ACCESSORY USES 131
104D.3. OTHER USES 131
104E. APPLYING FOR A SPECIAL EXCEPTION UNDER THIS SECTION 131
104F. NONCONFORMING USES 132

SECTION 110 OFF-STREET PARKING AND TRUCK LOADING SPACE 133
110A. GENERAL 133
110B. LOCATION 133
110B.1. CONDITIONS OF SPECIAL EXCEPTIONS 133
110C. NATURE 133
110D. OPERATION AND MAINTENANCE 133
110E. MULTIPLE USES: JOINT FACILITIES 134
110F. PARKING SPACES REQUIRED 134
110F.1. ONE AND TWO FAMILY DWELLINGS 134
110F.2. DELETED 134
110F.3. MULTIPLE DWELLINGS 134
110F.4. BUSINESS AND PROFESSIONAL OFFICES (OTHER THAN MEDICAL OR DENTAL) BANKS, AND LENDING INSTITUTIONS 135
110F.5. RETAIL SALES 135
110F.6. WAREHOUSES, WHOLESALE DISTRIBUTORS, TESTING, CLEANING, SERVICING OF MATERIALS

OR PRODUCTS, PRINTING SERVICE ESTABLISHMENTS 135
110F.7. CUSTOMARY HOME OCCUPATIONS 135
110F.8. MEDICAL AND DENTAL PROFESSIONAL OFFICES 135
110F.9. EMERGENCY MEDICAL FACILITIES 135
110F.10. HOSPITALS 135
110F.11. CONVALESCENT HOMES, REST HOMES, NURSING HOMES, EXTENDED CARE FACILITIES 135
110F.12. ANIMAL HOSPITALS, KENNELS 135
110F.13. CONTRACTOR OR CONSTRUCTION SHOPS, OFFICES OR YARDS: PUBLIC UTILITIES, MOTOR VEHICLES SALES 135
110F.14. MARINAS, BOAT YARDS 135
110F.15. BUILDING MATERIAL SALES 136
110F.16. PRODUCTION OR PROCESSING OF MATERIAL OR GOODS OR MANUFACTURING OF PRODUCTS 136
110F.17. RESTAURANTS 136
110F.18. CLUBS, INCLUDING YACHT CLUBS 136
110F.19. POST OFFICES 136
110F.20. COMMERCIAL GREENHOUSES AND NURSERIES 136
110F.21. CAR WASHING ESTABLISHMENTS 136
110F.22 AUTOMOBILE SERVICE STATIONS 136
110F.23. BOWLING ALLEYS 136
110F.24. THEATERS, MEETING HALLS, AUDITORIUMS 136
110F.25. BEAUTY SHOPS, BARBERSHOPS, OTHER PERSONAL SERVICE ESTABLISHMENTS 136
110F.26. SELF SERVICE LAUNDRIES AND CLEANERS 136
110F.27. FUNERAL HOMES 136
110F.28. ELEMENTARY SCHOOLS 137
110F.29. JUNIOR HIGH SCHOOLS 137
110F.30. HIGH SCHOOLS 137
110F.31. TECHNICAL, TRADE OR CRAFT SCHOOLS 137
110F.32. CHURCHES, SYNAGOGUES 137
110F.33. PUBLIC LIBRARIES, PUBLIC MUSEUMS, PUBLIC ART GALLERIES 137
110F.34. RECREATIONAL FACILITIES NOT OTHERWISE SPECIFIED 137
110F.35. GROCERY VENDORS 137
110F.36. VIDEO STORES 137
110F.37. PHARMACIES AND DRUG STORES 137
110F.38. PACKAGE AND LIQUOR STORES 138
110F.39. LOTTERY AGENTS 138
110F.40 FARM STANDS 138
110F.41 OTHER USES NOT SPECIFICALLY LISTED 138
110G. CONFIGURATION OF PARKING SPACES AND AREAS 138
110H. PORTION OF REQUIRED PARKING AREA HELD IN RESERVE 139
110I. PARKING FOR THE PHYSICALLY HANDICAPPED 139
110J. EMPLOYEE DESCRIPTION FOR PURPOSE OF SECTION 110 139
110K. HG DISTRICT PARKING 139

SECTION 111 SIGNS AND LIGHTS 140
111A. GENERAL LIMITATIONS 140
111A.1. WALL SIGNS 140
111A.2. PROJECTING SIGNS 140
111A.3. ROOF SIGNS 140
111A.4. FREE STANDING SIGNS 140

111A.5. ILLUMINATION 141
111A.6. HAZARDOUS SIGNS 141
111A.7. SIGN CONSTRUCTION 141
111A.8. FLASHING SIGNS 141
111A.9. LOCATION 141
111A.10.HG DISTRICTS 141
111B. GENERALLY PERMITTED SIGNS 141
111B.1. PARKING AND DIRECTIONAL SIGNS 141
111B.2. RESTRICTIVE SIGNS 142
111B.3. SALE OR RENT 142
111B.4. CONSTRUCTION 142
111B.5. GARAGE OR TAG SALE 142
111C. SIGNS PERMITTED OFF-PREMISES 142
111C.1. CHURCH AND CHARITY SPONSORED EVENTS 142
111C.2. OTHER SPONSORED EVENTS 143
111C.3. FUND RAISING PROGRESS SIGNS 143
111C.4. POLITICAL SIGNS 143
111C.5. GOVERNMENTAL SIGNS 143
111C.6. CIVIC AND FRATERNAL ORGANIZATIONS AND CHURCHES 143
111C.7. PRE-EXISTING SIGNS 143
111D. ENFORCEMENT 143

SECTION 112 ALCOHOLIC BEVERAGES 144
112A. GENERAL 144
112A.1. ON-PREMISES: DISTANCE BETWEEN SAME USES 144
112A.2. OFF-PREMISES: DISTANCE BETWEEN SAME USES 144
112A.3. ON-OR OFF-PREMISES 144
112A.4. EXISTING LICENSES 144
112B. HG DISTRICTS 144

SECTION 113 MOBILE HOMES 145
113A. GENERAL 145
113A.1. PARKED OR STORED 145
113A.2. CONSTRUCTION OFFICE 145
113A.3. MANUFACTURER'S INVENTORY 145
113B. FLOOD PLAIN PROHIBITION 145

SECTION 114 EARTH REMOVAL, FILLING, REGRADING AND TRANSPORTATION 146
114A. PURPOSE 146
114B. OPERATIONS PERMITTED WITHOUT SPECIAL EXCEPTIONS 146
114C. OPERATIONS REQUIRING A SPECIAL EXCEPTION 146
114D. REGULATIONS FOR LAND DEVELOPMENT UNDER SOIL EROSION AND SEDIMENT CONTROL ACT 83-388 146
114D.1. DEFINITIONS 146
114.D.2. APPLICATIONS FOR SPECIAL EXCEPTIONS 147
114E. GENERAL STANDARDS AND CONDITIONS 151
114F. EXISTING OPERATIONS 152
114G. BONDING 152

SECTION 115 WASTE MATERIAL 153
115A. GENERAL 153
115A.1. BUSINESS OPERATION 153
115A.2. CONSTRUCTION OPERATION 153
115A.3 INSIDE STORAGE 153

115A.4. MOTOR VEHICLE IN REPAIR 153
115A.5. ANTIQUES 153
115B. PRE-EXISTING USES 153

SECTION 116 MULTIPLE DWELLING AND MULTIPLE DWELLING PROJECTS 154

SECTION 118 SITE PLAN PROCEDURE 155
118A. PROCEDURE 155
118B. REFERRALS 156
118C. TIME LIMITS 156
118D. STANDARDS 156
118D.1.CONFORMANCE WITH ZONING REGULATIONS 156
118D.2.EMERGENCY SERVICES 156
118D.3.TRAFFIC ACCESS 156
118D.4.CIRCULATION AND PARKING 156
118D.5.LANDSCAPING AND SCREENING 157
118D.6 LIGHTING 157
118D.7.PUBLIC HEALTH 157
118D.8.NATURAL AND HISTORICAL RESOURCES 157
118E. DECISION 157
118F. AMENDMENT TO APPROVED SITE PLAN 158
118G. COMPLETION OF WORK 158
118H. BONDS 158
118I. FEES 159

SECTION 120 SPECIAL EXCEPTIONS PROCEDURE 160
120A. WHO MAY APPLY 160
120A.1. OWNER 160
120A.2. PURCHASER 160
120A.3. LESSEE 160
120B. SUBMISSION OF APPLICATION 160
120C. SUPPORTING INFORMATION 160
120C.1. DESCRIPTION OF PREMISES 160
120C.2. LIST OF NEIGHBORING OWNERS 161
120C.3. DESCRIPTION OF PROPOSED USE 161
120C.4. SITE DEVELOPMENT PLAN 161
120C.5. SANITATION LETTER AND DATA 163
120C.6. MULTIPLE DWELLINGS AND MULTIPLE DWELLING PROJECTS 163
120C.7. NONCOMMERCIAL CUTTING OF TIMBER 164
120C.8. WAIVER 164
120C.9. SUPPLEMENTAL INFORMATION 165
120D. MAPS AND DRAWINGS 165
120E. REFERRALS 165
120F. PUBLIC HEARING 166
120G. STANDARDS 167
120G.1. NEIGHBORING PREMISES 167
120G.2. TRAFFIC 167
120G.3. CROWDING 167
120G.4. NATURAL RESOURCES 167
120H. RECORD 167
120I. DECISION 167
120J. NOTIFICATION OF DECISION 168
120K. AMENDMENT OF SPECIAL EXCEPTION 168
120L. COMPLETION OF WORK 169
120M. CASUALTY 169

120M.1. NOTICE 169
120M.2. COMPLETION 169
120N. MEMORANDUM OF DECISION 169
120O. REAPPLICATION 170
120P. FILING FEE 170
120Q. BONDS 170

SECTION 121 ZONING PERMITS 171
121A. PERMIT REQUIRED 171
121A.1. NEW IMPROVEMENTS 171
121A.2. CHANGES IN IMPROVEMENTS 171
121A.3. USES 171
121A.4. INCREASES IN OFF-STREET PARKING AND TRUCK LOADING SPACE FACTORS 171
121A.5. DIMINUTION IN OFF-STREET PARKING AND TRUCK LOADING SPACES 171
121A.6. LOT LINE REVISION 171
121B. WHO MAY APPLY 171
121B.1. OWNER 171
121B.2. PURCHASER 171
121B.3. LESSEE 172
121C. SUBMISSION OF APPLICATION 172
121D. SUPPORTING INFORMATION 172
121E. DETERMINATION 173
121F. TIME FOR DECISION, NOTICE OF DENIAL 173
121G. EXPIRATION OF PERMIT 174
121H. FEE 174
121I. NOTIFICATION TO ADJACENT PROPERTY OWNERS 174
121J. ZONING CERTIFICATE OF COMPLIANCE 174

SECTION 122 CERTIFICATES OF COMPLIANCE 175

SECTION 123 AMENDMENTS OF REGULATIONS AND DISTRICT BOUNDARIES 176
123A. GENERAL 176
123B. PETITION FOR CHANGE 176
123C. SUPPORTING INFORMATION 176
123D. FILING FEE 176
123E. PUBLIC NOTICE REGISTRY 177

SECTION 130 CONDITIONS OF CERTAIN SPECIAL EXCEPTIONS 178
130A. GENERAL 178
130A.1. ARCHITECTURAL DESIGN 178
130A.2. SITE PLAN 178
130A.3. NEIGHBORING PREMISES 178
130A.4. TRAFFIC 178
130A.5. CROWDING 178
130A.6. ON-SITE SEWAGE DISPOSAL SYSTEM 178
130A.7. CONSERVATION DISTRICT 179
130A.8. GATEWAY CONSERVATION DISTRICT 179
130A.9. OTHER CONDITIONS 179
130A.10. WATER SUPPLY FACILITIES 179

SECTION 131 CONDITIONS OF MULTIPLE DWELLING AND MULTIPLE DWELLING PROJECT SPECIAL EXCEPTIONS 180

131A. GENERAL 180
131A.1. BUILDINGS 180
131A.2. UTILITIES 181
131A.3. STREETS, TRAFFIC, PARKING 182
131A.4. OPEN SPACE 183
131A.5. OTHER REQUIREMENTS 183
131B. PURPOSES 184
131C. BONDS 184
131D. REQUIRED CHARACTERISTICS 185

SECTION 140 ZONING BOARD OF APPEALS 186
140A. COMPOSITION 186
140B. CHAIRMAN 186
140C. MEETINGS 186
140D. MINUTES, VOTING 186
140E. RULES 186
140F. RECORDS 186
140G. POWERS AND DUTIES 186
140G.1. APPEALS 186
140G.2. APPLICATION FOR VARIANCE 186
140H. CERTAIN PROCEDURAL PROVISIONS 187
140H.1. SPECIAL CIRCUMSTANCES 187
140H.2. PARTICULAR VARIATIONS 187
140I. CONDITIONS, SAFEGUARDS AND STIPULATIONS 187
140J. TERMINATION OF VARIANCE 187
140J.1. CESSATION 187
140J.2. ABANDONMENT 188
140J.3. TERMS OF GRANT 188
140K. CASUALTY 188
140K.1. NOTICE 188
140K.2. COMPLETION 188

SECTION 150 ENFORCEMENT 189
150A. ZONING ENFORCEMENT AGENT 189
150B. AUTHORITY 189
150C. ENFORCEMENT OF SPECIAL EXCEPTIONS AN VARIANCES GRANTED 189
150D. CIVIL PENALTY: VIOLATION OF ORDER TO DISCONTINUE 189
150E. CRIMINAL PENALTY 189
150F. HANDLING OF COMPLAINTS 190

SECTION 160 MISCELLANEOUS 191
160A. SEPARABILITY 191
160B. APPLICABILITY 191
160C. ENACTING CLAUSE: TITLE AND REPEAL 191

DIAGRAM OF TYPICAL LOT 192
DIAGRAM OF TYPICAL LOT TYPES 193
DIAGRAM OF MEASUREMENT OF LOT WIDTH 194
DIAGRAM OF PARKING DIMENSIONS AND LAYOUT 195

SECTION 10

PREAMBLE

10A. PURPOSES: GENERAL. For the purpose of promoting the health, safety, morals, and general welfare of the community; for the purpose of lessening congestion in the streets; for the purpose of securing safety from fire, panic, flood, and other dangers; for the purpose of providing adequate light and air; for the purpose of preventing the overcrowding of land and avoiding undue concentration of population; for the purpose of facilitating adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; for the purpose of conserving the value of buildings and encouraging the most appropriate use of land throughout the Town; for the purpose of providing for the public health, comfort, and general welfare in living and working conditions; for the purpose of regulating and restricting the location of trades and industries and the location of buildings designed for such uses; for the purpose of regulating and limiting the heights and bulk of buildings; and for the other purposes specified in Chapter 124 of the 1958 Revision of the Connecticut General Statutes, the following zoning regulations for the Town of Essex are and have been adopted pursuant to the provisions of the statutes of the State of Connecticut.

10B. PURPOSES: NONCONFORMITIES. It is hereby declared that nonconforming uses, improvements and characteristics are incompatible with and detrimental to permitted uses, improvements and characteristics in the Districts in which they are located; they cause disruption of the comprehensive land use pattern of the Town; they inhibit present and future development of nearby properties; and they confer upon their owners and users a position of unfair advantage. It is a fundamental principle of zoning law that non-conformities are not to be expanded and that they should be abolished or reduced to conformity as quickly as the fair interests of the parties will permit. This principle is declared to be the intent of these regulations. It is the further intent of these regulations that existing non-conformities shall not cause further departures from these regulations and therefore the existence of any present nonconformity anywhere in the Town shall not in itself be considered grounds for the grant of a variance in respect of any other property.

AMENDED OCTOBER, 2000
AMENDED OCTOBER 17, 2005
AMENDED APRIL 1, 2017

SECTION 20

DEFINITIONS

20A. DEFINITIONS. For the purpose of these Regulations, the following terms and words shall have the meaning hereto assigned to them. Where the terms and words are specific only to the Gateway Conservation District, Section 101, it shall be noted by the use of parenthesis (Section 101). The singular number includes the plural and the plural includes the singular; words used in the present tense include the future; the word "lot" includes "plot" or "parcel"; the word "person" includes "corporation" as well as an individual; the word "used" or "occupied" includes "designed," "arranged," or intended to be "used" or intended to be occupied; the word "district" includes "zone." The word "shall" is always mandatory.

ABUTTING PROPERTY. Any property that makes contact with another along a property line or is located across a roadway and is within 100 feet of a property line.

ACCESSORY IMPROVEMENT. Any improvement which is attendant, subordinate and customarily incidental to the principal improvement on the same premises;

ACCESSORY USE. Any use which is attendant, subordinate and customarily incidental to the principal use on the same lot;

ALCOHOLIC BEVERAGE. All spirituous and intoxicating liquors, as defined in the General Statutes of the State of Connecticut, Revision of 1958, as amended;

ATTIC. The space between the ceiling beams of the top story and the roof rafters.

AUTOMOBILE SERVICE STATION. A service station, filling station, store, garage or other place of business for the sale of gasoline or other fuel products intended for use in the propelling of motor vehicles using combustion or other type engines; the sale, rental, or service and repair of gasoline or electric powered home garden and lawn equipment shall be considered a use which is customarily incidental to the use of an automobile service station;

BARN. A building used primarily to house livestock, or intended for such use, but not used for human habitation;

BOARDING HOUSE. A family dwelling unit in which the resident owner grants or offers to grant for hire two or more individual sleeping accommodations, with or without meals, to persons who are not members of the family of the resident owner;

BUILDABLE LAND. 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;

BUILDING. Any improvement having a roof and intended for the shelter, housing or enclosure of persons, animals, or materials. Any other improvement more than 8 feet high shall be considered as a building, including a solid fence or wall, but excluding trees, shrubs and utility transmission towers, or an electric light, telephone or telegraph pole, highway or railroad bridge or flagpole; also considered as a building shall be anything located on, above, or beneath the water which is not primarily utilized or intended for navigation;

BUILDING AREA. The ground area enclosed by the walls of a building, together with the area of all porches and other roofed or walled portions of the building;

BUILDING CODE. The provisions of Chapter 354 of the Connecticut General Statutes (Rev. 1958) and any State or local regulations adopted pursuant thereto and in force in the Town, as the same may from time to time be amended;

BUILDING COVERAGE. The percentage which the aggregate area of all buildings on the lot bears to the area of the lot;

BUILDING HEIGHT. The vertical distance between a horizontal plane at the highest point of a building or structure, excluding chimneys and cupolas of no more than 10 square feet (each shall not exceed 45 feet in building height), and lowest point of a building or structure which is visible above existing natural grade prior to site grading. The height of any retaining wall constructed to create a site platform, and of any backfill along the foundation in excess of the existing natural grade, shall be included as part of the measured height. Church spires, industrial storage tanks, water utility storage tanks, radio or television towers and antennas may be erected to a reasonable and necessary height notwithstanding the applicable maximum height limitations prescribed in these Regulations, provided, however, that no radio or television tower or antenna shall exceed 15 feet in height above the highest point of the highest ground elevation of the lot or 15 feet in height above the highest point of the highest building on the lot, whichever is the higher. Fences and freestanding walls shall not exceed 8 feet in height.

BUILDING LINE. A line parallel to a street at distance equal to the required setback from the street line or at a greater distance when otherwise legally established by the Town or by private covenant;

CASUALTY. Property loss caused by fire, vehicular collision, or natural disaster such as high winds, lightning, space debris, heavy snow or flooding.

CELLULAR TELECOMMUNICATIONS FACILITY. Consists of 1) a building not used for human occupancy which will contain mobile radio telephone transmitting, receiving and related equipment, and 2) antennae attached to an existing structure and connecting cables necessary to permit the broadcasting of

mobile two-way radio telephone communications.

CENTER LINE OF A STREET. The line which may be drawn through all the points which are equidistant from the boundary lines of property on each side of the street;

CLUB. An association of persons which is the owner, lessee or occupant of an establishment operated solely for a recreational, social, fraternal, religious, political or athletic purpose, whose facilities and activities are confined to the members thereof and their guests and are not extended to the general pubic; but such term does not include any such association or establishment organized or operated for profit or the chief activity of which is a service customarily carried on as a business enterprise;

COASTAL JURISDICTIONAL LINE. The location of the topographical elevation of the highest predicted tide for the period beginning in 1983 and ending in 2001, referenced to the most recent National Tidal Datum Epoch as published by the National Oceanic and Atmospheric Administration and described in terms of feet of elevation above the North American Vertical Datum of 1988.

COMMERCIAL CUTTING. Any cutting or removal of forest tree species which is not covered under the definition of noncommercial cutting;

COMMERCIAL MOTOR VEHICLE. A vehicle which is regularly used in the conduct of business, profession, or trade.

COMMERCIAL CUTTING PLAN (SECTION 101). A plan showing the applicant's property and the abutting property owners, a description of the activity to be undertaken, and a certification by a public or consulting forester that the plan is consistent with the "Minimum Standards for Cutting Timber" set forth in Appendix A of the Standards of the Connecticut River Gateway Commission.

COMMISSION. The Essex Zoning Commission;

CONVALESCENT HOME. Also nursing home, rest home, convalescent hospital, special service nursing home, personal care home, residential care home, home for the aged, boarding home for the aged, and similar titles. Specific use as a hospital, clinic, diagnostic or treatment center is not acceptable. The facility must be constructed with the intent of complying with State regulations for the licensing of institutions;

COVERAGE. The percentage which the aggregate building area of all buildings on a lot bears to the total area of that lot.

CUSTOMARY HOME OCCUPATION. Any occupation which commonly in Connecticut is recognized by substantial and long practice as one which has been carried on in a residence by the occupant thereof but not including:

1. An occupation which involves a substantial patronage visiting the premises, or frequent shipments by common carrier, in the purchase or sale of products;

2. An occupation which involves the sale of food or beverages;

3. An occupation which involves the letting of rooms, including but not limited to a boarding house and a bed and breakfast establishment.

DECK. A structural improvement elevated above the surface of the ground, not having a roof, and attached to a building. A deck shall be deemed as part of a building, and 100% of its surface area shall be used in computing maximum building coverage. Decks shall be required to meet all applicable setback requirements for the zoning district in which they are located.

DETACHED ACCESSORY BUILDING. An accessory building which is not attached to the principal building by any covered porch, breezeway, or other roofed structure;

DISTRICT. A district established by the provisions of Section 30 of these regulations as the same may from time to time be amended;

DOG GROOMING FACILITY. Any place, other than a commercial dog kennel, maintained as a business where grooming of dogs is conducted;

DOG KENNEL. The business of keeping or breeding a pack or collection of dogs under one ownership for show, sport or sale;

DOG KENNEL COMMERCIAL. The business of boarding and/or grooming dogs;

DOG TRAINING FACILITY. Any place, other than a dog kennel, maintained as a business where the training of dogs is conducted;

DRIVEWAY. A roadway used solely for access to one principal building by the occupants thereof and their guests and invitees, which roadway is located wholly upon the lot of the building which it serves;

DWELLING. A building used solely as a residence;

DWELLING, ONE FAMILY. A detached dwelling used by one family only;

EARTH PRODUCTS. Any material geologically formed through natural processes and existing in the upper layer of the earth's surface including, but not limited to soil, loam, peat, peat humus, peat moss, sand, gravel, stone, and all forms, compositions and mixture thereof;

EROSION AND SEDIMENTATION CONTROL PLAN. A plan which sets forth measures to be undertaken for the control of erosion and sedimentation.

FAMILY. An individual dwelling alone or a group of individuals, dwelling together as a single housekeeping unit, provided that such group consists only of (a) any number of individuals related by blood, marriage or adoption, or (b) not more than four unrelated individuals. A group in which any one or more members do not use, in common with all other members, all kitchen and dining facilities shall not be considered as dwelling together as a single housekeeping unit;

FAMILY DWELLING UNIT. A physical area of a dwelling within which a family dwells separately from any other family;

FARM. A tract or tracts of land used principally for agriculture, including farm buildings and accessory buildings thereto, nurseries, orchards, ranges, greenhouses, hoophouses and other temporary structures or other structures used primarily for the raising and, as an incident to ordinary farming operations, the sale of agricultural or horticultural commodities.

FARM STAND. A building or structure located on a farm and used for the sale of farm products (as defined below) at which not less than fifty percent (50%) of such products sold in a one year period are raised, grown or made on the same premises on which such farm stand is located or on other land owned or operated by the owner or operator of such farm stand. Farm products sold at a farm stand shall be limited to fruits, vegetables, plants and flowers but may also include food products provided that such food products shall contain one or more ingredients which are raised or grown on the same premises on which such farm stand is located or on other land owned or operated by the owner or operator of such farm stand.

FAST FOOD RESTAURANT. An establishment that specializes in a standardized menu for either pre-prepared or quickly-prepared food, beverage or desserts and whose method of operation is such that customers normally order and obtain the product at a central location separate from the tables or counters used for consumption on site.

FLOOD PLAIN. Any land area susceptible to being inundated by flood waters from any source.

FOOD SERVICE SHOP. A place of business where food prepared on the premises is offered to patrons for off-premises consumption; On-premises consumption may occur as long as said use is clearly subordinate to the off-premises consumption. Seating shall be limited to 20% of the public floor area;

FOOD SERVICE RETAIL. The sale of food items that are not prepared or consumed on the premises *which is* approved by a permit.

GRADE (SECTION 101). The finished ground level adjoining the base of all exterior walls of a building or structure and any related earth retaining structure.

GROSS FLOOR AREA. The aggregate amount of floor area to be utilized for an authorized use on all floor levels of a building.

HEIGHT (SECTION 101). The vertical distance between a horizontal plane drawn through the lowest point of a building or structure which is visible above grade and its uppermost point, excluding chimneys.

HIGH TIDE LINE. A line or mark left upon tide flats, beaches, or along shore objects that indicates the intersection of the land with the water's surface at the maximum height reached by a rising tide.

HOTEL. A building providing lodging for persons, with or without meals, and intended for the accommodation of transients or so designed that normal access and egress are controlled from a central point;

HUMAN OCCUPANCY. The use of an enclosed space having a means of egress, light, ventilation and access to sanitary facilities to house any person or persons for the purpose of living, working or playing.

IMPROVEMENT. Any structural addition to, or other change in the condition of land including the underground installation of utility lines;

INN. An establishment for the lodging and entertaining of travelers.

LAND. The earth surface including the ground thereunder and any wetland or watercourse;

LIVESTOCK. Domestic animals other than dogs, cats, or poultry kept for use or profit;

LOT. A plot or parcel of land occupied, or capable of being occupied, in conformity with these Regulations by one principal building and the accessory buildings or uses customarily incident to it, including such open spaces as are required by these Regulations. In the case of institutional or commercial buildings, a group of buildings under the same ownership may be considered as occupying the same lot. Buildings in a multiple dwelling project shall be considered as occupying the same lot;

LOT, CORNER. A lot at the intersection of and abutting on two or more streets where the angle of intersection is not more than 135 degrees or where the intersection is rounded by a curve having a radius of less than 100 feet;

LOT, REAR. A lot not having the required frontage on a public street and having access to the street via access way or strip of land that may be part of the rear lot, and where the building site is located to the rear of a front lot on the same street.

LOT, THROUGH. A lot other than a corner lot which abuts two or more streets which do not intersect at the lot;

LOT LINE. The established division line between lots or between a lot and a roadway;

LOT LINE, FRONT. Any lot line between the lot and a roadway shall be considered a front lot line;

LOT LINE, REAR. Any lot line bounding the lot at a rear and approximately parallel to and at a maximum distance from the front lot line shall be considered a rear lot line;

LOT LINE, SIDE. Any lot line not a front or rear lot line shall be considered a side lot line. Where two lot lines extending from the front lot line intersect, both such lot lines shall be considered side lot lines. In the case of a corner lot, all lot lines extending from the front lot lines shall be considered side lot lines;

LOT, MINIMUM WIDTH OF. The distance between the side lot lines measured in a straight line at right angles to the mean direction of such side lot lines, which line of measurement shall touch but not be in front of the building line. In the case of a corner lot, the minimum width shall be similarly measured and for the purpose of this measurement only, the front lot line which has the least dimension shall be considered the front lot line and the lot lines adjacent thereto shall be considered as side lot lines;

MARINA. Any waterfront business offering boat berths to transients for a fee;

MARINE FACILITY. A dock, wharf, slip, basin, or similar landing facility for waterborne vessels and/or an open yard for the building, storing, repairing, servicing, or refueling of such vessels, together with any accessory buildings or other structures necessary for the operation of the foregoing.

MARITIME MUSEUM. A nonprofit institution devoted to the procurement, care and display of publications, materials and objects directly relating to maritime navigation and commerce and other human endeavors upon and under navigable waters, including educational workshops, meetings and lectures directly relating to such maritime subjects;

MEAN HIGH WATER LINE. The average of high tides over a defined period.

MOBILE HOMES. Any portable dwelling or any vehicle or vehicular accessory used or designed to be used for human habitation and with or without its wheels, rollers, or skids in place;

MOTEL. A building or group of buildings providing lodging for persons intended primarily for the accommodation of transients having a private outside entrance for each room or suite of rooms and for each of which rooms or suites of rooms, automobile parking space is provided on the premises;

MULTIPLE DWELLING. A building which contains two or more family dwelling units; multiple dwelling does not include a college dormitory, convent, hospital, sanitarium, convalescent home, correctional institution, hotel, motel, boarding house, tourist establishment or tourist cabin or other building used as a place where sleeping accommodations are offered for a price to transient guests;

MULTIPLE DWELLING PROJECT. Two or more buildings on one lot, each of which contains two or more family dwelling units; multiple dwelling projects include row dwellings on one lot but do not include a college dormitory, convent, hospital, sanitarium, convalescent home, correctional institution, hotel, motel, boarding house, tourist establishment or tourist cabin or other building used as a place where sleeping accommodations are offered for a price to transient guests;

NONCOMMERCIAL CUTTING. The cutting or removal of forest tree species on a lot for the purpose of preparing a site for the construction of a building or other structure and/or cutting for the customary maintenance and lot improvement. Sale of cordwood or other incidental forest products resulting from such maintenance and lot improvement shall not constitute commercial cutting;

NONCOMMERCIAL CUTTING PLAN. A plan showing the existing mix of forest tree species, their approximate height, age and density; a description of the cutting or removal activities to be undertaken and any other information that may be necessary and reasonably required.

NONCONFORMING IMPROVEMENT OR CHARACTERISTIC. Any improvement or characteristic of any land or improvement which does not conform to these Regulations but which was legally and actually existing at the effective date of these Regulations or any pertinent amendment thereto;

NONCONFORMING USE. Any use of land or improvement which is not a use permitted by these Regulations but which was legally and actually existing at the effective date of these Regulations or any pertinent amendment thereto;
PATIO OR TERRACE. An improved or graded area located on the surface of the ground, with no structural supports other than subsurface base material and retaining walls. A terrace or patio shall not be deemed a building.

PREMISES. A building together with its lot area and other appurtenances.

PRINICIPAL USE. The primary use of a property.

PUBLIC GARAGE. A business of offering to the public spaces within building on the premises of the use for the parking or storage of motor vehicles;

REFUSE. Waste, junk, garbage, debris, rubbish or trash, but not including sewage collected or disposed of in lawful facilities.

RESTAURANT. A place of business that provides food to patrons seated at tables or counters for on-premises consumption on a regular basis. The service of alcoholic beverages to patrons seated at tables as an appurtenance of a meal, or while waiting to be seated for a meal, shall be considered a use which is customarily incidental to the use of a restaurant. Neither a restaurant nor any other place where food is sold
or served shall be considered an accessory use to any use except as per section 71A.2 or that of a restaurant for the exclusive use of the employees of a business on the same premises shall be considered an accessory use to such business. A restaurant may provide a take-out service as long as said service is clearly secondary and subordinate to the on-premises consumption.

RETAIL. To sell directly to the ultimate consumer to whom there is a sales tax charged as per Connecticut General Statute 12-408.

ROADWAY. Any way for, and open to, vehicular travel including a public street, subdivision street, a private right-of-way or easement for private use or a driveway;

SERVICE. The term "service" and its derivatives when used to describe a type of business use or establishment shall mean a business which does not involve the manufacture or sale of any tangible article, product, or commodity unless such article, product, or commodity is furnished incidentally in the course of providing a repair service or for the purpose of evidencing or documenting a service rendered;

SETBACK. The required open space between any improvement and a lot line. The distance prescribed for a setback is measured perpendicularly from each lot line;

SIGN. The term "sign" shall include every exterior sign or permanent interior sign facing outward (excluding advertising signs as defined below), advertising awning, billboard, illustration, insignia, lettering, picture, poster, display, banner, pennant, flag, bunting, ribbon, streamer, spinner, windsock, balloon, string of lights or other device, however made, displayed, painted, supported or attached, intended for use for the purpose of advertisement, identification, publicity or notice, when visible from any street or from any lot other than the lot on which the sign is located. The term "sign" shall include continuous strip lighting and shall not include any flag, pennant or insignia of any governmental unit or nonprofit organization.

SIGN, ADVERTISING. A sign, the sole subject of which is the identity, quality, quantity, or other characteristic of the goods, products, or services sold, made or performed in a business or activity to which such a sign is accessory;

SIGN AREA. The area of a sign shall be the area of the signboard to or upon

which the letters or other designs are affixed or painted, except that where the letters or designs of a single sign are separate and without a common signboard, the area of such sign shall be the aggregate character area of all such letters and designs used in the sign. The character area of a letter or design shall be determined by multiplying the maximum height by the maximum width of such letter or design;

SIGN, BUSINESS NAME. A sign, the sole subject of which is the name of the user or occupant of the use or improvement to which it is accessory and may also include an identification of the type of business or other activity to which it is accessory;

SIGN, RESIDENT NAME. A sign, the sole subject of which is the name of the user or occupant of the use or improvement to which it is accessory;

SITE PLAN (SECTION 101). A plan which includes the description and location of all existing and/or proposed buildings, structures and uses on a lot; utility lines, vehicular drives and parking areas, access, lighting, drainage and waste disposal facilities; adjacent ownership, outstanding physical features, watercourses and wetlands; any proposed modification or alternation of the lot's natural features, including the disturbance of vegetation and soil cover; and such further information as may reasonably be required.

STORY. That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between any floor and the ceiling next above it;

STORY ABOVE GRADE (SECTION 101). Any story having its finished floor surface entirely above grade, and any other story having its finished floor surface partially or entirely below grade where the finished surface of the floor next above is more than six (6) feet above grade for more than fifty (50) percent of the total perimeter of the building or more than twelve (12) feet at any point.

STREET, PUBLIC. Any roadway which has been accepted by the Town or State for, and is open to, vehicular travel by the general public;

STREET, SUBDIVISION. Any roadway which is within a subdivision and is shown on a plan of subdivision approved by the Essex Planning Commission and which is for, and is open to, vehicular travel by the general public or by all residents of the subdivision;

STRUCTURE (SECTION 101). Anything constructed or which is located on, above or beneath the ground, except driveways, sidewalks, parking areas, curbing and fences which are less than eight (8) feet high, including anything located on, above or beneath the water which is not primarily utilized or intended for navigation. (October 17, 2005)

STRUCTURE, PERMANENT. Any structure constructed to stay in a single location.

STRUCTURE, TEMPORARY. Any structure, including, but not limited to PODS and other metal storage containers, constructed or located on a property to stay in one location for no more than 90 days. Such structures to comply with all lot requirements of an accessory building.

TOWN. The Town of Essex;

VARIANCE. Authority *granted by the Essex Zoning Board of Appeals* to an owner to use their property in a manner *otherwise* forbidden by the zoning regulations.

VEGETATION. The natural and indigenous plant life of a region not to include grass.

VEGETABLE STAND. A frame building not exceeding 200 square feet in area used for the sale of farm or garden produce raised on the same premises on which such building is located or on other premises of the owner of the premises on which it is located;

WATERCOURSES. Those areas identified and defined in Section 22a-38 of the Connecticut General Statutes as the same may hereafter from time to time be amended;

WETLANDS. Those areas identified and defined in Section 22a-32 and 22a-38 of the Connecticut General Statutes as the same may hereafter from time to time be amended.

WHOLESALE. The sale of commodities in quantity usually for resale (as to a retail merchant).

SECTION 30

DIVISION INTO DISTRICTS

30A. <u>DISTRICTS.</u> The Town is hereby divided into the following named Districts as drawn on the Zoning Map dated June, 1966, which, with all explanatory matter thereon, shall be considered a part hereof:

Residence Districts: including
Village Residence District (VR) Rural
Residence District (RU) Rural Residence –
Multi-Family
District (RM)
Residential Life Care District (RLC)
River Road Residential (RRR)

Business Districts: including
Essex Village District (EV) Waterfront
Business District (WF)

Commercial District (C)
Limited Industrial District (LI)
Municipal and Industrial Service Zone (MI)
Heritage Gateway District (HG)

Design Municipal/Industrial District (DMID)

Conservation District (CONS.)
Water Resource District (WRD)

30A.1. <u>GATEWAY CONSERVATION DISTRICT.</u> In addition to the districts into which the Town is divided under Section 30A, there is hereby created and designated, as drawn on said Zoning Map, the Gateway Conservation District. The boundaries of such District are coterminous with the boundaries of so much of the area, within the territorial limits of the Town of Essex, as is designated as a Conservation Zone in Section 25-102c of the Connecticut General Statutes as the same may from time to time be amended. Said district designation is in addition to and superimposed upon those districts into which said area is divided under Section 30A. Except as otherwise provided therein, the uses permitted under Section 101 are permitted in addition to the uses permitted in the districts into which said area is divided under Section 30A., and the prohibitions, limitations and restriction prescribed in Section 101 are in addition to the prohibitions, limitations and restrictions upon land use otherwise prescribed in these Zoning Regulations.

30A.2. COASTAL MANAGEMENT DISTRICT. In addition to the districts into which the Town is divided under Sections 30A and 30A.1., there is hereby created and designated the Coastal Management District as shown on the Zoning Map of the Town of Essex. This District is created in accordance with the requirements of Connecticut General Statutes, Section 22a-90 to Section 22a-112 as amended.

Said district designation is in addition to and superimposed upon those districts into which said area is divided under Sections 30A. and 30A.1. Activities or projects partially or entirely located in this district must meet the additional requirements of Section 102 of these regulations, as well as the requirements of any other district in which the property is located.

30A.3. FLOOD PLAIN DISTRICT. In addition to the districts into which the Town is divided under Sections 30A., 30A.1., and 30A.,2., there is hereby created and designated the Flood Plain District. This District consists of those portions of the Town of Essex designated as "special flood hazard areas," namely Zone A and Zone A1-A30 which are delineated on a map of the Town of Essex, Connecticut, entitled "Flood Insurance Rate Map Community – Panel Numbers 090065 0001-0005, and 090065 0001B through 090065 0005B, Effective Date July 16,
1980, prepared by the Federal Emergency Management Agency, Federal Insurance Administration, and as such zones may be amended from time to time by such Administration. Said maps are hereby made a part of this regulation and are hereinafter referred to as "Flood Insurance Rate Map," which maps are on file with the Town Clerk.

(A) Basis. Said map is based on a document entitled "Flood Insurance Study, Town of Essex, Connecticut," dated January 16, 1980, prepared by the Federal Emergency Management Agency, Federal Insurance Administration, including a "Flood Boundary and Floodway Map," and the "Flood Insurance Rate Map," effective July 16, 1980, which is a part of such document.

Said district designation is in addition to and superimposed upon those districts into which said area is divided under Section 30A., 30A.1. and 30A.2. Any development partially or entirely located in this district must meet the additional requirements of any other district in which the property is located.

30A.4. WATER RESOURCE DISTRICTS. In addition to the districts into which the Town is divided under Sections 30A and 30A.1., 30A.2., and 30A.3., there is hereby created and designated the Water Resource Districts as shown on the Zoning Map of the Town of Essex, and more specifically, delineated on a map labeled Water Resource Districts Map, dated May 1, 1985.

Said district designation is in addition to and superimposed upon those districts into which said area is divided under Sections 30A., and 30A.1., 30A.2., and 30A.3. Activities or projects partially or entirely located in these districts must meet the additional requirements of Sections 104 of these Regulations as well as the requirements of any other district in which the property is located.

30B. DISTRICT BOUNDARIES. The following rules shall govern the determination of District Boundaries:

30B.1. STREETS, RAILROAD, WATERCOURSES. If opposite sides of a street, railroad, or watercourses are in different districts, the center line of the street, railroad, or watercourse shall be on the district boundary;

30B.2. PROPERTY LINES. If a district boundary is stated by reference to a property line, the district boundary shall follow such property line as shown on the Town Tax Assessor's Maps at the effective date of such boundary;

30B.3. MEASURED LINES. Unless otherwise indicated, if a district boundary is stated by a measured distance from a street or railroad, such distance shall be measured perpendicularly from that boundary of such street or railroad which is on the same side thereof as the direction in which such distance is to be measured.

30C. CONTENT OF DISTRICTS. Districts shall include all wetlands and watercourses as well as all dry ground, including streets, lying within their boundaries.

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 JULY 15, 2013
JANUARY 15, 2014

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 January 15, 2014, 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, who cultivate, process, distribute, dispense and sell medical marijuana 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 January 15, 2015 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. PREEXISTING 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 40.I.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.

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:

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.

Min. Area of Subdivision	Min. Lot Area With or Without Public Water Supply	Min. Lot Width	Front Setback
10 Acres	50% of the lot area otherwise required in the district	125 ft.	25 ft.

Side Setbacks, Each	Rear Setback	Max. Bldg. Coverage	Max. Impervious Coverage	Max. Bldg. Height
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.

EFFECTIVE - 1994
AMENDED – JUNE 1, 1999
AMENDED – NOVEMBER 15, 2017

SECTION 45

ACCESSORY DWELLING UNITS

45. PURPOSE. The purpose of this section is to allow private property owners to create housing alternatives in the form of accessory dwelling units across the Town of Essex. Accessory dwelling units, as permitted in this section represent a method of increasing residential densities in established neighborhoods and particularly in village centers and key development nodes without negatively impacting established community character.

45A. DISTRICTS. An accessory dwelling unit shall be permitted via a site plan review per section 118 of these regulations in the following districts; Village Residence District (VR), Rural Residence District (RU), Rural Residence – Multifamily (RUM), River Road Residential District (RRR), Essex Village District (EV) and Commercial District (C). Where these districts are superimposed by other districts in the Town of Essex, and unless expressly prohibited in these overlay districts, accessory apartments shall be permitted in these districts.

45B. DEFINITIONS. The following terms and words shall have the meaning hereto assigned to them;

45B.1. ACCESSORY DWELLING UNIT. An accessory dwelling unit may be deemed under these regulations as a leased or rented dwelling whether or not there is compensation and shall include a separate kitchen and bathroom facility.

45.B.2. LIVING AREA. The area of a family dwelling designed for human occupancy other than area set aside for other uses such as attic, garage, storage and basement areas.

45C. REQUIRED LOT CHARACTERISTICS.

45C.1. The lot shall conform to the minimum lot width and area requirement for the zone in which the property is located or be legally nonconforming.

45C.2. New construction for accessory dwelling units, whether detached from principal structure or involving structural additions or modifications to the principal structure, must conform to all regulatory setbacks and coverage requirements of these regulations.

45C.3. Parking and access from the public right -of -way shall serve both the principal and accessory units, and shall not be distinguishable as separate facilities;

45C.4. No additional curb cut shall be created to serve an accessory dwelling unit;

45C.5. Adequate off -street parking as required by these Regulations shall be provided for both uses and such parking shall not be located in the front yard setback;

45C.6. Where practicable, parking areas for the accessory apartment shall be located to the rear of the principal building.

45D. ACCESSORY DWELLING UNIT CHARACTERISTICS

45D.1. Where any portion of an existing principal building has been continuously used for human occupancy, that portion of the building may be converted to an accessory apartment provided that the conversion shall not increase any nonconforming characteristic.

45D.2. An existing enclosed and attached garage area shall not be considered as a portion of a building used for human occupancy with respect to this regulation.

45D.3. No accessory dwelling unit shall be located in a basement unless one wall opens to grade;

45D.4. A detached accessory dwelling unit may be located in an existing garage or barn-like structure that meets a minimum 15 foot side and rear setback and the minimum front yard setback required for any building used for human occupancy in the district where such building is located. A new detached garage or barn-like structure with a proposed accessory dwelling unit must meet the required setbacks of the district.

45E. MISCELLANEOUS

The accessory dwelling unit shall:

45E.1. A detached accessory dwelling unit shall be a minimum size of 400 square feet but shall not exceed 850 square feet. An attached accessory dwelling unit shall be a minimum of 400 square feet but shall not exceed 850 square feet, or 30% of the combined assessed living area of the principal use and the accessory dwelling unit, whichever is less;

45E.2. Have a maximum of two (2) bedrooms;

45E.3. Be self-contained, with separate cooking, sanitary, and sleeping facilities for the exclusive use of the occupant(s);

45E.4. When located as part of the principal dwelling an accessory dwelling unit and the principal dwelling shall be separated by at least one wall that is common to the interior of both dwellings. A door providing interior access between the accessory and principal dwelling units must be provided. In the Rural Residence-Multifamily District (RUM) an interior door is optional and shall not be required.

45E.5. Except as permitted in section 80A.2.U of these regulations, Only one accessory dwelling unit shall be permitted for each lot and no accessory dwelling unit shall be approved as part of a two -family dwelling or any multi -family use;

45E.6. In the case of an accessory dwelling unit in a residential Zoning District, the owner of the property shall occupy either the principal dwelling unit or the accessory dwelling unit;

45E.7. Both the accessory dwelling unit and the principal building/unit shall meet the requirements of the Building and Public Health Codes;

45E.8. Upon establishment of the accessory dwelling unit, the building shall maintain the exterior appearance and style (roof line, roof pitch, building materials, window style and spacing, etc.) of the principal use;

45E.9. Upon establishment of the accessory dwelling unit, the building shall have any secondary entrance incorporated into the principal use to reflect the architectural style of the existing structure;

45E.10. No family dwelling may be used for the renting of rooms to transients (that is, persons residing on the premises for less than 180 consecutive days).

45F. PROCEDURES - SUBMISSION OF APPLICATION.

45F.1 An application for Site Plan Review for an accessory apartment under this section shall be made pursuant to Section 118 (including the Appendix "A" Application Checklist) of these regulations. Prior to the issuance of the Memorandum of Decision a notarized affidavit to verify that the owner of the property (if in a residential district) is one of the occupants of the subject dwelling shall be submitted to the Commission;

45F.2 No certificate of occupancy shall be issued for a building or use pursuant to this Section 45 without certification in writing from the Zoning Enforcement Agent, the Town Sanitarian, the Town Building Inspector, and the Town Fire Marshal that the building or use is in conformity with the requirements of these zoning regulations and the Public Health, Building, and Fire Code requirements. A copy of the Memorandum of Decision containing the condition that the owner is one of the occupants shall be filed on the land records by the owner;

45F.3. The zoning permit for an accessory apartment automatically terminates 90 days after change of ownership of the property. A new zoning permit shall be issued upon determination of zoning compliance and upon submission of a new affidavit by at least one the new natural owner(s) of the property.

SECTION 50

AMENDED DECEMBER 1, 2007
AMENDED OCTOBER 21, 2013

NONCONFORMING USES AND IMPROVEMENTS

50A. NONCONFORMING USES AND IMPROVEMENTS. Except as otherwise expressly provided in these Regulations, a nonconforming use of any land or improvement or a nonconforming characteristic of any land or improvement, which has not been changed to conformity with these Regulations or otherwise terminated, may remain and be continued and shall not be required to conform to these Regulations.

50B. CHANGE TO CONFORMITY. A nonconforming use of any land or improvement and a nonconforming characteristic of any land or improvement may be changed if the new or resulting use or characteristic conforms to these Regulations, but once changed, such use shall not be then changed back to the original nonconforming use.

50C. CHANGE TO NONCONFORMITY.

50C.1. A nonconforming use of any land or improvement may not be changed to a different nonconforming use.

50C.2. A nonconforming characteristic of any land or improvement may not be changed to a different nonconforming characteristic with regard to acreage, frontage, location, setbacks, height or building coverage nor increased in numerical magnitude.

50D. EXTENSION OR EXPANSION. No use of any land or improvements having a nonconforming characteristic, and no improvements having a nonconforming characteristic, shall be enlarged, or expanded except in conformity with these Regulations.

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 shall constitute an impermissible enlargement, extension or expansion of a nonconforming characteristic.

No nonconforming use or characteristic of any land or improvement shall be enlarged, extended, or expanded.

Completing the enclosure of a previously roofed porch, without changing it size or shape, shall not be considered an extension or expansion of a nonconforming use or improvement.

50E. TERMINATION. Except as provided in 50F., no use of any land or

improvement having a nonconforming characteristic and no nonconforming use or characteristic of land or improvement shall be resumed or restored:

50E.1. CESSATION. If such use or characteristic has in fact not existed for a period of one (1) year from the date of cessation or from the effective date of the applicable prohibiting regulation, whichever is later; provided that no valid nonconforming use in existence on or after October 1, 1989, shall be terminated solely as a result of nonuse without regard to the intent of the property owner to maintain that use; or

50E.2. ABANDONMENT. If it is abandoned, unless such use conforms to these Regulations or such use or characteristic has previously been authorized by the grant by the Zoning Board of Appeals of a variance varying the application of the pertinent regulations.

50F. CASUALTY. A nonconforming use or characteristic of an improvement which is damaged or destroyed by fire or other casualty to any extent may be restored or resumed provided:

50F.1. NOTICE. Written notice of intention to resume or restore is filed with the Zoning Enforcement Agent within six months after such damage or destruction; and

50F.2. COMPLETION. Such resumption or restoration is made and completed within two years after such damage or destruction; and

50F.3. LIMITATION. Such resumption of use shall be confined to the use in existence immediately prior to such damage or destruction and such restoration shall not increase the nonconformity of any nonconforming characteristic in existence immediately prior to such damage or destruction and, if all or any portion of the premises are located within a Village Residence District or an Essex Village District, such restoration shall be substantially similar in appearance, including architectural design, arrangements, texture and color, to the improvement so damaged or destroyed.

50G. SUBDIVISION OF LOTS WITH NONCONFORMING IMPROVEMENTS. Whenever any land, upon which is located one or more nonconforming improvements, is subdivided for sale or rental, or lot lines of any such land are otherwise defined, the characteristics of all parcels resulting therefrom shall conform to these Regulations:

50H. ACCESSORY USES. The provisions of this Section 50 shall not be construed to permit, and there shall not be permitted, accessory to a nonconforming use or improvement:

50H.1. SIGNS. Any sign;

50H.2. VEHICLES. The parking or storage of any commercial motor vehicles;

50H.3. BUILDING. The construction or use of any building for residence purposes; or

50H.4. WASTE MATERIAL. The use of any land for the storage or keeping of any material described in Section 115.

Unless such use or improvement itself is a nonconforming one or conforms to these Regulations; provided, however, that the service of alcoholic beverages to patrons seated at tables as an appurtenance of a meal or while waiting to be seated for a meal, shall be considered a use which is customarily incidental to a nonconforming restaurant use.

50I. USES AND IMPROVEMENTS PERMITTED BY SPECIAL EXCEPTION. Any use of land or improvement and any improvement of a characteristic of land or improvement, which is permitted only when authorized by the grant of a special exception hereunder but which was legally and actually existing at the effective date of these Regulations, or any pertinent amendment thereto, shall be deemed to be nonconforming unless and until a special exception is granted therefore hereunder.

AMENDED JUNE 10, 1998
AMENDED SEPTEMBER 1, 2000
AMENDED MARCH 17, 2014
AMENDED MAY19, 2014
AMENDED JANUARY 30, 2015

SECTION 60

VILLAGE RESIDENCE DISTRICT

60A. USES PERMITTED. In a Village Residence District, there shall be permitted:

60A.1 GENERAL PRINCIPAL USES. The following principal uses and buildings:

(A) One-family dwellings;

(B) Public schools;

(C) Churches, synagogues and other places of public worship;

(D) A municipal office building, which may include a police station;

(E) Customary home occupation carried on within an existing dwelling by a permanent resident thereof in which not more than two nonresidents of such dwelling are engaged, if such use is secondary in character and intensity to the use of the building as a dwelling and such activity does not noticeably change the apparent residential character of the premises as by creating noise, odors, smoke, fumes, vibration, illumination, or radio or television interference.

60A.2. SPECIAL PRINCIPAL USES. The following principal uses and buildings only when specifically authorized in the particular instance by a special exception granted by the Commission subject to the conditions prescribed in or pursuant to Sections 120 and 130:

(A) Private schools;

(B) Clubs;

(C) Libraries, museums, auditoriums, and public health nursing service facilities operated by a governmental or nonprofit corporation and multiple dwelling projects to provide housing for elderly persons pursuant to Sections 8-112a through 8-119c of the Connecticut General Statutes.

(D) Medical doctors' clinics and offices, hospitals, sanitariums or convalescent homes, correctional institutions or facilities for the care of the mentally ill or mentally handicapped and care centers for drug addiction or alcoholism, provided that the lot area is equivalent to not less than 2,000 square feet for each patient sleeping accommodations if the lot is served by public water supply and not less than 8,000 square feet if not served by public water supply. Notwithstanding any language elsewhere in these regulations to the contrary, medical doctors' clinics and offices shall not be permitted in any other zoning district by reference to this section.

(E) Parks, playgrounds, forests, wildlife sanctuaries, boat landing areas, and similar open reservations operated by government units or nonprofit organizations.

(F) Water supply facilities to include pump stations, pressure reducing stations, storage tanks and towers, wells and treatment facilities.

(G) Cellular Telecommunications Facility. Antennas approved under this section shall not be required to comply with the height limitations of Section 40J as long as the antennae do not exceed the height of the existing structure to which they are attached and may occupy the same lot as the existing structure without having to provide an additional minimum lot area.

(H) Family Day Care Home for up to 6 children and operated by a resident of the dwelling, into an existing single family residence. A Copy of State license to operate this facility to be submitted to Zoning Enforcement Official.

60A.3 ACCESSORY USES. Any accessory use or improvement but not including:

(A) SIGNS. Any sign, unless it conforms to the requirements prescribed therefore in these Regulations;

(B) VEHICLES: GENERAL PRINCIPAL USES. The parking or storage of any commercial motor vehicle accessory to a general principal use unless: (1) the number thereof does not exceed one, (2) such vehicle is not more than one and one-half tons capacity, (3) such vehicle is regularly used for transportation, (4) such vehicle is used primarily for personal rather than business purposes and (5) such vehicle is usually parked or stored indoors;

(C) VEHICLES: SPECIAL PRINCIPAL USES. The parking or storing of any commercial motor vehicle accessory to a use described in 60A.2, unless: (1) the number thereof does not exceed 5, (2) such vehicles are regularly used for

transportation, (3) such vehicles do not exceed one and one-half tons capacity, and (4) their location on the lot of the principal use is not less than 100 feet from any street line and 50 feet from any lot line;

(D) BUILDINGS. Any building used for residence purposes unless the area of the lot upon which the principal use is located conforms to the minimum required for all dwelling units thereon including such accessory building;

(E) LIVESTOCK. The keeping of livestock, poultry, or other animals except as household pets.

60A.4. SIGNS. In addition to any sign permitted under 111B. and subject to the limitations prescribed in 111A., signs as accessory uses as follows:

(A) GENERAL PRINCIPAL USES. One resident name sign, not exceeding 2 square feet in area, accessory to a general principal use, or, in the case of a customary home occupation, one business name sign not exceeding 2 square feet in area;

(B) SPECIAL PRINCIPAL USES. Accessory to a special principal use and only as authorized by the special exception authorizing such use, one business name sign, not exceeding 12 square feet in area.

60B. REQUIRED CHARACTERISTICS. The lot and the building involved in any general or special use in a Village Residence District shall conform to the following characteristics:

	DISTRICT VR
Minimum Lot Area	60,000 square feet
Minimum Lot Width	120 feet
Minimum Lot Area Per Family Dwelling Unit	60,000 square feet
Front Setback	30 feet
Side Setback	25 feet
Rear Setback	30 feet
Maximum Building Coverage	10%
Maximum Building Height	30 feet

Each lot shall contain a contiguous building site of at least 25,000 sq. ft. of buildable land.

None of the required characteristics prescribed in this Section 60B, other than maximum building height, shall apply in the case of a public or private library.

“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.

SECTION 61

AMENDED SEPTEMBER 1, 2000
JANUARY 30, 2015

RURAL RESIDENCE DISTRICT

61A. USES PERMITTED. In a Rural Residence District, there shall be permitted:

61A.1. GENERAL PRINCIPAL USES. The following principal uses and buildings:

(A) Any general principal use and building permitted in a Village Residence District under the provisions of 60A.1.;

(B) Farming, truck or nursery gardening, and the raising of crops, fruit, livestock, or poultry provided that no animals kept for commercial purposes shall be housed less than 150 feet from any property lines. The foregoing provision shall not permit the keeping for commercial purposes of fur bearing animals other than rabbits, nor the keeping of swine for commercial purposes; and

(C) A vegetable stand;

(D) Parks, playgrounds, forests, wildlife sanctuaries, boat landing areas, and similar open reservations operated by government units or nonprofit organizations, game raising, hunting, and other conservation activities carried on under private or public ownership;

(E) Private boat landings accommodating not more than three (3) pleasure boats and private swimming facilities.

61A.2. SPECIAL PRINCIPAL USES. The following principal uses and buildings only when specifically authorized in the particular instance by a special exception granted by the Commission subject to the conditions prescribed in or pursuant to Section 130:

(A) Any special principal use and building permitted in Village Residence Districts, under the provisions of 60A.2.;

(B) Dog kennels, commercial dog kennels, dog grooming facilities and veterinary hospitals, provided that they are located on lots of not less than seven (7) acres and that any animals therein are kept within a building or enclosure which is located not less than 150 feet from any lot line;

(C) Liveries, boarding or riding stables, provided that they are located on lots of not less than seven (7) acres and provided further that no animals are stabled in any building located less than 150 feet from any lot line;

(D) A commercial greenhouse provided that it is located on a lot of not less than three (3) acres and not less than 100 feet from any lot line;

(E) A cemetery of a church corporation or cemetery association having its principal office in the Town; and

(F) A dump operated by the Town and a transfer station, where solid waste received or transferred to a vehicle for removal to another solid waste facility, operated by the Town of Essex, or its agents or lessees, constructed and operated in compliance with applicable state statutes and regulations, including a transfer station that is a central collection point for the solid waste generated within Essex and within a group of other municipalities. However, no transfer station shall be located in the lower Connecticut River Conservation Zone (The Gateway Conservation District) as designated by Section 25-102c of the Connecticut General Statutes and shown on the Zoning Map of the Town of Essex.

61A.3. ACCESSORY USES. Any accessory use or improvement but not including:

(A) SIGNS. Any sign unless it conforms to the requirements prescribed therefore in these Regulations;

(B) VEHICLES, RESIDENCE USES. The parking or storage of any commercial motor vehicle accessory to a use described in 61A.1.(A) unless: (1) the number therefore does not exceed one, (2) such vehicle is regularly used for transportation, (3) such vehicle does not exceed one and one-half tons capacity, (4) such vehicle is used primarily for personal rather than business purposes, and (5) such vehicle is usually parked or stored indoors;

(C) VEHICLES; OTHER USES. The parking or storage of any commercial motor vehicle accessory to a use described in 61A.1(B) or (C) or in 61A.2. unless: (1) the number thereof does not exceed five, (2) such vehicles are regularly used for transportation, (3) such vehicles do not exceed one and one-half tons capacity, and (4) their location on the lot of the principal use is not less than 100 feet from any street line and 50 feet from any lot line;

(D) BUILDINGS. Any building used for residence purposes unless the area of the lot upon which the principal use is located conforms to the minimum required for all dwelling units thereon including such accessory buildings; and

61A.4. SIGNS. In addition to any sign permitted under 111B. and subject to the limitations prescribed in 111A., signs as accessory uses as follows:

(A) RESIDENCE USES. Accessory to a use described in 61A.1.(A), one resident name sign, not exceeding two square feet in area, or, in the case of a customary home occupation, one business name sign not exceeding two square feet in area; and

(B) OTHER USES. Accessory to a use described in 61A.1.(B) and 61A.1.(C) or accessory to a use described in 61A.2., and only as authorized by the special exception authorizing such use, two business name signs each not exceeding 12 sq. ft. in area.

61B. REQUIRED CHARACTERISTICS. The lot and the buildings involved in any general or special use in Rural Residence District shall conform to the following characteristics:

	DISTRICT RU
Minimum Lot Area	80,000 square feet
Minimum Lot Width	150 feet
Minimum Lot Area Per Family Dwelling Unit	80,000 square feet
Front Setback	40 feet
Side Setback	30 feet
Rear Setback	30 feet
Maximum Building Coverage	15%
Maximum Building Height	30 feet

Each lot shall contain a contiguous building site of at least 34,000 sq. ft. of buildable land.

"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.

SECTION 62

RURAL RESIDENCE – MULTI-FAMILY DISTRICT

62A. USES PERMITTED. In a Rural Residence – Multi-Family District, there shall be permitted:

62A.1. GENERAL PRINCIPAL USES. The following principal uses and buildings:

(A) Any general principal use and building permitted in a Rural Residence District under the provisions of Section 61A.1.

62A.2. SPECIAL PRINCIPAL USES. The following principal uses and buildings only when specifically authorized in the particular instance by a special exception granted by the Commission subject to the conditions prescribed in or pursuant to Section 130:

(A) Any special principal use and building permitted in a Rural Residence District under the provisions of Subparagraphs (A) through (D) of Section 61A.2.

62A.3. ACCESSORY USES. Any accessory use or improvement permitted in a Rural Residence District under the provisions of Section 61A.3.

62A.4. MULTIPLE DWELLINGS AND MULTIPLE DWELLING PROJECTS. Multiple dwellings and multiple dwelling projects only when specifically authorized in the particular instance by a special exception granted by the Commission subject to the conditions prescribed in or pursuant to Section 130 and subject also to the conditions prescribed in Section 131.

62A.5. SIGNS. Accessory to a use described in 62A.4. and only as authorized by the special exception authorizing such use, two place name signs each not exceeding 12 square feet in area.

62B. REQUIRED CHARACTERISTICS. Except in the case of a multiple dwelling or multiple dwelling project permitted by special exception under Section 62A.4., the lot and the buildings involved in any general or special use in a Rural Residence – Multi-Family District shall conform to the required characteristics prescribed for lots and buildings in a Rural Residence District under Section 61B.

AMENDED MAY 1, 2001
AMENDED DECEMBER 1, 2006
AMENDED MARCH 31, 2007
AMENDED NOVEMBER 25, 2007
AMENDED MARCH 1, 2008
AMENDED APRIL 17, 2015

SECTION 63

RESIDENTIAL LIFE CARE DISTRICT

63A. USES PERMITTED. In a Residential Life Care District, there shall be permitted:

63A.1. GENERAL PRINCIPAL USES. The following principal uses and buildings:

(A) Any general principal use and building permitted in a Village Residential District under the provisions of 60A.1.;

(B) Farming, truck or nursery gardening, and the raising of crops, fruit, livestock, or poultry provided that no animals kept for commercial purposes shall be housed less than 150 feet from any property lines. The foregoing provision shall not permit the keeping for commercial purpose of fur bearing animals other than rabbits, nor the keeping of swine for commercial purposes;

(C) A vegetable stand;

(D) Parks, playgrounds, forests, wildlife sanctuaries, boat landing areas, and similar open reservations operated by government units or nonprofit organizations, game raising, hunting and other conservation activities carried on under private or public ownership:

(E) Private boat landings accommodating not more than three pleasure boats and private swimming facilities.

63A.2. SPECIAL PRINCIPAL USES. The following principal uses and buildings only when specifically authorized in the particular instance by a special exception granted by the Commission pursuant to Section 120 and subject to the conditions prescribed in Section 130:

(A) Any special principal use and building permitted in Village Residence Districts, under the provisions of 60A.2.;

(B) dog kennels, commercial dog kennels, dog grooming facilities and veterinary hospitals, provided that they are located on lots of not less than seven acres and that any animals therein are kept within a building or enclosure which is located not less than 150 feet from any lot line;

(C) Liveries, boarding or riding stables, provided that they are located on lots of not less than seven acres and provided further that no animals are stabled in any building located less than 150 feet from any lot line;

(D) A commercial greenhouse provided that it is located on a lot of not less than three acres and not less than 100 feet from any lot line;

(E) A cemetery of a church corporation or cemetery association having its principal office in the Town;

(F) A dump operated by the Town; and

(G) A life care facility.

(1) An integrated facility, which shall provide:

(a) residential family dwelling units for life use;

(b) a Life Care Health Center licensed by the State of Connecticut under Section 19-13-D 8t of the Public Health Code of the State of Connecticut which may also include domiciliary beds which are licensed by the State of Connecticut under Section 19-13-D6 of said code, and which provides skilled nursing service, medical service, and other health related services primarily for residents of the family dwelling units and may include medical service personnel support areas such as offices, lounges and dining facilities.

(c) a common area containing meeting rooms, dining rooms and central kitchen, recreational rooms or areas for the use of residents of such facility and their guests, and offices used for the management and operation of the facility.

(2) Residency and/or occupancy in said Life Care Facility shall be restricted to persons 62 years of age or older, except that in the event of a married couple one spouse may be younger than 62 years of age.

(3) Said facility may also include as an accessory use in the common area, a bank, general store, beauty shop and laundry for use of residents only.

(4) In no event shall any such facility contain more than 212 family dwelling units.

(H) Business and professional offices, including offices for provision of financial services, but excluding banks, and also excluding offices which may result in a large number of visits to the premises by customers or clients.

(I) Medical offices, but excluding hospitals and facilities for emergency or walk-in services.

(J) An active adult community as follows:

(1) A residential Community providing housing primarily for older persons in which not less than 80% of the occupants are 55 years of age or older to the extent permitted by Federal and State Fair Housing Laws and any other applicable laws. This restriction shall be incorporated into the respective deeds of the units and shall remain in effect unless modified by the Essex Zoning Commission and the owner(s) of the property.

(2) Additional allowed uses are the provisions of amenities and accessory or ancillary uses typical in said residential community.

(3) There shall be a minimum of two residential parking spaces required per unit, one of which must be under cover. The commission, in its discretion, may require additional guest parking as follows: guest parking; RV/trailer; and, employee parking. All parking shall be suitably landscaped and screened.

(4) While it is the intention of this section to provide housing for people aged 55 and over, The Commission recognizes that under certain conditions it may not be in the best interest of the Town to restrict the proposed development to 80% of the occupants being 55 years of age and older. Therefore, the Commission may, in its discretion, waive the requirement that 80% of the occupants of structures constructed under this section 63A.2.(J) be restricted to people aged 55 years and older. In deciding whether or not to waive this restriction the Commission may consider traffic, water supply, size of the structure, the number of units contained in the structure(s), the number of bedrooms within each unit, available parking, proposed recreational facilities, if any neighboring structures are or are not restricted, (elevators within the structure(s)), the effect, if any, on neighboring properties and the location of the proposed development relative to other facilities and medical offices. If the Commission waives the above restriction, then the units may be sold and/or occupied by persons of any age. However, all of the other conditions of this section must be complied with.

63A.3. <u>ACCESSORY USES.</u> Any accessory use or improvements but not including:

(A) SIGNS. Any sign unless it conforms to the requirements prescribed therefore in these Regulations;

(B) VEHICLES; RESIDENCE USES. The parking or storage of any commercial motor vehicle accessory to a use described in 63A.1.(A) unless: (1) the number thereof does not exceed one, (2) such vehicle is regularly used for transportation, (3) such vehicle does not exceed one and one-half tons capacity, (4) such vehicle is used primarily for personal rather than business purposes, and (5) such vehicle is usually parked or stored indoors;

(C) VEHICLES; OTHER USES. The parking or storage of any commercial motor vehicle accessory to a use described in 63A.1.(B) or (C) or in 63A.2. unless: (1) the number thereof does not exceed five, (2) such vehicles are regularly used for transportation, (3) such vehicles do not exceed one and one-half tons capacity, (4) their locations on the lot of the principal use is not less than 100 feet from any public street line and 50 feet from any lot line.

(D) BUILDINGS. Any building used for residence purposes unless the area of the lot upon which the principal use is located conforms to the minimum required for all dwelling units thereon including such accessory building; and

63A.4. SIGNS. In addition to any sign permitted under 111B. and subject to the limitations prescribed in 111A., signs as accessory uses as follows:

(A) RESIDENCE USES. Accessory to a use described in 63A.1.(A), one resident name sign, not exceeding two square feet in area, or, in the case of a customary home occupation, one business name sign not exceeding two square feet in area: and

(B) OTHER USES. Accessory to a use described in 63A.1(B) and 63A.1.(C) or accessory to a use described in 63A.2., and only as authorized by the special exception authorizing such use, two business name signs each not exceeding 12 square feet in area.

63B.1. REQUIRED CHARACTERISTICS. The lot and the buildings involved in any general or special use in a Residential Life Care District, other than a Life Care Facility, or an Active Adult Community, shall conform to the following characteristics:

	DISTRICT RLC
Minimum Lot Area	40,000 square feet
Minimum Lot Width	150 feet
Minimum Lot Area Per Family Dwelling Unit	40,000 square feet
Front Setback	40 feet
Side Setback	30 feet
Rear Setback	30 feet
Maximum Building Coverage	10%
Maximum Building Height	30 feet

63B.2.REQUIRED CHARACTERISTICS. The parcel of land and buildings involved in a Life Care Facility shall conform to the following characteristics:

	DISTRICT RLC
Front Setback	50 feet*
Side Setback	50 feet
Rear Setback	50 feet
Maximum Building Coverage	15%
Maximum Building Height	35 feet

* Except 200 feet from Bokum Road, and 30 feet when abutter is a railroad ROW.

(A) The minimum size parcel of land shall be 90 acres.

(B) The facility shall be served by the Connecticut Water Company or its successor.

(C) The minimum lot area shall be 17,000 square feet per family dwelling unit plus 2,000 square feet for each patient's sleeping accommodation in the Health Center.

(D) Patients' sleeping accommodations in the Health Center shall not be more than one for each three dwelling units and shall not be less than one for each seven dwelling units.

63B.3.REQUIRED CHARACTERISTICS. The parcel of land and buildings involved in an Active Adult Community shall conform to the following characteristics:

Front Setback	40 feet
Side Setback	30 feet
Rear Setback	30 feet
Maximum Building Coverage	15%
Maximum Building Height	35 feet

(A) The minimum size parcel of land shall be ten acres.

(B) The community shall be served by the Connecticut Water Company or its successor, or other public water supply entity and an on-site sewer disposal system.

(C) The units shall have a minimum of 1,000 square feet and a maximum 3,000 square feet of residentially occupied space per dwelling unit. There shall be a maximum of three bedrooms per unit.

(D) There shall not be more than five units per acre. The maximum number of units allowed in any Active Adult Community development shall be 100. In addition, a maximum aggregate total of 100 dwelling units, whether in one or more than one Active Adult Community development, shall be permitted in any zone. Additional dwelling units shall be separated by a minimum of 2,000 linear feet measured in a horizontal direct line from the nearest point of each parcel of land.

(E) No dwelling unit shall have more than two stories of residentially occupied space excluding garages, parking areas, and storage areas.

(F) All driveways or access ways serving the development shall be located at least 25 feet from any property line except for a perpendicular crossing connecting to the principal means of access.

(G) The maximum coverage shall be controlled by the requirements of Section 40T of these regulations, as amended, which presently allows a maximum coverage of sixty-five percent (65%) of the lot area.

(H) Open space shall be defined and provided as required in Section 5.8 and 6.12 of the Subdivision Regulations of the Town of Essex as amended from time to time or as modified herein. Active Adult Communities proposed with a density of four units per acre shall provide a minimum of 20% of the land area as open space and a density of five units per acre shall require a minimum of 35% of the land area as open space. If the parcel is part of an approved subdivision the Commission may waive or reduce these open space requirements during the approval process for an Active Adult Community Development

63B.4. REQUIRED CONDITIONS. In addition to the conditions set forth in Section 130, the parcel of land and buildings involved in a Life Care Facility shall conform to the following conditions.

(A) The applicant shall demonstrate that its Life Care Facility provides an integrated plan conforming to the definitions set forth in Section 63A.2(G).

(B) The Special Exception Application may require the applicant to furnish any or all of the information required for the approval of a subdivision under the Subdivision Regulations of the Town of Essex, and shall be sent to the Planning Commission for site plan review no less than thirty days prior to the public hearing for Special Exception.

(C) Off-street parking spaces shall be provided at a minimum of one space per family dwelling unit, point (.) five space per patient sleeping accommodation in the Health Center and one space per employee or staff member.

(D) The application shall conform to Sections 131A.3(A), 131A.3(B), 131A.4(B), 131A.5(D) and 131C of these regulations.

(E) In addition to the bonding requirements, the Commission may require the applicant to pay to the Town of Essex the costs of inspections required by the Zoning Commission or its agent.

SECTION 63-2

ACTIVE ADULT COMMUNITY DISTRICT

63-2A. USES PERMITTED. In an Active Adult Community District, there shall be permitted:

63-2A.1. GENERAL PRINCIPAL USES.

(A) One family dwellings;

(B) Customary home occupations carried on within an existing dwelling by a permanent resident thereof in which not more than two nonresidents of such dwelling are engaged, if such use is secondary in character and intensity to the use of the building as a dwelling and such activity does not noticeably change the apparent residential character of the premises as by creating noise, odors, smoke, fumes, vibration, illumination, or radio or television interference.

63-2A.2. SPECIAL PRINCIPAL USES. The following principal uses and buildings only when specifically authorized in the particular instance by a special exception granted by the commission pursuant to Section 120 and subject to the condition prescribed in Section 130:

(A) An Active Adult Community as described in Section 63A.2(J) hereof.

63-2B REQUIRED CHARACTERISTICS. The lot and the buildings involved in any General Principal Use in an Active Adult Community District, described in Section 63-2A.1, shall conform to the following characteristics:

	DISTRICT Active Adult Community
Minimum Lot Area	80,000 square feet
Minimum Lot Width	150 feet
Minimum Lot Area Per Family Dwelling Unit	80,000 square feet
Front Setback	40 feet
Side Setback	30 feet
Rear Setback	30 feet
Maximum Building Coverage	7.5%
Maximum Building Height	30 feet

63-2C REQUIRED CHARACTERISTICS. The parcel of land and buildings involved in an Active Adult Community shall conform to the characteristics described in Section 63B.3. hereof, as amended from time to time.

63-2D WAIVER: While it is the intention of this section to provide housing for people aged 55 and over, The Commission recognizes that under certain conditions it may not be in the best interest of the Town to restrict the proposed development to 80% of the occupants being 55 years of age and older. Therefore, the Commission may, in its discretion, waive the requirement that 80% of the occupants of structures constructed under this section 63-2 be restricted to people aged 55 years and older. In deciding whether or not to waive this restriction the Commission may consider traffic, water supply, size of the structure, the number of units contained in the structure(s), the number of bedrooms within each unit, available parking, proposed recreational facilities, if any neighboring structures are or are not restricted, (elevators within the structure(s)), the effect, if any, on neighboring properties and the location of the proposed development relative to other facilities and medical offices. If the Commission waives the above restriction, then the units may be sold and/or occupied by persons of any age. However, all of the other conditions of this section must be complied with.

SECTION 64

RIVER ROAD RESIDENTIAL DISTRICT

64A. USES PERMITTED. In the River Road Residential District shall be permitted:

64A.1. GENERAL PRINCIPAL USES. The following principal uses and buildings:

(A) Any general principal use and building permitted in a Village Residence District under the provisions of 60A.1.:

(B) Farming, truck or nursery gardening, and the raising of crops, fruit, livestock, or poultry provided that no animals kept for commercial purposes shall be housed less than 150 feet from any property lines. The foregoing provision shall not permit the keeping for commercial purposes of fur-bearing animals other than rabbits, nor the keeping of swine for commercial purposes; and

(C) A vegetable stand;

(D) Parks, playgrounds, forests, wildlife sanctuaries, boat landing areas, and similar open reservations operated by government units or nonprofit organizations, game raising, hunting, and other conservation activities carried on under private or public ownership;

(E) Private boat landings accommodating not more than three pleasure boats and private swimming facilities.

64A.2. SPECIAL PRINCIPAL USES. The following principal uses and buildings only when specifically authorized in the particular instance by a special exception granted by the Commission subject to the conditions prescribed in or pursuant to Section 130:

(A) Any special principal use and building permitted in Village Residence Districts, under the provisions of 60A.2.:

(B) Dog kennels, commercial dog kennels, dog grooming facilities and veterinary hospitals, provided that they are located on lots of not less than seven acres and that any animals therein are kept within a building or enclosure which is located not less than 150 feet from any lot line;

(C) Liveries, boarding or riding stables, provided that they are located on lots of not less than seven acres and provided further that no animals are stabled in any building located less than 150 feet from any lot line;

(D) A commercial greenhouse provided that it is located on a lot of not less than three acres and not less than 100 feet from any lot line;

(E) A cemetery of a church corporation or cemetery association having its principal office in the Town: and

64A.3. ACCESSORY USES. Any accessory use or improvement but not including:

(A) SIGNS. Any sign unless it conforms to the requirements prescribed therefore in these Regulations;

(B) VEHICLES; RESIDENCE USES. The parking or storage of any commercial motor vehicle accessory to a use described in 61A.1. (A) unless: (1) the number thereof does not exceed one, (2) such vehicle is regularly used for transportation, (3) such vehicle does not exceed one and one-half tons capacity, (4) such vehicle is used primarily for personal rather than business purposes, and (5) such vehicle is usually parked or stored indoors;

(C) VEHICLES; OTHER USES. The parking or storage of any commercial motor vehicle accessory to a use described in 61A.1 (B) or (C) or in 61A.2. unless: (1) the number thereof does not exceed five, (2) such vehicles are regularly used for transportation, (3) such vehicles do not exceed one and one-half tons capacity, and (4) their location on the lot of the principal use is not less than 100 feet from any street line and 50 feet from any lot line:

(D) BUILDINGS. Any building used for residence purposes unless the area of the lot upon which the principal use is located conforms to the minimum required for all dwelling units thereon including such accessory building; and

64A.4. SIGNS. In addition to any sign permitted under 111B. and subject to the limitations prescribed in 111A., signs as accessory uses as follows:

(A) RESIDENCE USES. Accessory to a use described in 61A.1. (A), one resident name sign, not exceeding two square feet in area, or, in the case of a customary home occupation, one business name sign not exceeding two square feet in area; and

(B) OTHER USES. Accessory to a use described in 61A.1.(B) and 61A.1.(C) or accessory to a use described in 61A.2., and only as authorized by the special exception authorizing such use, two business name signs each not exceeding 12 sq. ft. in area.

64B. REQUIRED CHARACTERISTICS. The lot and the buildings involved in any general or special use in River Road Residential District shall conform to the following characteristics:

	DISTRICT RRR
Minimum Lot Area	130,000 square feet
Minimum Lot Width	150 feet
Minimum Lot Area Per Family Dwelling Unit	130,000 square feet
Front Setback	40 feet
Side Setback	30 feet
Rear Setback	30 feet
Maximum Building Coverage	10%
Maximum Building Height	30 feet

AMENDED OCTOBER 17, 2005
AMENDED, MAY 19, 2014

SECTION 70

ESSEX VILLAGE DISTRICT

70A. USES PERMITTED. In the Essex Village District, there shall be permitted:

70A.1. GENERAL PRINCIPAL USES. The following principal uses and buildings:

(A) One-family dwellings; and

(B) A customary home occupation, as set forth in 60A.1.(D).

70A.2. SPECIAL PRINCIPAL USES. The following principal uses and buildings only when specifically authorized in the particular instance by a special exception granted by the Commission subject to the conditions prescribed in or pursuant to Sections 120 and 130:

(A) Professional business offices and financial institutions but not to include check cashing establishments;

(B) Barber shops, beauty shops, nail salons and similar service establishments but not to include tattoo parlors;

(C) Retail stores but not to include stores that principally sell adult entertainment products or any pawned items;

(D) Retail sales of alcoholic beverages subject to the provisions of section 112;

(E) Artisans and craftspeople of decorative glass, metals, jewelry, home decorative products and similar items for on-premises production and retail sale, and off-site sales through mail order; Art studios and galleries;

(F) Custom tailors, watch and jewelry repair, shoe repair and similar service establishments;

(G) Pharmacies

(H) Restaurants, and food service shops;

(I) Grocery stores and similar food service retail stores;

(J) Churches, synagogues, and other places of public worship.

(K) Water supply facilities to include pump stations, pressure reducing stations, storage tanks and towers, wells and treatment facilities.

Exception: No special exception shall be required to change from one use or building authorized in Section 70A.2.(A) to another use or building authorized in Section 70A.2.(A), or to change from one use or building authorized in Section 70A.2.(B) to another use or building authorized in Section 70A.2.(B); provided that in each instance a zoning permit is obtained pursuant to Section 121A.3 and further provided that all other Sections of these Regulations are satisfied.

70A.3. ACCESSORY USES. Any accessory use or improvement customary with and incidental to a permitted use and in conformance with this section but not including:

(A) SIGNS. Any sign unless it conforms to the requirements prescribed therefore in these Regulations;

(B) ANIMALS. The keeping of livestock and poultry, or the keeping of any other animals except as household pets that are compliant with Federal and State laws.

70A.4. SIGNS. In addition to any sign permitted under 111B., and subject to the limitations prescribed in 111A, signs as accessory uses are allowed if they conform to the following restrictions: (October 17, 2005)

(A) RESIDENCE USES. Accessory to a use described in 70A.1, one resident name sign, not exceeding two square feet in area, or, in the case of a customary home occupation, one business name sign not exceeding two square feet in area; and

(B) OTHER USES. Accessory to a use described in 70A.2., (1) one business name sign not to exceed 12 square feet in area, and (2) a maximum of two advertising signs, each not to exceed six square feet in area.

All signs are subject to the following conditions:

1. The only permitted sign illumination sources are incandescent and florescent lights;
2. Sign lighting shall be mounted on the sign, the building, or on the ground in such a manner as to shield the light source from direct view;
3. Building lighting shall be located on the building or on the ground in such a manner as to shield the light source from direct view
4. Internally illuminated signs that are located in the interior of a building shall not be placed in a manner to be used for exterior advertising through storefront windows.

70B. REQUIRED CHARACTERISTICS. The lot and the building involved in any general or special use in the Essex Village District shall conform to the following characteristics:

	DISTRICT EV
Minimum Lot Area	15,000 square feet
Minimum Lot Width	60 feet
Minimum Lot Area Per Family Dwelling Unit	15,000 square feet
Front Setback	0 feet
Side Setback	5 feet
Rear Setback	5 feet
Maximum Building Coverage	25%
Maximum Building Height	**35 feet**

70C. SPECIAL PROVISION RELATING TO MULTIPLE BUILDINGS AND MULTIPLE USES. When allowed by special exception granted by the Commission under Section 70A.2 above, any one or more Special Principal Uses permitted in this District may be combined on the same lot with a single one-family dwelling, whether in the same or different buildings thereon, whether or not Section 40B.2 or 40B.3 otherwise provides.

70D. EXISTING BUSINESSES. Any Village Business Use occupying a portion of a building within the Essex Village District, which use was actually in existence on January 1, 1981, may, without the authorization of a special exception required in Section 70A.2, be expanded to occupy other portions of said building provided that:

70D.1. VILLAGE BUSINESS USE. The other portions to be so occupied existed and were actually in use on the date referred to above for any Village Business Use and have not since said date been used for a use described in Section 70A.1; and

70D.2. OTHER REQUIREMENTS. Such use as so expanded conforms with all other requirements of these Regulations including any additional provision for Off-Street Parking and Truck Loading Space required for such use as so expanded.

For purposes of the Section 70D, the term "Village Business Use" shall mean any use described in Section 70A.2(A) or 70A.2(B).

AMENDED JULY 15, 2003
AMENDED OCTOBER 17, 2005
AMENDED AUGUST 1, 2007
AMENDED NOVEMBER 1, 2012
AMENDED APRIL 1, 2017
MAY 1, 2017

SECTION 71

WATERFRONT BUSINESS DISTRICT

71A. USES PERMITTED. In a Waterfront Business District, there shall be permitted:

71A.1. GENERAL PRINCIPAL USES. The following principal uses and buildings:

(A) Deleted August 1, 2007 (One family dwellings); (August 1, 2007)

(B) Office of naval architects, yacht brokers, marine surveyors, marine insurance brokers, marine contractors, marine laboratories, marine engineering companies and other like marine services;

(C) Sail lofts, ship chandleries, bait and tackle shops, agencies for the sale of boats, marine engines, marine equipment and fuel and lubricants for marine use.

71A.2. SPECIAL PRINCIPAL USES. The following principal uses and buildings, only when specifically authorized in the particular instance by a special exception granted by the Commission subject to the conditions prescribed in or pursuant to Section 130:

(A) Yards or facilities for building, fabricating, repairing, servicing, or storing boats;

(B) Marinas;

(C) Wharves, slips, boat basins and landings for boats of any type; commercial docks and other facilities for commercial boat lines;

(D) Yacht clubs; and

(E) Nonprofit maritime museums.

(F) Water supply facilities to include pump stations, pressure reducing stations, storage tanks and towers, wells and treatment facilities.

(G) Other general office uses within existing buildings of no more than 15,000 square feet in gross area provided that no more than 30 percent of the total gross floor area of all buildings on any parcel shall be dedicated to general office uses.

(H) Restaurants and food service shops as accessory uses on lots where a principal use is listed in sections 71A.2A through G is located.

71A.3. ACCESSORY USES. Any accessory use or improvement including:

(A) One single family dwelling existing and used as a residence as of August 1, 2007, and;

(B) One family dwelling of a guard, caretaker or superintendent and his or her family which shall comply with Sections 45.C., 45.D.3 and 45.D.4 of these regulations. In a Waterfront District a minimum floor space of 1,200 square feet is required for any building containing such uses.

Accessory uses shall not include:

(C) Signs. Any sign, unless it conforms to the requirements prescribed therefore in these Regulations.

(D) Buildings. Any building used for residence purposes unless the area of the lot upon which the principal use is located conforms to the minimum required for all dwelling units thereon including such accessory building;

(E) Fuel. The sale or dispensing of fuels or lubricants except for boats; and

(F) Livestock. The keeping of livestock, poultry or other animals except as household pets.

71A.4. SIGNS. In addition to any sign permitted under 111B. and subject to the limitations prescribed in 111A., signs as accessory uses as follows:

(A) RESIDENCE USES. Accessory to a use described in 71A.1.(A), one resident name sign, not exceeding two square feet in area; and

(B) OTHER USES. Accessory to a use described in 71A.1.(B) and 71A.1.(C) and 71A.2.(A) through (C); (1) one single business name sign not to exceed 12 square feet; (2) a banner, pennant or flag not to exceed 12 square feet; (3) or other sign as specifically authorized by special exception.

All signs are subject to the following conditions:

1. The only permitted sign illumination sources are incandescent and florescent lights;

2. Sign lighting shall be mounted on the sign, the building, or on the ground in such a manner as to shield the light source from direct view;

3. Building lighting shall be located on the building or on the ground in such a manner as to shield the light source from direct view.

4. Internally illuminated signs that are located in the interior of a building shall not be placed in a manner to be used for exterior advertising through storefront windows.

71B. REQUIRED CHARACTISTICS. The lot and the building involved in any general or special use in a Waterfront Business District shall conform to the following characteristics:

	DISTRICT Waterfront
Minimum Lot Area	30,000 square feet
Minimum Lot Width	100 feet
Minimum Lot Area Per Family Dwelling Unit	30,000 square feet
Front Setback	30 feet
Side Setback	20 feet
Rear Setback	30 feet
Maximum Building Coverage	25%
Maximum Building Height	35 feet

AMENDED NOVEMBER 15, 1998
AMENDED JANUARY 30, 2013
AMENDED MARCH 17, 2014

SECTION 80

COMMERCIAL DISTRICTS

80A. USES PERMITTED. In a Commercial District, there shall be permitted:

80A.1. GENERAL PRINCIPAL USES. The following principal uses and buildings:

(A) One-family dwelling;

(B) Customary home occupation carried on within an existing dwelling by a permanent resident thereof in which not more than two nonresidents of such dwelling are engaged, if such use is secondary in character and intensity to the use of the building as a dwelling and such activity does not noticeably change the apparent residential character of the premises by creating noise, odors, smoke, fumes, vibration, illumination or radio or television interference;

(C) Professional and business offices and financial institutions not exceeding 1,800 gross square feet area of building but not to include check cashing establishments;

(D) Retail stores, custom tailors, watch and jewelry repair, shoe repair and similar service establishments, not exceeding 1,800 gross square feet area of building, and not to include stores that principally sell adult entertainment products, or any pawned items;

80A.2. SPECIAL PRINCIPAL USES. The following principal uses and buildings only when specifically authorized in the particular instance by a special exception granted by the Commission subject to the conditions prescribed in or pursuant to 130:

(A) Any special principal use and building permitted in a Village Residence District, under the provisions of 60A.2;

(B) Professional and business offices and financial institutions exceeding 1,800 gross square feet area of building but not to include check cashing establishments;

(C) Retail stores, exceeding 1,800 gross square feet area of building and not to include stores that principally sell adult entertainment products, or any pawned items;

(D) Movie theaters, music, dance or dramatic arts theaters and studios to include instruction and rehearsals, Art studios;

(E) Indoor recreational facility to include billiard parlors, bowling alleys, indoor skating rinks, fitness centers, martial arts studios, gymnasiums;

(F) Custom tailors, watch and jewelry repair, shoe repair and similar service establishments;

(G) Restaurants and food service shops;

(H) Artisans and craftspeople of decorative glass, metals, jewelry, home decorative products and similar items for on-premises production and retail sale, and off-site through mail order; Art studios and galleries;

(I) Barber shop, beauty parlor, nail salons and similar service establishments but not to include tattoo parlors;

(J) Child day care facility or similar establishment;

(K) Cleaning or laundry agency, or similar retail service establishment;

(L) Food service retail store, bakery and confectionery store;

(M) Undertakers establishments;

(N) Newspaper plant or job printing establishment, blueprinting and similar reproduction service;

(O) Radio and television broadcasting studios;

(P) Business, secretarial or vocational schools;

(Q) Automobile service stations and car wash enterprises, provided that no part of the lot so used is within 2,500 feet of any part of another lot so used; public garages; automobile, trailer, mobile home, boat and farm equipment sales rooms or outdoors sales areas; and public parking area;

(R) An emergency medical transportation service conducted by a nonprofit organization furnishing ambulance transportation and ancillary in-transit emergency services in a vehicle or vehicles owned and operated by a nonprofit organization;

(S) Public schools;

(T) Churches, synagogues and other places of public worship;

(U) Accessory apartments (not to exceed two (2).

(V) Retail package stores, subject to the provisions of Section 112, the sale of packaged alcoholic beverages, provided that (a) no part of the lot so used is within 200 feet of any part of a corner lot, and (b) no retail package store be located on a corner lot.

(W) Cellular Telecommunications Facility. Antennas approved under this section shall not be required to comply with the height limitations of Section 40J as long as the antennae do not exceed the height of the existing structure to which they are attached.

(X) A municipal or volunteer owned or operated fire house; police, fire marshal and other municipal office and vehicle garage facilities.

(Y) Municipally Operated Parking Facility. Anything in these regulations to the contrary notwithstanding, 1) the landscape strip adjacent to and extending the length of the street line shall be reduced to a strip not less than 8' wide: 2) the maximum combined coverage of all above ground parking improvements shall not exceed 90%; and, 3) when two (2) or more lots are joined to form a contiguous municipally owned, leased or operated parking facility setback distance to the common interior lot lines shall be reduced to 0'.

(Z) Veterinary Clinic where animals are brought in for medical treatment and may remain overnight for observation, further medical treatment or recuperation. Such overnight use shall be conducted within the building.

EXCEPTION: Other than in Subsection 80A.2.(E), no special exception shall be required for the establishment of a new use in any lettered subsection of 80A.2., similar to a use in the same lettered subsection which has already been granted a special exception. For the purpose of this section, "similar" shall be defined as not substantially changing the amount of traffic, crowding, or effect on neighboring premises, of the original special exception approval.

80A.3. <u>ACCESSORY USES.</u> Any accessory use or improvement but not including:

(A) SIGNS. Any sign, unless it conforms to the requirements prescribed therefore in these Regulations;

(B) BUILDINGS. Any buildings used for residence purposes unless the area of the lot upon which the principal use is located conforms to the minimum required for all dwelling units thereon including such accessory buildings; and

(C) ANIMALS. The keeping of livestock or the keeping of poultry or other animals except as household pets.

80A.4. SIGNS. In addition to any sign permitted under 111B. and subject to the limitations prescribed in 111A., signs as accessory uses as follows:

(A) RESIDENCE USES. Accessory to a use described in 80A.1.(A), one resident name sign, not exceeding two (2) square feet in area, or, in the case of a customary home occupation, one business name sign not exceeding two (2) square feet in area; and

(B) OTHER USES. Accessory to a use described in 80A.1.(B) through 80A.1.(D) or in 80.2(A) through 80A.2.(U): (1) Two separate business name signs not to exceed 12 square feet each; (2) One multi-business name sign, each name sign not to exceed two square feet, total sign area not to exceed 12 square feet; (3) One advertising sign not to exceed 18 square feet; (4) A fabric banner, pennant or flag not to exceed 12 square feet; and (5) or other sign as specifically authorized by special exception.

80B. LANDSCAPING. All lots used in a Commercial District shall provide a strip of land not less than 15 feet wide, adjacent to and extending for the length of the street line, which strip shall be kept in lawn or otherwise suitably landscaped. Such strip may be transversed by not more than two driveways, and one additional driveway for each 200 feet of frontage of the lot in excess of 300 feet. Not more than 25 percent of all parking provided shall be located between the principal building and the street. The balance of parking provided shall be located in an area either behind the building or screened from the view of the street, except at entrances to and exits from the parking area. Such screening shall consist of either evergreen vegetation or an opaque fence between four and five feet high.

80B.1. ADJOINING RESIDENCE DISTRICT. Where a property adjoins a Residence District on the side or rear, a "green belt" shall be planted and maintained at 30 feet in depth, including conifers planted in no fewer than two rows, no further than 15 feet apart, with trees planted no more than 15 feet apart along each row, staggered to provide maximum screening, and using trees not less than two inch caliper at time of planting;

80B.2. OTHER CONDITIONS. Such other reasonable conditions as the Commission may deem necessary or appropriate to impose for the purpose

of preventing or diminishing: (A) any adverse effect of the use, land, or improvements to be authorized, upon the health, safety, and welfare of the Community, (B) Any undue annoyance or disturbance of the occupants of premises in the general neighborhood of such use, land or improvements, and (C) any impairment of the suitability of such use, land or improvements for the General Principal Uses permitted in the district thereof under these Regulations and predominantly existing therein.

80C. REQUIRED CHARACTERISTICS. The lot and the buildings involved in any general or special principal use in a Commercial District shall conform to the following characteristics:

	DISTRICT C
Minimum Lot Area	30,000 square feet
Minimum Lot Width	150 feet
Minimum Lot Area Per Family Dwelling Unit	30,000 square feet
Front Setback	30 feet
Side Setback	15 feet
Rear Setback	30 feet
Maximum Building Coverage	15%
Maximum Building Height	**35 feet**

EFFECTIVE NOVEMBER 1, 1999

SECTION 81

HERITAGE GATEWAY DISTRICT

81A. PURPOSE. The "heritage gateway area" of Essex is defined as those properties that are identified on the Assessor's Map 33 as lot numbers 25, 25-1, and 28, and on the Assessor's Map 45 as lot numbers 3, 4, 5, and 20, as the same are described in the Essex Land Records on November 1, 1999. A Petition for Change to a Heritage Gateway District (HG) will only be accepted for properties within the heritage gateway area. The purpose of the HG District is to create a design district with a flexible framework for the development of properties that have unique or unusual characteristics and do not fit into the conventional zoning pattern, such as village centers, heritage industrial areas and open spaces that would otherwise require unusual environmentally and aesthetically sensitive development. The design of each HG District will appropriately reflect and protect the character of the site with due consideration for the historic, environmentally sensitive or aesthetic role of the site in the heritage and landscape of the Town of Essex.

81B. PETITION FOR CHANGE TO AN HG DISTRICT.

81B.1. PETITION FOR CHANGE. Within the heritage gateway area, any owner of property may petition the commission requesting a change in these regulations or the boundaries of the districts in accordance with the provisions of Section 123 Amendments of Regulations and District Boundaries of the Regulations, except that the petitioner will prepare the map at a scale appropriate to depict the boundaries of the proposed change in district boundaries.

81B.2. PRE-PETITION CONFERENCE. Any potential petitioner may submit and the commission may consider a preliminary Concept Plan and Standards to the zoning commission or the planning commission for informal review and consideration prior to submittal of a formal Petition for Change. The preliminary Concept Plan and Standards should show sufficient information to enable the commissions or commissioners to make a general planning review under the standards of Section 81 of the regulations or the subdivision regulations in total. The petitioner should submit enough copies of the plans for each member of each reviewing commission and the zoning enforcement agent prior to the regularly scheduled meeting of the commissions to allow placement on the next meeting agenda. Upon scheduling, the commission will hold the pre-petition conference at a scheduled meeting as a workshop. Members of the public may be granted the right to ask questions and present views. The commission will record the proceedings. The petitioner will submit a transcript of the proceedings and incorporate it into the record at later public hearing. The commissions may schedule a field visit to the site of the proposed development as a part of the preliminary review. Review and comments by the commissions or commissioners will in no way

imply approval of any part of the preliminary Concept Plan and Standards.

81B.3. REVIEW AND REFERRAL. The commission may hire at the petitioner's expense outside experts to supplement review by the town staff and regular consultants. The commission shall limit the scope of any outside expert review to that necessitated by the Petition for Change. The administration of this section shall comply with applicable statutory regulatory and other legal authority regulating the process of a Petition for Change.

81B.4. ADOPTION. Properties containing four acres or more and located within the heritage gateway area may be designated as HG Districts upon approval by the commission of a Petition for Change of the District made by or on behalf of a property owner in conformance with Section 81C of the regulations. Upon approval, the commission will change the zone designation of the proposed area to an HG District and adopt the Concept Plan and Standards as an amendment to the regulations, specifically applicable to the area of that zone change.

81C. CONCEPT PLAN AND STANDARDS. The Petition for Change of the District to an HG District will include a Concept Plan and Standards for the District. The Concept Plan and Standards will waive and modify any provision of the Regulations where the Concept Plan and Standards describe or delineate their subject matter. If the Concept Plan and Standards do not delineate or describe the subject matter of the regulations for an HG District, the regulations for the districts applicable to the land prior to the change to an HG District will apply. Upon approval of change to an HG District, the prior district will no longer apply.

The Concept Plan and Standards will include: (i) existing conditions; (ii) a conceptual plan of the areas and uses to be proposed; (iii) standards and conditions that will apply to such areas and uses; and (iv) such other plans and details as may be submitted by the petitioner and approved by the commission to illustrate the size, impact and appropriateness of the change of zone and its relation to the surrounding neighborhood and zone districts. An engineer, surveyor, architect or landscape architect will prepare the graphic plans, unless otherwise indicated. Except for the boundary survey provided under Subsection 81C.1.(C) below, graphic plans need only be illustrative. Each Concept Plan and Standards will contain or be accompanied by, in writing, the following elements:

81C.1. EXISTING CONDITIONS. The following conditions may be located as appropriate throughout the Concept Plan and Standards.

(A) Existing topography (which can be a Compilation Survey) with contours of sufficient spacing to show the general gradient of the site, existing structures, existing roads and rights-of-way, major topographic features (including wooded and open areas, specimen trees, ledge or outcroppings, and soil types), limits of upland review areas for inland wetlands, watercourses and flood plain;

(B) Land uses and municipal and zoning boundaries within 500 feet of the site;

(C) Property survey of the land to be included in the district prepared pursuant to the minimum requirements of Section 20-300b of the Connecticut Code of Regulations;

(D) Names and addresses of all abutting property owners as listed on the assessor's records keyed to an appropriate map; and

(E) Existing architectural and structural improvements, including building elevations, footprints and floor areas.

81C.2. CONCEPT PLAN. The following elements may be illustrative and conceptual provided that they conform to the standards appearing on this plan or the narrative text pursuant to Subsection 81C.3 of the regulations:

(A) Permitted uses, their locations, and their minimum and maximum gross floor areas allocated for each building;

(B) General land use areas, identified as permitting one or more of the specifically permitted uses;

(C) The shape, size and location of proposed public or private streets, walkways, parking areas, rail lines, easements, planted and treed areas, buffers, signage, lighting and lighting patterns, drainage patterns, open space areas, access locations from connecting roads and driveways within the site to the existing public road system, and amenities, such as parks, meeting space, bike paths, pedestrian trails, and public restrooms;

(D) Proposed architectural and structural improvements, including building elevations, footprints and floor areas;

(E) Proposed areas for public dedication, such as streets, parks and open spaces, and a plan of development for such areas;

(F) Illustrations and renderings to depict typical visual aspects of the improved parcels, and

(G) Date, scale, north point, town and state.

81C.3 STANDARDS. The following information may be submitted as a narrative text or included as narrative, table or graphic standards indicated on the Concept Plan:

(A) Method of determining, by boundary, use, type, or other method, division boundaries of parcels within the district;

(B) Specifications and standards for development phasing and areas and unit types for individual ownership of phases and parcels that may be a common interest community under Chapter 828 of the Connecticut General Statutes, pursuant to a reciprocal easement agreement, on private streets, or as independent single ownership parcels or combinations.

(C) Determination, by delineation, ratio or location, of areas of the site or floor area for each proposed land use;

(D) Bulk and density allocations for the above parcels, including:

(1) minimum setbacks;

(2) maximum overall lot coverage;

(3) maximum building height; and

(4) specifications for allocation and minimum number of parking and loading spaces to specific uses, to be dedicated prior to the time of issuance of certificate of occupancy, and standards for parking dimensions;

(5) percentage of use per building with no single use exceeding sixty percent of the gross floor area of all buildings proposed to be used within the district;

(E) Where proposed parcels, building floor areas improvements or uses are not dimensioned on the Concept Plan, a formula for determining their dimensions will be provided, and in that case, the conceptual plan will show one example wherein the ratios will be applicable;

(F) Standards for public and private street and walkway dimensions as desirable to preserve the character of the site;

(G) Narrative or graphic description of architectural style and character;

(H) Signage restrictions, including a unifying theme or style;

(I) Lighting design and light pattern standards, and

(J) Principles for public access rights and covenants.

81C.4 IMPACT STATEMENTS. The petitioner will submit the following impact statements not later than the day the Petition for Change is filed with the zoning commission. At the public hearing on the Petition for Change, the petitioner will describe and discuss the following impact statements; including all assumptions, qualifications and limitations. Each statement will compare the proposed project developed to the maximum extent permitted by the Concept Plan and Standards, to the maximum development of the same land as permitted by the existing zoning regulations and other land capacity limitations, such as sanitary sewerage, wetlands, steep slopes, etc. Review reports by municipal staff, as indicated below, will be submitted and incorporated into the record of the public hearing on the Petition for Change.

(A) MUNICIPAL FISCAL IMPACT STATEMENT. An appraiser, certified by the Mortgage Appraisers Institute, will prepare and submit a statement to be reviewed by the tax assessor who may prepare a report in response, covering the following factors:

(1) The property and other municipal tax and fee revenue that may be generated.

(2) The municipal expenses and burdens that may be generated.

(3) If there are residential components, the anticipated number of school-aged children and the impact on existing and planned schools.

(4) The impact of ancillary business to be generated in existing business centers by the population of, and visitors to the project, and the demand for ancillary development to be generated.

(B) PUBLIC SAFETY AND TRAFFIC IMPACT STATEMENT. A licensed professional engineer specializing in traffic and highway topics will prepare and submit a statement, to be reviewed by the town engineer, the chief of police, the fire marshal, the superintendent of highways and the emergency management director who may prepare reports in response, covering the following factors:

(1) The feasibility and safety considerations for the automobile and pedestrian traffic to be generated and the capacity of intersections, proposed parking, and access highways and public streets to carry the traffic without undue congestion.

(2) The impact of the project on public safety and the need for additional police.

(3) The impact on fire safety and the need for other or specialized equipment to be used for fire fighting at the project.

(C) PUBLIC WORKS IMPACT STATEMENT. A licensed professional engineer specializing in site engineering, drainage, and the design of municipal roads, highways, infrastructure and improvements will prepare and submit a statement, to be reviewed by the chief of police, the fire marshal, the town engineer, the town sanitarian and any private utility providers as indicated by the commission who may prepare reports in response, covering the following factors:

(1) The design and impact of the storm and other drainage systems at the project.

(2) The design and shading of proposed lighting.

(3) The design and layout of parking and its feasibility and safety for use by the public.

(4) The capacity of the wastewater, water and other utility systems proposed to be built and used by the project.

(D) CULTURAL, AESTHETIC OR HERITAGE IMPACT STATEMENT. A licensed architect or landscape architect experienced in the design and development of historic structures and the evaluation of structures and places for submission to the National or State Registries of Historic Sites and Buildings will prepare and submit a statement, to be reviewed by an architectural or other consultant chosen by the commission who may prepare a report in response, covering the following factors:

(1) The design and placement of buildings and landscaping;

(2) The maintenance of public amenities and the impact on heritage and character of the Town of Essex;

(3) The compatibility with public views and character of the surrounding neighborhood;

(4) The reinforcement of existing street and building massing patterns and open space patterns, in the vicinity of the development;

(5) Protection of and compatibility with locally significant or historic sites, vistas or features;

(6) Archeologically significant resources.

(E) NATURAL RESOURCES IMPACT STATEMENT. A licensed or certified professional specializing in environmental topics will prepare and submit a statement, to be reviewed by the town engineer, the zoning enforcement agent, the Conservation Commission, the Inland Wetlands and Watercourses Commission (if there are inland wetlands or watercourses on site), the Harbor Management Commission (if the site is on navigable waters as defined by the Connecticut General Statutes), the Parks and Recreation Commission (if any lands are proposed to be deeded to the town for such use), and the Tree Warden who may prepare reports in response, covering the following factors:

(1) Views and view sheds;

(2) Wetlands, aquifers, and watercourses critical to natural resources;

(3) Trees, endangered or critical plant species or forms and woodland habitats;

(4) Endangered or critical animals and natural habitats;

(5) Land forms, slopes and soils;

(6) Current agricultural production capability, and

(7) Air quality.

81C.5. Whenever the commission will deem it reasonably necessary or appropriate, it may require the petitioner to submit, at or before the public hearing thereon, any other information in such form as it may prescribe.

81D. ADOPTION AND FINDINGS.

81D.1. FINDINGS. The commission may approve, approve with modifications or deny the Petition for Change to an HG District and the Concept Plan and Standards with findings derived from the Petition for Change to an HG District, the proposed Concept Plan and Standards and facts described in the public hearing. When deciding upon the Petition or Change, the commission will make findings that:

(A) The Petition for Change to an HG District is in conformance with the general purpose of the regulations as defined in Subsection 10A of the Regulations.

(B) The Petition for Change to an HG District is in accordance with the comprehensive plan of zoning for Essex, as required by Section 8-2 of the Connecticut General Statutes, and the parcel of land is appropriate in historical character, size, location and relation to its neighborhood for the uses and standards imposed upon it in an HG District and the adopted Concept Plan and Standards.

(C) The Petition for Change to an HG District is not inconsistent with the Plan of Conservation and Development and such other municipal plans for development as the commission feels are appropriate.

(D) The Concept Plan and Standards will include certification from the public water company, or a licensed civil engineer with a specialty in water supply, that a satisfactory system of water supply may be made available and operative to the proposed land uses as a condition of the issuance of a zoning permit. The Concept Plan and Standards will include certification from a licensed civil engineer with a specialty in sewerage system design that a satisfactory system of sewerage treatment may be made available and operative to the proposed land uses as a condition of the issuance of a zoning permit.

(E) The Concept Plan and Standards will include a preliminary traffic analysis prepared by a professional traffic engineer estimating the traffic generated by the proposed development and traffic impacts on receiving streets. The preliminary traffic analysis will show that the design and road patterns of the development and surrounding neighborhood can adequately handle the proposed traffic.

(F) The Concept Plan and Standards will certify that the design and construction of drainage, utility and other systems for the development following approval will not unduly burden their capacity.

(G) The Concept Plan and Standards will appropriately reflect and protect the industrial, transportation, commercial character, sensitive environment, land and vegetation forms or unique character and situation of the area of the HG District with due consideration given to the site's and the area's historic role in the heritage and character of the Town of Essex and the Connecticut River Valley.

81D.2. ACCEPTANCE BY PETITIONER, FILING. The commission shall adopt or deny the Petition for Change in accordance with Connecticut General Statutes § 8-3. In the event that the commission adopts the proposed Concept Plan and Standards with modifications, the petitioner will accept such modifications in writing by signature affixed to the Concept Plan and Standards within 30 days of the time of adoption, or commission will deem the Petition for Change of the District as denied. Upon approval, the commission will set an effective date of the Petition for Change not less than fifteen nor more than thirty days following the date of its decision. The petitioner will file a copy of the Petition for Change and the Concept Plan and Standards in the office of the town clerk prior to such effective date. However, in the event that a petitioner chooses not to accept any modification of the Petition for Change, then the petitioner withdraws the Petition for Change and does not file the Petition for Change. In such an event, the Petition for Change does not become effective.

The commission will deem the Concept Plan and Standards to be an amendment to the Essex Zoning Regulations, incorporated by reference into the regulations. The zoning map will individually identify each HG District designation and identification of the Concept Plan and Standards by name or other identification of the district.

81E. USES PERMITTED. The uses permitted in a specific HG District will be designated in the approved Concept Plan and Standards. The uses may be combined in single structures, lots or occupancies. Permitted uses in any HG District will be limited to one or more of the following uses:

81E.1. Any use permitted as a General Principal Use, as a Special Principal Use or as an Accessory Use in an LI or C District.

81E.2. A restaurant or banquet facility with table cloths and tableside service, excluding drive-in windows or service on a take-out basis except incidental to an outside sit down meal.

81E.3. Multiple Dwelling Units or Single Family Detached Dwelling Units owned as a whole or as a common interest community in a building or buildings provided that each unit has no less than 700 square feet of living space at a density no greater than that permitted under Section 70 of the Regulations.

81E.4. Any use permitted as a General Principal Use, as a Special Principle Use or as an Accessory Use in the Essex Village District.

81E.5. Fabricating, processing, converting, altering or assembly of products, crafts and works of art and the display and the retail or wholesale sale of such products.

81F. AMENDMENTS, SPECIAL EXCEPTION USES. Any amendment of the Concept Plan and Standards will be adopted in the same manner as the adoption of the HG District. Minor changes to the Concept Plan and Standards will be permitted by the commission as an administrative interpretation provided that the commission finds that the general intent and scope of the approved Concept Plan and Standards has not been changed. The commission will require consent by special exception under Section 120C of the regulations for any expansion of an approved restaurant exceeding ten seats, any expansion of a professional and business office or financial institution, or retail store in excess of 1,800 gross square feet of building area, or those uses that are not so consistent but substantially conforming to the general intent and scope of the approved Concept Plan and Standards and the standards of Subsection 120G. of the Regulations and the Commission will make finding based on the consideration listed under Subsection 81D.1. of the regulations.

81G. CONDITIONS FOR A ZONING PERMIT. Before the Town of Essex issues a zoning permit for a building or use permitted in an HG District, the petitioner will provide:

81G.1. Legal documentation of dedication for continuing access to on-site and off-site utilities and parking included in the proposed phase.

81G.2. For parcels under a unified development plan, title covenants that have been submitted for approval by the zoning enforcement agent, after consultation with the town attorney as conforming to the requirements of Section 81G. of the regulations, and that are to be recorded on the land records before title is conveyed to any separate sub- parcel, or on record in the land records as previously approved. A
unified development plan depicts an area that the petitioner intends to develop as a unit but that may be subdivided into separate parcels for title or financing purposes.

81G.3. Evidence of public dedication and acceptance or suitable bonding for completion of public rights of way, road, trail, bikeway and pathway easements and other instruments for dedication of those areas and ways to be dedicated to the public and necessary for access or otherwise appurtenant to such phase.

81G.4. For parcels under a unified development plan without separate frontage on public highways or roads, access to a public street or way or to an easement appurtenant to the title of the parcel leading to a public street and for utilities as may be necessary to serve the parcel.

81G.5. A letter from the town director of health or the town sanitarian stating that the premises to which such application relates is satisfactory for a private on-site subsurface sewage disposal and water supply system pursuant to Section 120C.5. of the Regulations.

EFFECTIVE SEPTEMBER 1, 2000

AMENDMENT TO THE ESSEX ZONING REGULATIONS

ADDENDUM TO THE HERITAGE GATEWAY DISTRICT

SECTION 81

HG-1 DISTRICT CONCEPT PLAN AND STANDARDS

SCHEDULE A

I. Narrative Zoning Standards – Unless otherwise indicated, these standards are in addition to the existing zoning regulations and are applicable only to the HG-1 District.

HG.1.A METHOD OF DETERMINING PARCEL BOUNDARIES. Subdivision within the district will follow boundaries delineated to satisfy the public health code for subsurface sewage disposal and financing needs of the future redevelopment and new construction. The subdivision application will include a draft reciprocal easement agreement assuring that the parking, access, landscaping, signage, maintenance, insurance and indemnities to be approved by the Planning Commission, will result in operation of the District as a single zoning unit. A final reciprocal easement agreement shall be provided prior to the issuance of a zoning permit.

HG.1.B. STANDARDS FOR DEVELOPMENT PHASING. The order of phasing shall be determined at the time of application for a building permit for development or renovations. Each phase shall include all elements needed for the development to be self-sufficient. Portions of essential elements (including parking, utilities and access) may be located outside of the phase area, but shall be depicted on the plot plan submitted with the application for a zoning permit.

HG.1.C. RATIO OF FLOOR AREAS TO LAND USE TYPES. The total, cumulative floor area of each land use type, as listed in Exhibit 1 attached hereto, shall be limited to the following applicable percentage of total district gross floor area existing or approved by building permit at the time that a zoning permit for such use is applied for:

Office Uses	60%
Retail Uses	25%
Personal Services	25%
Light Industry	40%
Cultural Arts	25%
Schools	15%
Storage	30%
Misc. Uses	20%

The specific uses permitted in each of these categories are listed in Exhibit 1 attached hereto and made a part hereof.

HG.1.D. BULK AND DENSITY STANDARDS. The following standards shall apply to the HG-1 District, treating the district, rather than individual lots within it, as one development parcel.

1. Minimum Setbacks. The setback from the district boundary for new buildings constructed after adoption of the HG-1 Concept Plan within the HG-1 District shall be 30 feet, as shown on the Concept Plan. There shall be no minimum lot line setback for lots within the district to allow for subdivision of property at the footprint of buildings and establishment of common areas for parking, access and site amenities. The setbacks of structures in existence as of November 1999 shall be deemed to conform to the HG-1 Concept Plan and are not nonconforming to this standard for new construction. The setback shall not apply to utilities, drives and accessory structures other than buildings.

2. Maximum Building Coverage. Building coverage shall be calculated collectively for the district, applying all building footprint areas to the overall area of the HG-1 District. This ratio of coverage by buildings shall not exceed 20 percent.

3. Building Height. New construction may not exceed a height of 35 feet as measured from the average natural grade at the base of the structure to the highest point of the structure. All other height standards of the regulations shall apply, except that a non-occupied tower may be provided on new construction which shall not exceed 5 percent of that building's coverage and shall not exceed 52 feet in height plus a decorative weathervane consistent with the existing weathervane. Mechanical components that are not contained in architecturally finished surfaces consistent with the standards of Section HG-1.G shall be set back three feet for each one foot in height above the level of the roof or parapet if higher.

4. Allocation Of Parking And Loading Spaces; Dimension Standards. Dimensions for typical parking spaces shall be 9 ft. x 18 ft. as shown on the Concept Plan. Compact spaces with dimensions of 9 ft. x 17 ft. may comprise up to 10 percent of the total spaces provided. Parking may be allocated in the form of reciprocal easement on lots within the HG-1 District only to be reviewed and approved by the Zoning Enforcement Agent and the Commission Attorney prior to issuance of a certificate of occupancy.

5. Allocation Of Uses To Buildings. Any number of combinations of uses among buildings may occur, consistent with the maximum floor area limits established in HG-1.C.

HG-1.E. DETERMINING DIMENSIONS OF PARCELS, FLOOR AREAS AND USES. The total gross floor area of the buildings in the district shall not exceed 25 percent of the area of this district. The dimensions of parcels created within it will conform to the requirements of the State of Connecticut Public Health Code requirements for subsurface sewage disposal systems. The dimensions of use shall be limited by the floor area limits of Section HG-1.C., available parking, and consistency with the Traffic Impact Report that is a part of this Concept Plan and Standards.

HG-1.F. STANDARDS FOR IMPROVEMENTS. All improvements shall be as depicted on the Concept Plan which consists of the following documents:

1. Witch Hazel Works Existing Conditions Plan Date: 02-11-2000 Sheet:C1.0.

2. Witch Hazel Works Proposed Conditions Plan Date: 02-11-2000 Sheet C2.0.

3. Witch Hazel Works Architectural Concept Site Plan Date: 02-09-00 AS1.1.

4. Witch Hazel Works South & West Exterior Elevations Date: 11-05-99 Sheet: A3.1.

5. Witch Hazel Works North & West Exterior Elevations Date: 11-05-99 Sheet: A3.2.

6. Witch Hazel Works Intersection Sight Distance Date: 05-12-2000 Sheet: C0.0.

7. Cultural, Aesthetic or Heritage Impact Statement dated February 10, 2000 and containing three (3) pages.

8. Proposed Terrace, Gooseneck and Site Lighting Fixtures.

9. Uses Permitted as shown on Exhibit 1, attached hereto.

HG-1.G. ARCHITECTURAL STYLE. The style of proposed architectural improvements shall be consistent with that of existing buildings as depicted in elevation drawings submitted in the Concept Plan. Architectural style represented by roof lines, overhangs and gable ends, architectural detailing, window and door trim and geometry, finished surfaces and colors of brick, stucco, and wood sidings, and doors and windows will be consistent in feeling and aesthetic quality, providing a consistent aura of late nineteenth and early twentieth century mill and mill outbuilding styles. Structures associated with the railroad will be consistent with traditional railroad station and service building architectural styles. Building geometry, building footprints, floor plans, size, interrelationships of tenancy areas, and overall layout may vary to conform to occupant demands, engineering conditions, and municipal requirements. Materials may be substituted at the option of the owner, provided the visual aspect remains consistent with the above standard and a uniform style is maintained.

HG-1.H. SIGN STANDARDS. Signage throughout the district shall conform to the Essex Zoning Regulations and the following guidelines:

1. Signage shall be uniform in color and materials, and the typeface shall be consistent with the sign program established by the property owner. Signage will be consistent with the principal property identification sign which will establish the color scheme, logo and type face and will be included in any written guidelines provided to tenants and/or future owners.

2. Similar types of signs shall be located and treated in a similar manner (e.g., height off the ground, material, size) to establish a consistent format for information provided.

3. Tenant directory signs may include unique tenant logos and typefaces. Except for limited tenant directory signage, signage styles shall reflect the architectural materials periods and style of the district's historic buildings. Materials shall be of high quality and durable.

4. Sign lighting will be from external sources consistent with the lighting standards below. Each light source will be located in such manner as to not be visible from the district boundary lines, and so as to not provide glare to vehicular traffic on the site. Flashing or intermittent, neon, laser, night emitting diode, projector, back or internally lit or sodium vapor lights are prohibited.

5. Temporary signs and banners will be permitted for transitory events, and will be removed promptly after such event has ended. Such signs and banners will be consistent in color, typeface, materials and logos with the uniform sign program.

6. No exterior sign shall be placed on any building above the first floor level.

7. All signs in the HG-1 Zoning District which are proposed to located within 50 feet of the district boundary shall be submitted to the Zoning Commission for design review and approval and a zoning permit shall be required.

8. All signs exceeding 12 square feet in area shall be submitted to the Zoning Commission for design review and approval and a zoning permit shall be required. All signs of 12 square feet or less in area shall require a permit issued by the zoning enforcement agent.

9. Each use may have one exterior wall sign, or one hanging sign, or one ground sign. A double-faced hanging sign or ground sign shall count as one sign. Small directional signs, not exceeding one square foot, indicating the location of an establishment shall be permitted upon the issuance of a zoning permit by the zoning enforcement agent. Multi-use signage, exceeding 12 square feet in area shall be submitted to the Zoning Commission for review and approval and a zoning permit shall be required.

HG-1.I. LIGHT DESIGN AND PATTERN STANDARDS. Exterior lighting for parking, drives, open spaces and the outside of buildings shall conform to the Essex Zoning Regulations and shall be uniform throughout the district. A range of types, characterized by functional simplicity, may be suitable, as illustrated in the Concept Plan. Exterior lighting fixtures shall be equipped with hoods or glare shields or focused so that they do not shine onto buildings and land surfaces of adjacent properties or onto any street. Lighting levels shall be designed in accordance with Illuminating Engineering Society (I.E.S.) standards.

HG-1.J. PUBLIC ACCESS RIGHTS AND COVENANTS. The owner, to the extent available and consent is provided, may enter into a reciprocal cross license agreement with abutting property owners to permit the public visitors to use parking on the owner's property in the designated areas, and to have the abutting owner(s) permit the owner's public visitors to use parking which the abutting owner(s) make available to its public visitors from time to time. Such off-site parking shall only be permitted upon the grant of a special exception by the Commission.

HG-1.K. MODIFICATIONS OF THE ESSEX ZONING REGULATIONS. In addition to the dimensional standards amended in the Concept Plan and Standards, the following provisions shall apply only in the HG-1 District and shall supersede inconsistent provisions elsewhere in the zoning regulations.

1. Access Across Land in Other Zoning Districts: Access to the HG-1 District may be provided across land in other zoning districts in which uses allowed in the HG-1 District are not permitted.

2. Off-Premises Sign Location. A single double-faced property identification sign is permitted off-premises with a maximum height of 12 feet to the top of the sign and an area of 32 square feet on each sign face to safely direct traffic and visitors entering from Main Street and to identify the complex in the approximate location as shown on the Concept Plan. The design shall be consistent with the signage theme and style developed under Section HG-1 and shall be permitted by special exception.

3. Permitted Uses: The HG-1 District will permit those permitted uses described by Section 81.E., except that theatres permitted by Section 80A.2.B shall be limited to a theatre for dramatic and performing arts and not to be used primarily for indoor motion picture projection except as ancillary to a dramatic or musical production.

4. Additional Public Access. No certificate of occupancy shall be issued for the use of existing structures for a theatre, a restaurant of more than 10 seats, retail occupancy totaling more than 7,500 square feet, or for any new structures until the Concept Plan and Standards are amended to provide a second public access.

5. Demolition by Special Exception. Demolition of the Factory, Coppersmith or Tank buildings as defined on the Concept Plan shall require a special exception from the Zoning Commission.

6. Amendment to Concept Plan and Standards. At such time as the uses in the district require 200 or more parking spaces in the aggregate, the applicant shall obtain an amendment to the Concept Plan and Standards pursuant to Section 81F. of the zoning regulations. The Commission shall approve or deny the petition based upon the criteria in Section 81 including but not limited to Section 81D. Upon written request, the Commission may waive the submission of that information and documentation required by Section 81 which it deems not to be necessary to determine the application.

EXHIBIT 1

USES PERMITTED IN HG-1 DISTRICT

I. Office Uses:

A. Professional, business and financial offices and institutions.

B. Offices for public health nursing and medical doctors' offices, but not including clinics, hospitals, or other group or treatment facilities.

II. Retail Uses:

A. Baker, confectionery, food service, florists, or grocery store. Also pharmacies and retail stores selling antiques, art objects, books, clothing, crafts, dry goods, gifts, hardware, housing and kitchenware, jewelry, shoes, or electronics.

B. The following uses are permitted subject to the grant of a special exception pursuant to Section 120 and 130 of the Essex Zoning Regulations: restaurants which may not include a drive-up window (which term includes a pub or brew pub) and retail package stores (subject to Section 112).

III. Personal Services:

A. Barber shop, beauty parlor, cleaning or laundry agency, or similar personal service.

B. Custom tailors, watch repair, shoe repair, similar services.

C. Health clubs, including racquetball, squash, and similar activities.

IV. Light Industry: (provided all uses are contained within an enclosed building and are subject to the provisions of Sections 90B.1 through 90B.6)

A. Communications establishments such as radio or television broadcasting studios, printing shops, photoengraving, bookbinding, computer internet companies, and similar graphic reproduction services.

B. Research laboratories.

C. Manufacturing, assembling, processing, packaging, treatment, fabricating, or building of small products made principally of wood, metal, paper, plastic, glass, fiberglass, stone, or plant material.

D. Manufacturing, assembling, processing, packaging, or treatment of pharmaceuticals, food, toilet supplies or similar products.

V. Cultural Arts:

A. Theaters for dramatic or musical productions but excluding movie theaters.

B. Private clubs where the consumption of alcohol or food is not permitted on the premises.

C. Libraries, museums, auditoriums.

VI. Schools:

A. Business, secretarial, or vocational schools.

B. Private school.

C. Public school.

VII. Storage:

A. Wholesale distributing establishments and storage warehouses.

VIII. Misc. Uses:

A. Municipal building or garage including firehouse, police station, etc.

B. Emergency medical transportation services.

C. Church, synagogues, or other places of public worship.

D. Municipal parking facility.

E. Parks, playgrounds, or other open reservations by government.

F. Water supply facilities, including pump stations, storage tanks and towers, and similar facilities.

G. Multiple dwelling projects to provide housing for elderly persons pursuant to CGS Sections 8-112a, et seq.

H. Dance studios, establishments for musical or theatrical instruction, and physical culture.

I. The following uses are permitted subject to the grant of a special exception pursuant to Section 120 and 130 of the Essex Zoning Regulations: Cellular Telecommunications Facility.

Note: Accessory uses as defined in the Essex Zoning Regulations are permitted for all principal uses in all categories of use.

EFFECTIVE SEPTEMBER 1, 2011

SECTION 82

BUSINESS DISTRICT

82A. USES PERMITTED. In the Business District there shall be permitted:

82A.1. GENERAL PRINCIPAL USES. The following principal uses and buildings:

(A) One-family dwelling existing prior to the adoption of these regulations (date: September 1, 2011). Changes and/or additions to the one-family dwelling shall not be considered an expansion of a nonconforming use as long as setback and coverage requirements are met;

(B) Customary home occupation carried on within an existing dwelling by a permanent resident thereof in which not more than two nonresidents of such dwelling are engaged, if such use is secondary in character and intensity to the use of the building as a dwelling and such activity does not noticeably change the apparent residential character of the premises by creating noise, odors, smoke, fumes, vibration, illumination or radio or television interference;

(C) Professional and business offices and financial institutions not exceeding 1,800 gross square feet area of building.

82A.2. SPECIAL PRINCIPAL USES. The following principal uses and buildings only when specifically authorized in the particular instance by a special exception granted by the Commission subject to the conditions prescribed in 82B as well as the standards of Section 120G and the conditions of Section 130 hereof:

(A) Conversion of existing residential use to multi-family.

(B) Corporate headquarters, financial institutions, and business and professional offices. Required off-street parking shall be located to the side or rear of the principal building on the lot with the exception of two handicapped parking spaces.

(C) Light Manufacturing (see definition, and section 90A.1 (E)). All light manufacturing facilities shall provide a best management plan for the handling, storage, or accidental spill of all hazardous materials; See Section 82B.2. and 3.

(D) Restaurants and food service establishments excluding fast-food type establishments and/or drive-up window service.

(E) Barber shop, beauty parlor, or similar service establishment;

(F) An emergency medical transportation service conducted by a nonprofit organization furnishing ambulance transportation and ancillary in-transit emergency services in a vehicle or vehicles owned and operated by a nonprofit organization;

(G) A municipal or volunteer owned or operated fire house; police, fire marshal and other municipal office and vehicle garage facilities.

(H) Farm, truck or nursery gardening, provided that no animals are kept for any purposes.

(I) A farm stand, provided that the aggregate ground area of the lot on which such farm stand is located covered by the farm stand and by any parking facilities appurtenant to such farm stand shall not exceed the aggregate ground area of the lot on which such farm stand is located which is actively used for the cultivation of the soil, including planting and harvesting crops, tillage, horticulture, forestry, and dairying and including planting, growing and harvesting in greenhouses and/or hoop houses. The facility may contain up to 6,000 square feet of greenhouses and/or hoop houses which shall not be considered part of the square footage of the farm stand.

(J) 1) The following Indoor recreational facilities: fitness centers, martial arts studios, gymnasiums, movie theaters, assembly halls, dance studios, and establishments for musical or theatrical instruction and rehearsals;

2) The following outdoor recreation facilities: parks and playgrounds; and

3) The following indoor or outdoor recreational facilities: swimming pools, racquet clubs, and skating rinks.

(K) Artist Studios

(L) Churches, synagogues and other places of public worship;

(M) Clubs and fraternal organizations;

(N) Day-care facility or nursery school;

(O) Private schools including business, secretarial, and vocational schools.

(P) Undertaker's establishments;

(Q) Veterinary hospitals without boarding facilities;

(R) Electrical, plumbing, heating, landscaping, tree care and tree service contractors and similar businesses (excluding earth moving contractors). This includes storage (subject to the provisions of Section 90C.2) and off-site delivery of related products and materials. A tree care and tree service contractor use shall include as an accessory use and on a seasonal basis

only, April 1 through September 30 inclusive, the sale of recycled forestry products associated with the tree care and tree service use limited to mulch, wood chips and compost materials.

EXCEPTION: No special exception shall be required for the establishment of a new use in any lettered subsection of 82A.2., similar to a use in the same lettered subsection which has already been granted a special exception. For the purpose of this section, "similar" shall be defined as not substantially changing the amount of traffic, crowding, or effect on neighboring premises, of the original special exception approval. The determination as to whether a new use is similar to an existing use shall be made by the Commission or by its agent. Said similar new use shall be allowed upon the obtaining of a zoning permit from the Zoning Enforcement Agent in the same manner as for a general Principal use permitted under Section 82A.1.

82A.3. ACCESSORY USES. Any accessory use or improvement but not including:

(A) SIGNS. Any sign, unless it conforms to the requirements prescribed therefore in these Regulations;

82A.4. SIGNS. In addition to any sign permitted under 111B and subject to the limitations prescribed in 111A., signs as accessory uses as follows:

(A) RESIDENCE USES. Accessory to a use described in 82A.1.(A), one resident name sign, not exceeding two (2) square feet in area, or, in the case of a customary home occupation, one business name sign not exceeding two (2) square feet in area; and

(B) OTHER USES. Accessory to a use described in 82A.1.(B) through 82A.1.(D) or in 82.2(A) through 82A.2.(U): (1) Two separate business name signs not to exceed 12 square feet each; (2) One multi-business name sign, each name sign not to exceed two square feet, total sign area not to exceed 12 square feet; (3) One advertising sign not to exceed 18 square feet; (4) A fabric banner, pennant or flag not to exceed 12 square feet; and (5) or other sign as specifically authorized by special exception.

82B. OTHER CONDITIONS

82B.1. LANDSCAPING.

It is the objective of these regulations to provide adequate landscaping to screen commercial, industrial, and/or office buildings (especially utilitarian buildings) from abutting residential properties and from the street so that the streetscape is in keeping with a natural appearance.

As part of a zoning permit application, site plan, and/or a special exception application, a landscape plan shall be submitted. Prior to the building's occupation, the plantings shall be installed or bonded for the full cost of plant material, any necessary grading, and installation plus 10%. If bonded, the plant material shall be planted in the next suitable planting season. The landscaping

shall be permanently maintained by the owner. Minimum requirements are listed below:

1. All lots in a Business District shall provide a strip of land on such lot which is not less than twenty five (25) feet wide, adjacent to and extending for the length of any property line fronting on any public or private street, which strip shall be suitably landscaped and planted with a mixture of deciduous and evergreen trees, deciduous and evergreen shrubs, and other plant material.

2. Any such landscaping strip fronting on any public or private street may be traversed by not more than two driveways and one additional driveway for each 200 feet of lot frontage in excess of 300 feet. Each driveway shall be a minimum of 24' wide and be a minimum of 100 feet apart.

3. Not more than 25 percent of the area of the required front setback from the street shall be used for driveways or for parking, and the balance shall be put in lawn or suitably landscaped and planted and shall at all times be maintained in good appearance (see number 6 below). Parking in the required front setback from the street shall be for passenger vehicles only, and no portion of the required setback shall be used for storage or for any purpose except as herein provided;

4. Any tree of more than ten inches caliper (diameter) measured four feet above the ground shall be shown on plot plans and shall be maintained unless it hampers utilities, structures, or reasonable working room during constructions;

5. All other existing natural growth shall be preserved and maintained where practicable;

6. All deciduous trees shall be a minimum of 2 ½-3" caliper at planting. Evergreen trees shall be a minimum of five-six feet at planting. Shrubs shall be a minimum of 2 ½-3 feet tall at planting unless the mature size is under that height (such as shrubs used as groundcover);

7. Where a property adjoins a Residence District or existing residential use on the side or rear property line, a 25 foot wide landscaping strip shall be planted with conifers spaced in no fewer than two rows, no further than 15-20 feet apart (depending upon the mature height and width of the species), five-six feet tall at planting with a mature height of a minimum of 15' tall, and staggered to provide maximum screening. An alternative placement of plant material may be allowed depending upon the suitability of plant material species.

8. The Commission may require more extensive plantings, or more mature plantings, if unusual conditions demand additional screening and noise abatement. Upon written request of the owner of the premises, the Commission may, waive the requirements of the landscaping where existing natural growth to be preserved and maintained provides suitable screening;

9. The construction of a sidewalk is mandated along Plains Road. The sidewalk shall be parallel to and one-foot inside the total frontage of the property from the one edge of the front property line and contiguous to the other edge (unless there is a physical constraint that interferes with this location, such as a mature tree, in which case, the sidewalk shall go around the physical constraint);

10. A bicycle path may be required as set forth in the approved Transportation Plan by the Planning Commission.

11. Permanent outside storage areas for materials, supplies and products shall be located in the rear yard and be fenced to the height allowed and/or otherwise screened from view from the property's public service road and/or adjacent properties.

12. Loading and unloading platforms shall be located at the rear of the building, and before commencing any use of such building or enlargement, areas used for loading and unloading shall be screened from adjacent roads by landscaping or fencing;

82B.2. STORMWATER. All new buildings, substantial additions, new site plans and/or revised site plans involving an increase in impervious surfaces shall provide a stormwater management plan that meets the recommendations of the "2004 Connecticut Department of Environmental Protection Stormwater Quality Manual" (as updated from time to time).

82B.3. BEST MANAGEMENT PRACTICES. All new applications shall include a Best Management Practices Plan for the use and storage of hazardous materials that are used on the site that meets current federal, state, and local standards. In addition, the applicant shall provide an Incident Action Plan that will be utilized in the case of an accidental spill or other calamity. Plans shall be approved by the appropriate authority.

82B.4. <u>ADDITIONAL CONDITIONS.</u> Such other reasonable conditions as the Commission may deem necessary or appropriate to impose for the purpose of preventing or diminishing: (A) any adverse effect of the use, land, or improvements to be authorized, upon the health, safety, and welfare of the Community, (B) Any undue annoyance or disturbance of the occupants of premises in the general neighborhood of such use, land or improvements, and (C) any impairment of the suitability of such use, land or improvements for the General Principal Uses permitted in the district thereof under these Regulations and predominantly existing therein.

82C. <u>REQUIRED CHARACTERISTICS.</u> The lot and the buildings involved in any general or special principal use in a Commercial District shall conform to the following characteristics:

BUSINESS DISTRICT

Minimum Lot Area 30,000 Sq. Ft	**Minimum Lot Width** 150 Feet	**Maximum Building Height** 30 feet	**Maximum Building Coverage** 15%
Front Setback 50 feet	**Side Setback** 15 feet	**Rear Setback** 30 feet	

NOTE: 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.

AMENDED OCTOBER 1, 2000
AMENDED MARCH 19, 2000
AMENDED OCTOBER 17, 2005
AMENDED AUGUST 1, 2007
AMENDED JUNE 15, 2008
AMENDED SEPTEMBER 1, 2011
MAY 20, 2013
DECEMBER 28, 2016

SECTION 90

LIMITED INDUSTRIAL DISTRICTS

90A. USES PERMITTED. In the Limited Industrial District, there shall be permitted:

90A.1. GENERAL PRINCIPAL USES. The following principal uses and buildings which do not exceed a total of 3,500 gross square feet of combined building and outside storage area for new construction on a vacant lot or an increase in any five year period of 2,500 square feet or 15%, whichever is less, for existing buildings and outside storage, and which are in compliance with Sections 90B (as to Uses) and 90C (as to Buildings) hereof, are permitted when authorized by a zoning permit granted by the Zoning Enforcement Agent pursuant to Section 121 of these regulations:

(A) Corporate headquarters, non-retail financial institutions, and business and professional offices. Required off-street parking shall be located to the side or rear of the principal building on the lot.

(B) Publishing, printing, photo-engraving, and bookbinding, blueprinting and similar graphic reproduction service;

(C) Wholesale distributing establishments and storage warehouses excluding self-storage facilities;

(D) Public service building, including service yard;

(E) Light Manufacturing including (or similar to):

1. Furniture manufacturing, woodworking and millwork;

2. Manufacturing of optical goods, surgical and dental instruments, precision instruments and assemblies, including the machining, finishing and cleaning of small metal parts;

3. Manufacturing, compounding, processing, packaging or treatment of beverages, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, toilet supplies, and food products excluding fish, meat, sauerkraut, vinegar and excluding also the rendering or refining of fats and oils;

4. Manufacturing, assembling or treating of articles from the following previously prepared materials: bone, cellophane, canvas, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious metals or stones, shell, textiles, tobacco, wood, and yarns.

5. Metal fabrication, light and sheet metal, machining of parts handled by hand

6. Manufacture of small electrical and electronic equipment;

7. Manufacture and assembly of toys, sporting goods, musical instruments, non-atomic powered clocks and watches.

(F) Research laboratories;

(G) Monument and stone cutting works;

(H) Artisan fabrication of decorative glass;

(I) Extrusion and stamping of small metal products and plastics;

(J) Tool and die making, including incidental casting*;*

(K) Building, and/or repair of boats and spars from wood, plastics, fiberglass or metal;

(L) Earth-moving, landscaping, tree care and tree service, and construction contractors including the storage of customary small construction equipment, lumber and building materials on site but excluding the storage of construction machinery such as cranes and derelict (unusable) machinery and/or vehicles. Permanent outside storage areas shall be located in the rear yard and be fenced to the height allowed and/or otherwise screened from view from the property's public service road and/or adjacent properties. Landscaping and tree care and tree service businesses only are allowed storage (subject to the provisions of Section 90C.2) and off-site storage of landscape-related products. A tree care and tree service contractor use shall include the on-site processing of forestry products limited to mulch, firewood, wood chips and compost material.

(M) An emergency medical transportation service conducted by a nonprofit organization furnishing ambulance transportation and ancillary in transit emergency services in a vehicle or vehicles owned and operated by a nonprofit organization.

(N) Motor vehicle detailing operations, limited to cleaning, polishing and waxing of interiors and exteriors of automobiles and light trucks (not to exceed two-ton capacity). Permitted accessory uses include: (1) the sale and installation of electronic automobile accessories or automobile enhancement accessories (to include such items as radios, stereos, mobile telephones, bug shields and pin-striping). However, all automobile accessories sold from the premises must be installed on the premises; and (2) secured indoor storage of motor vehicles limited to vehicles being

serviced in the shop. All motor vehicles retained overnight shall be stored within the building. The mechanical washing of motor vehicles is expressly prohibited.

(O) Farm, truck or nursery gardening, provided that no animals shall be kept for any commercial or retail purpose.

(P) A farm stand, provided that the aggregate ground area of the lot on which such farm stand is located covered by the farm stand and by any parking facilities appurtenant to such farm stand shall not exceed the aggregate ground area of the lot on which such farm stand is located which is actively used for the cultivation of the soil, including planting and harvesting crops, tillage, horticulture, forestry, and dairying and including planting, growing and harvesting in greenhouses and/or hoop houses. The facility may contain up to 6,000 square feet of greenhouses and/or hoop houses which shall not be considered part of the square footage of the farm stand.

(Q) Contractor's office for the operation of a contracting business associated with a construction trade, such contractor may include, but is not limited to, an electrician, builder, painter, plumber, carpenter, carpet installer, landscaper, landscaper, nurser, mason, arborist, paver, and other similar service contractors, which may include as an accessory use the interior and/or exterior storage of contractor's equipment and materials used in the construction trade/business and off-site delivery of related products and materials.

(R) Commercial kitchen for the preparation and packaging of food for off-premises sales only.

(S) An inland marine and RV facility dealing in the storage of boats, boat trailers and RVs; the servicing, repairing and winterizing of boats and boat trailers; and the brokering of sales of boats and boat trailers.

90A.2. SITE PLAN USES. Any General Principal Use permitted in Section 90A.1 hereof which falls within the following square footages, when specifically authorized by a site plan approval granted by the commission subject to the conditions prescribed in Section 90B. and 90C., as well as the conditions prescribed in Section 118 hereof:

(A) For new construction on a vacant lot, 3,501 to 7,000 gross square feet of combined building and outside storage area.

(B) For existing buildings and outside storage areas, an increase in any five year period of more than 2,500 square feet but not more than 5,000 square feet, or more than 15% but not more than 30% whichever is less, in combined building and outside storage.

90A.3. <u>SPECIAL PRINCIPAL USES.</u> The following principal uses and buildings only when specifically authorized in the particular instance by a special exception granted by the Commission subject to the conditions prescribed in Sections 90B

and 90C, as well as the standards of Section 120G and the conditions of Section 130 hereof:

(A) Any Site Plan use permitted in Section 90A.2 which exceeds the maximum square footage allowed for that use.

(B) Water supply facilities to include pump stations, pressure reducing stations, above or below ground storage tanks and wells.

(C) A municipal or volunteer owned or operated fire house; fire training facility; police, fire marshal and other municipal office and vehicle garage facilities.

(D) Sales, storage, and distribution of propane.

(E) 1) The following Indoor recreational facilities: fitness centers, martial arts, gymnasiums, movie theaters, assembly halls, dance studios, and establishments for musical or theatrical instruction and rehearsals;

2) The following outdoor recreation facilities: parks and playgrounds; and

3) The following indoor or outdoor recreational facilities: swimming pools, racquet clubs, and skating rinks.

Exception: No new site plan or special exception approval shall be required for the establishment of a new use permitted in subsection of 90A.2., or subsection 90A.3.which is similar to a use which legally and actually existed in the same structure prior to the planned establishment of the proposed new use. For the purpose of this section, a "similar" use shall be defined as a use which does not cause a substantial change in the amount of traffic, required parking, crowding, environmental impact considering the type of business, number of employees and the Standard Industrial Classification codes, or effect on neighboring premises when compared to the prior legally existing use. The determination as to whether a new use is similar to an existing use shall be made by the Commission or by its agent. Said similar new use shall be allowed upon the obtaining of a zoning permit from the Zoning Enforcement Agent in the same manner as for a General Principal Use permitted under Section 90A.1.

90A.4. ACCESSORY USES. Any accessory use or improvement including the dwelling of a guard, caretaker or superintendent but not including any sign, unless it conforms to the requirements prescribed therefore in these regulations; and

90A.5. SIGNS. In addition to any sign permitted under 111B., subject to the limitations prescribed in 111A. and accessory to a permitted use: (1) one single business name sign not to exceed 12 square feet; (2) one multiple business name sign, each name sign not to exceed two square feet; total sign area not to exceed 12 square feet; and (3) a fabric banner, pennant, or flag not to exceed 12 square feet; and (4) other signs as specifically authorized by Special Exception.

90B. CONDITIONS OF APPROVAL. Each use permitted under Section 90A.1., 90 A.2., or 90A.3. shall conform to the following special conditions (in addition to conditions listed elsewhere):

90B.1. GENERAL. No land or buildings in the Limited Industrial District shall be used for any purpose that fails to meet the following criteria:

(A) The use shall be carried on in such a manner and with such precautions against fire and explosion hazards as to produce no serious exposure hazard to adjacent property, and the storage of all flammable or explosive materials shall be in a manner approved by the fire marshal.

(B) The use shall emit no offensive odors perceptible from any property line of the lot on which the operation is located, and shall emit no noxious, toxic, or corrosive fumes or gases;

(C) All buildings shall conform to all applicable building and safety codes.

90B.2. ODOR, DUST AND SMOKE. No such emissions shall be discernible beyond the property line or, in the case of multiple use of the property, beyond one hundred feet of the building generating the emission, except that in no case shall the discharge from any source exceed the following limits:

(A) Smoke measured at the point of discharge into the air shall not exceed a density of No. 1 on the Ringlemen Smoke Chart as published by the U.S. Bureau of Mines, except that a smoke of a density not darker than No. 2 on the Ringlemen Chart may be emitted for not more than three minutes in any one hour;

(B) Lime dust, as calcium oxide, measured at the property line of any lot on which the activity creates such dust shall not exceed 10 micrograms per cubic meter of air;

(C) Total particulate matter measured at all stacks or other points of emission to the air shall not exceed 30 grams per hour per acre of land included in the lot;

(D) All measurements of air pollution shall be by procedures and equipment which shall be of the latest generally recognized development and design readily available;

(E) No open burning will be permitted.

90B.3. NOISE LEVELS.

(A) No noise, due to volume, intermittence, beat frequency, or shrillness, shall be emitted beyond the boundary of the property where it originates that exceeds the noise level

regulation standards adopted by the Connecticut Department of Environmental Protection, pursuant to Section 22a-69 of the Connecticut General Statutes, as the same may, from time to time, be amended.

(B) Noise making devices, which are maintained and are utilized strictly to serve as warning devices, are excluded from these Regulations.

90B.4. HEAT, GLARE, VIBRATION, AND RADIATION. No heat, glare, or vibration shall be discernible without instruments from the outside of any structure, and no nuclear radiation shall be discernible from the outside of the structure with or without instruments.

90B.5. EXTERIOR LIGHTING. No exterior lighting shall shine on adjacent properties or toward any street in such manner as to create a nuisance.

90B.6. STORAGE. All materials, supplies, and equipment shall be stored within the structure in accordance with Fire Prevention Standards of the National Fire Protection Association or shall be screened from view from public ways or abutting properties.

90B.7. STORMWATER. All new buildings, additions, new site plans and/or revised site plans involving a cumulative total increase in impervious surfaces of 10% shall provide a stormwater management plan that meets the recommendations of the "2004 Connecticut Department of Environmental Protection Stormwater Quality Manual" (as updated).

90B.8. BEST MANAGEMENT PRACTICES. All new applications shall include a Best Management Practices Plan for the use and storage of hazardous materials that are used on the site that meets current federal, state, and local standards. In addition, the applicant shall provide an Incident Action Plan that will be utilized in the case of an accidental spill or other calamity. Plans shall be approved by the appropriate authority.

90C. CONDITIONS RELATING TO BUILDINGS. No building or enlargement by greater than 50 percent of a building shall be built or placed in a Limited Industrial District and, except as provided in 90D., no building in such District shall be used for use permitted in such District except in conformity with the following conditions.

90C.1. LANDSCAPING. It is the objective of these regulations to provide adequate landscaping to screen commercial, industrial, and/or office buildings (especially utilitarian buildings) from abutting residential properties and from the street so that the streetscape is in keeping with a rural village appearance. Before commencing any use of such building or enlargement, landscape planting, including trees, shrubs, and grass or ground cover, shall be provided and permanently maintained by the owner in the area required for setback from property and street lines and specifically:

(A) All lots in the Limited Industrial District shall provide a landscaping strip on such lot which is not less than thirty-five (35') feet wide, adjacent to and extending for the length of any property line fronting on any public or private street, which strip shall be put in lawn or otherwise suitable landscaped and planted. This landscaping strip shall be suitably landscaped with an appropriate berm and planted with street trees, ornamental trees, shrubs and lawns.

(B) The landscaping strip may be traversed by one driveway for a property with less than 300 feet of street frontage. The landscaping strip may be traversed by two driveways for properties with over 300 feet of frontage. Each driveway is not to exceed 24' wide and a minimum of 100 feet apart. Additional driveways/access lanes may be allowed if the property is very large or if warranted by safety considerations because of conditions specific to that property.

(C) There shall be no parking in the 50 foot front setback from the street with the possible exception of two handicapped parking spaces if this is needed for ease of access to the building.

(D) No portion of the front setback or any setback shall be used for storage or for any purpose except as herein provided.

(E) The construction of a sidewalk is encouraged along not only public streets but streets within an industrial complex.

(F) Any tree of more than ten inches caliper (diameter) measured a yard above the ground shall be shown on plot plans and shall be maintained unless it hampers utilities, structures, or reasonable working room during construction.

(G) All other existing natural growth shall be preserved and maintained where practicable.

(H) Where a property adjoins a Residence District on the side or rear, a "green belt" shall be planted and maintained as identified in the approved site plan. The distance between plants may be varied according to the growth requirements of the plant material in order to provide continuous screening. Generally, conifers will be planted in no fewer than two rows that are fifteen (15) feet apart, with the plant material staggered approximately fifteen (15) feet apart to provide continuous screening. An alternative placement of plant material may be allowed depending upon the suitability of the plant material species. Conifer plant material may not be less than five feet in height at the time of planting.

(I) The commission may require more extensive plantings, or more mature plantings, if unusual conditions demand more extensive screening and noise abatement. The Commission may, upon written request of the owner of the premises, waive the requirements of the planting of conifers above where existing natural growth to be preserved and maintained affords, in the opinion of the

Commission, suitable screening no less effective than would be afforded by the prescribed conifers; and

(J) Whenever the owner or occupant desires to commence the permitted use of such building or enlargement before providing the landscape planting prescribed hereunder, a bond in an amount and form satisfactory to the Commission may be required to cover the cost of the plant material and labor to install such improvements, plus 10% of the amount. Other legal documents may be required to insure access to the property for planting if the applicant is in default. All work shall be performed within twelve (12) months of the bond approval date by the Commission

90C.2. STORAGE AREAS. Storage areas for materials, supplies and products shall not be located in the front of the building and, before commencing any such use of such building or enlargement, all such areas shall be screened by planting, landscaping, or fencing.

90C.3. LOADING AND UNLOADING AREAS. Loading and unloading platforms shall be located at the rear of the building, and before commencing any use of such building or enlargement, areas used for loading and unloading shall be screened from adjacent roads and properties by planting, landscaping, or fencing.

90D. CONDITIONS NOT APPLICABLE IN THE CASE OF EXISTING INDUSTRIAL BUILDINGS. Any building existing on November 1, 2006, which was previously designed, built or used for a use permitted in a Limited Industrial district may be used for such use without compliance with the conditions specified in 90C.

90E. REQUIRED CHARACTERISTICS. The lot and the buildings involved in any use in a Limited Industrial District shall conform to the following characteristics:

DISTRICT
LI

Minimum Lot Area 80,000 Square Feet	**Minimum Lot Width** 200 Feet	**Front Setback** 75 Feet	**Side Setbacks** 25 Feet
Rear Setback 50 Feet	**Maximum Building Coverage** 25%	**Maximum Building Height** 35 Feet	

No setback which is defined by a lot line which abuts a railroad right-of-way shall be required for any lot in a Limited Industrial District.

SECTION 91

MUNICIPAL AND INDUSTRIAL SERVICE ZONE

91A. USES PERMITTED. In a Municipal and Industrial Service Zone there shall be permitted the following principal uses and buildings only when specifically authorized in the particular instance by a special exception granted by the Commission subject to the conditions prescribed in or pursuant to Section 130. (No use shall be made in a Municipal and Industrial Service Zone until a zoning permit shall have been issued specifically therefore):

91A.1. SPECIAL PRINCIPAL USES:

(a) A municipally operated public works garage; a municipally operated dog pound; public buildings operated by the Town of Essex; public service buildings, including service yards.

(b) An emergency medical transportation service conducted by a nonprofit organization as further defined by Section 80A.2(p) of the Essex Zoning Regulations.

(c) The business of earth moving and construction contracting, including the storage and maintenance of motor vehicles and equipment utilized in such business and including the temporary storage of materials and supplies utilized by such business in the normal course of its operation.

(d) Municipally operated septic lagoons.

(e) A dump operated by the Town of Essex.

(f) A transfer station, where solid waste received or transferred to a vehicle for removal to another solid waste facility, operated by the Town of Essex, or its agents or lessees, constructed and operated in compliance with applicable state statutes and regulations, including a transfer station that is a central collection point for the solid waste generated within Essex and within a group of other municipalities. However, no transfer station shall be located in the lower Connecticut River Conservation Zone (the Gateway Conservation District) as designated by Section 25-102c of the Connecticut General Statutes as shown on the zoning map of the Town of Essex.

(g) Trash, wood, rubbish, garbage, pumping from subsurface sewage disposal systems or other collection or processing enterprises.

(h) A municipal or volunteer owned or operated fire house.

91A.2. ACCESSORY USES. Accessory uses customarily subordinate and incidental to uses conducted upon the same lot provided any such accessory use shall not change the character of the primary use.

A. SIGNS. In addition to any sign permitted under 111B., subject to the limitations prescribed in 111A., and accessory to a permitted use (1) one single business name sign not to exceed 12 square feet; (2) one multiple business name sign, each name sign not to exceed two square feet; (3) a fabric banner, pennant, or flag not to exceed 12 square feet; and (4) other signs as specifically authorized by special exception.

91B. BACKGROUND AND PURPOSE. This zone is intended to provide for certain types of land uses which serve a community need or convenience and which may require outdoor service yards or storage areas, and to make provision for such areas and services in a manner which will not be detrimental to properties in other zoning districts.

91B.1. GENERAL. No land or buildings in the Municipal and Industrial Service Zone shall be used for any purpose that fails to meet the following criteria:

(a) The use shall be carried on in such a manner and with such precautions against fire and explosion hazards as to produce no serious exposure hazard to adjacent property, and the storage of all flammable or explosive materials shall be in a manner approved by the fire marshal.

(b) The use shall emit no noxious, toxic or corrosive fumes or gasses.

(c) All buildings shall conform to all applicable building and safety codes.

(d) The use shall be in such a manner as to protect against ground water contamination.

(e) All uses shall be in accordance with all applicable standards and regulations of the State of Connecticut Department of Environmental Protection, and Federal Environmental Protection Agency, as they may apply.

91B.2. ODOR, DUST, AND SMOKE. No such emissions shall be discernible beyond the property line or, in the case of multiple use of the property, beyond one hundred feet of the building generating the emission, except that in no case shall the discharge from any source exceed the following limits:

(a) Smoke measured at the point of discharge into the air shall not exceed a density of No. 1 on the Ringlemen Smoke Chart as published by the U.S. Bureau of Mines, except that a smoke density not darker than No. 2 on the Ringlemen Chart may be emitted for not more than three minutes in any one hour.

(b) Lime dust, as calcium oxide, measured at the property line of any lot on which the activity creates such dust shall not exceed 10 micrograms per cubic meter of air.

(c) Total particulate matter measured at all stacks or other points of emission to the air shall not exceed 30 grams per hour per acre of land included in the lot.

(d) All measurements of air pollution shall be by procedures and equipment which shall be of the latest generally recognized development and design readily available.

(e) Open burning of brush and wood demolition will be permitted at the town operated dump, as approved by the Connecticut Department of Environmental Protection.

91B.3. NOISE LEVELS.

(a) No noise, due to volume, intermittence, beat frequency or shrillness shall be emitted beyond the boundary of the property where it originates, that exceeds the noise level regulation standards adopted by the Connecticut Department of Environmental Protection, pursuant to Section 22a-69 of the Connecticut General Statutes, as the same may, from time to time be amended.

(b) Noise making devices, which are maintained and are utilized strictly to serve as warning devices, are excluded from these regulations.

91B.4. HEAT, GLARE, VIBRATION, AND RADIATION. No heat, glare or vibration shall be discernible without instruments from the outside of any structure and no nuclear radiation shall be discernible from the outside of the structure with or without instruments.

91B.5. EXTERIOR LIGHTING. No exterior lighting shall shine on adjacent properties or toward any street in such a manner as to create a nuisance.

91C. CONDITIONS RELATING TO BUILDINGS. Except in conformity with the following conditions, no building or enlargement by greater than 50 percent of a building shall be built or placed in a Municipal and Industrial Service Zone and, except as provided in 91G., no building in such District shall be used for use permitted in such District.

91C.1.LANDSCAPING. Before commencing any use of such building or enlargement, landscape planting, including trees, shrubs and grass or ground cover, shall be provided and permanently maintained by the owner in the area required for setback from property and street lines and specifically:

(a) All lots used in a Municipal and Industrial Service Zone shall provide a strip of land not less than ten feet wide, adjacent to and extending for the length of the street line, which strip shall be put in lawn or otherwise suitably landscaped and planted. Such strip may be transversed by not more than two driveways, and one additional driveway for each 200 feet of frontage of the lot in excess of 300 feet. Not more than 60 percent of the area of the required setback from the street shall be used for driveways or for parking, and the balance shall be put in law or suitably landscaped and planted and shall at all times, during use of such building or enlargement, be maintained in good appearance. Parking in the required setback from the street shall be for passenger vehicles only, and no portion of the required setback shall be used for storage or for any purpose except as herein provided.

(b) Existing natural growth shall be preserved and maintained where practicable.

(c) Where a property adjoins a Residence District on the side or rear, whether in the Town of Essex or an adjacent town, a "green belt" shall be planted and maintained at 100 feet in depth, including conifers planted in no fewer than two rows no further than 15 feet apart, with trees planted no more than 15 feet apart along each row, staggered to provide maximum screening, and using trees not less than two inch caliper at time of planting.

(d) The commission may require more extensive plantings, or more mature plantings, if unusual conditions demand more extensive screening and noise abatement. The commission may, upon written request of the owner of the premises, waive the requirements of the planting of conifers under paragraph (c) above where existing natural growth to be preserved and maintained affords, in the opinion of the commission, suitable screening no less effective than would be afforded by the prescribed conifers; and,

(e) Whenever the owner or occupant desires to commence the permitted use of such building or enlargement before providing the landscape planting prescribed hereunder, the commission may extend the time to a date certain following commencement of such use, but not exceeding six months, upon application by such owner or occupant, if, in the opinion of the commission, provision

of such landscape planting cannot be made before commencing such use solely because normal seasonal or abnormal unseasonable weather and soil conditions present an unreasonable risk of planting failure.

91C.2. TIMBER CUTTING PLAN. The applicant shall submit a plan, which shall be made a part of the site development plan required under Section 120C.4 of the zoning regulations, describing the existing mix of forest tree species and their approximate height, age and density; and a complete description of the cutting and removal activities to be undertaken in preparing the site for any proposed improvements and for the customary maintenance of the premises.

(a) Any tree more than ten inches caliper (diameter) measured a yard above the ground shall be shown on the site development plan and, unless otherwise permitted by the commission upon written request, shall be maintained.

(b) All existing natural growth shall be preserved and maintained where practicable.

(c) The commission shall have the authority to require, and may require, more extensive plankings, or more mature plantings, if conditions on the proposed site demand more extensive screening.

(d) The commission may impose additional requirements as conditions of approval including, but limited to, the provision of additional buffer areas, site development limitations, landscaping and similar stipulation.

91C.3. SOIL EROSION AND SEDIMENT CONTROL. A Soil Erosion and Sediment Control Plan shall be submitted with any application for development when the disturbed area of such development is cumulatively more than one-half acre. The Soil Erosion and Sediment Control Plan shall be submitted as part of the more comprehensive site development plan as required in Section 120C.4 of the zoning regulations. The plan shall contain, but not be limited to:

(a) The schedule for grading and construction activities including: start and completion dates; sequence of grading and construction activities; sequence for installation and/or application of soil erosion and sediment control measures; and sequence for final stabilization of the project site.

(b) The design criteria for proposed soil erosion and sediment control measures and storm water management facilities.

(c) The construction details for proposed soil erosion and sediment control measures and storm water management facilities.

(d) The installation and/or application procedures for proposed soil erosion and sediment control measures and storm water management facilities.

(e) The operations and maintenance program for proposed soil erosion and sediment control measures and storm water management facilities.

91C.4 SOIL EROSION AND SEDIMENT CONTROL – MINIMUM STANDARDS.

(a) Plans for erosion and sediment control shall be developed in accordance with these regulations using the principles as outlined in Chapters 3 and 4 of the Connecticut Guidelines for Soil Erosion and Sediment Control (1985), as amended.

(b) The minimum standards for individual measures shall be those in the Connecticut Guidelines for Soil Erosion and Sediment Control (1985), as amended. The commission may grant exceptions when requested by the applicant if technically sound reasons shall be presented.

(c) The appropriate method from Chapter 9 of the Connecticut Guidelines for Sediment and Soil Erosion Control (1985), as amended, shall be used in determining peak flow rates and volumes of runoff unless an alternative method shall be approved by the commission.

91C.5. CONDITIONS OF APPROVAL.

(a) The estimated costs of measures required to control soil erosion and sedimentation, as specified in the approved plan, may be required to be covered in a performance bond or other assurance acceptable to the commission.

(b) Site development shall not begin unless the Soil and Sediment Control Plan shall be approved and those control measures and facilities in the plan scheduled for installation prior to site development shall be installed and functional.

(c) Planned soil erosion and sediment control measures and facilities shall be installed as scheduled according to the approved plan.

(d) All control measures and facilities shall be maintained in effective condition to ensure compliance with the approved plan.

91D. STORAGE AREAS. Storage areas for materials, supplies and products shall not be located in front of the building and all such areas shall be screened by planting, landscaping or fencing.

91E. INSPECTION AND ENFORCEMENT. Inspections shall be made by the commission or its designated agent during development to ensure compliance with the approved plan and that control measures and facilities have been properly performed or installed and maintained.

91F. LOADING AND UNLOADING AREAS. Loading and unloading platforms shall be located at the rear of the building before commencing any use of such building or enlargement, areas used for loading and unloading shall be screened from adjacent roads and properties by planting, landscaping or fencing.

91G. CONDITIONS NOT APPLICABLE IN THE CASE OF EXISTING INDUSTRUAL BUILDINGS. Any building existing on February 1, 1992, which was previously designed, built or used for a use permitted in a Municipal and Industrial Service Zone may be used for such use without compliance with the conditions specified in 91C.

91H. REQUIRED CHARACTERISTICS. The lot and the buildings involved in any use in a Municipal and Industrial Service Zone shall conform to the following characteristics:

DISTRICT
MI

Minimum Lot Area Sq. Ft.	Minimum Lot Width Ft.	Front Setback Ft.	Side Setbacks Each Ft.
80,000	200	30	25

Rear Setbacks Ft.	Maximum Building Coverage %	Maximum Building Coverage Ft.
50	25	35

EFFECTIVE MARCH 15, 1999
AMENDED JANUARY 1, 2003

SECTION 92

DESIGN MUNICIPAL/INDUSTRIAL DISTRICT

92A. USES PERMITTED. The Limited Industrial-Mixed Use District contains one or more buildings or complex of buildings which have been used for industrial purposes prior to the adoption of these zoning regulations on July 11, 1966. The purpose of the Limited Industrial-Mixed Use District is to allow existing buildings to be put to adaptive uses compatible with the purposes of the district while recognizing the changes in the use patterns of such buildings. In a Limited Industrial-Mixed Use district, there shall be permitted (no use shall be made in a Limited Industrial-Mixed Use District until a zoning permit shall have been issued specifically therefor):

92A.1. GENERAL PRINCIPAL USES. Subject to the conditions specified in Section 90B., the following principal uses and, subject to the conditions of 90C., building (which conditions shall apply to this district):

(A) All General Principal Uses set forth in Section 90A.1.

92A.2. SPECIAL PRINCIPAL USES. The following special principal uses and buildings only when specifically authorized in the particular instance by a special exception granted by the commission subject to the conditions prescribed in or pursuant to Section 130:

(A) Professional and business offices and related uses not exceeding fifty percent (50%) of the total square footage of existing building(s) located within an existing complex of buildings used for non-residential purposes as of January 1, 1999, on one parcel or contiguous parcels.

(B) Non-residential artist studios.

(C) All Special Principal Uses set forth in Section 90A.2, subject to the provisions of Sections 90A.3 and 90A.4.

(D) Cellular Telecommunications Facility. Antennas approved under this section shall not be required to comply with the height limitations of Section 40J as long as the antennae do not exceed the height of the existing structure to which they are attached.

Not withstanding the provisions of Section 40F of these regulations, after approval of a special exception for uses described in Section 92A.2(A) (Professional and business offices and related uses) or (B) (Non-residential Artists Studios) no further special exception shall be required for any change in use in existing buildings follows: (I) From one approved special principal use

permitted under Section 92A.2(A) to another special principal use permitted under Section 92A.2(A); (ii) From one approved special principal use permitted under Section 92A.2(B) to another special principal use permitted under Section 92A.2(B); or (iii) from one approved general or special principal use to another general principal use; provided in each instance a zoning permit is obtained pursuant to Section 121A.3 and further provided that all of the sections of these regulations are satisfied.

92B through 92E. CONDITIONS OF GENERAL PRINCIPAL USES; CONDITIONS RELATING TO BUILDINGS; CONDITIONS NOT APPLICABLE IN THE CASE OF EXISTING INDUSTRIAL BUILDINGS; REQUIRED CHARACTERISTICS.

The provisions of Sections 90B through 90E are hereby included by reference herein and renumbered for the purpose of this Section as Sections 92B through 92E.

92F. 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 uses set forth in Section 92A.1 and/or Section 92A.2 within an existing single building or within more than one existing building within a single existing complex of buildings located on one parcel or contiguous parcels shall be considered a single use.

SECTION 100

CONSERVATION DISTRICT

100A. USES PERMITTED. Subject to the provisions of 100B., in a Conservation District there shall be permitted:

100A.1. GENERAL PRINCIPAL USES. The following principal uses and buildings:

(A) Parks, playgrounds, forests, wildlife sanctuaries, boat landing areas, and subject to 100B, similar open reservations operated by government units or nonprofit corporations, game raising, hunting, and other conservation activities carried on under private or public ownership;

(B) Farming, without tillage, grazing; and

(C) Private boat landing accommodating not more than three pleasure boats and private swimming facilities.

100A.2. ACCESSORY USES. Any accessory use or improvement but not including:

(A) SIGNS. In addition to any sign permitted under 111B. and subject to the limitations prescribed in 111A., one business name sign accessory to a general principal use, and only as authorized by the special exception authorizing such use, not exceeding six square feet in area.

100B. IMPROVEMENTS. No building or other improvement of any kind, including the filling or paving of land, the alteration or obstruction of any water course or the change of any surface grades, shall be made, built or placed in a Conservation District unless authorized in the particular instance for a use permitted in 100A.1 by the grant by the Commission of a special exception.

100B.1. CONDITIONS OF SPECIAL EXCEPTIONS. The grant of a special exception authorizing any improvements described in 100B. shall be subject to the following conditions:

(A) ARCHITECTURAL DESIGN. The architectural design of buildings and signs, including the building materials, color and exterior elevations, shall be of such character as to harmonize with the neighborhood and accomplish a transition in character between premises of dissimilar uses and improvements;

(B) SITE PLAN. The site plan and arrangement of buildings and other improvements, including landscaping, contours, storm drainage, sanitary facilities, outdoor illumination and vehicular parking facilities, shall be of such a character: (1) as to harmonize

with the neighborhood and accomplish a transition in character between premises of dissimilar uses and improvements, (2) as shall cause the least possible damage to and encroachment upon or interference with the natural resources and natural ecological processes in the District, and (3) as shall not cause any hazard from flooding or adversely affect drainage or ground water level; and

(C) GENERAL. Such other reasonable conditions as the Commission may deem necessary or appropriate to impose for the purpose of preventing or diminishing any adverse effect of such use upon the health, safety and welfare of the community, any undue annoyance or disturbance of the occupants of premises in the general neighborhood of such use and any impairment of the suitability, usefulness, or value of premises in the general neighborhood of such use for the general principal uses prescribed therefore under these Regulations and predominantly existing therein.

SECTION 101

GATEWAY CONSERVATION DISTRICT

101A. USES PERMITTED. Except as prohibited in Section 101B., and subject to the limitations and restrictions hereinafter prescribed, the same uses and improvements as are permitted under these Regulations in each of those other districts into which the Town is divided under Section 30A shall be permitted in each such district within the Gateway Conservation District.

101B. GENERAL PROHIBITIONS. Anything to the contrary in these Regulations notwithstanding, no land or improvement thereon within a Gateway conservation District shall be used for:

101B.1. DUMPING AND STORING OF REFUSE. No dumping or storage of refuse shall be permitted other than the temporary dumping or storage of small amounts of such material for brief periods pending final lawful disposition nor shall any new public solid waste disposal facility be established or an existing facility be expanded in area.

101B.2. REMOVAL OF SOIL AND EARTH MATERIALS. The removal of earth products except:

(A) The removal of soil and earth materials shall be prohibited except for (1) valid nonconforming uses in existence as of May 14, 1974; (2) foundation, trench and related site excavation performed after the issuance of a building permit; and (3) removal in connection with the landscaping and grading of land for a purpose for which a building permit is not required, provided that such removal shall not exceed 300 cubic yards of material.

(B) for use on other parts of the same lot or adjoining lot under the same ownership if the quantity removed does not exceed in the aggregate 100 cubic yards.

101B.3. CUTTING OF TIMBER.

(A) Noncommercial Cutting. A noncommercial cutting plan shall be submitted as part of the supporting documentation filed with a required site plan or as one of the required exhibits to be submitted for land subdivision approval.

(B) Commercial Cutting. Each town shall designate a regulatory authority to issue permits for the commercial cutting of timber and no commercial cutting of timber shall occur in the absence of the issuance of such a permit. After submission of a commercial cutting plan to said regulatory authority, a permit shall be granted if it is found to be consistent with the minimum standards set forth in Appendix A of the Standards of the Connecticut River Gateway Commission.

101C. EROSION AND SEDIMENTATION CONTROL. No special exception shall be granted under Section 120 authorizing any improvement or any enlargement, extension or expansion of any improvement within the Gateway Conservation District unless the Commission shall have found that the plan of development meets the following criteria:

(1) The plan of development shall so integrate the improvements to be made with the topography and soils of the premises as to create the least erosion potential;

(2) All natural vegetation shall be retained and protected except that which must necessarily be removed to carry out the plan of development;

(3) The area of land exposed by removal of natural vegetation at any one time during the course of development shall be kept to the minimum necessary to carry out the plan of development;

(4) When land is exposed during the course of development, such exposure shall be kept to the shortest possible duration;

(5) Whenever the Commission shall deem it necessary, temporary vegetation and/or mulching shall be used to protect areas exposed during development;

(6) Sediment basis (debris basins, desilting basins or silt traps) as required by the Commission shall be installed and maintained to remove sediment from runoff waters from land undergoing development;

(7) Provision satisfactory to the Commission shall be made to accommodate effectively the increased runoff caused by change in soil and surface conditions during and after development; and

(8) The permanent final vegetation and improvements shall be installed as soon as practical in the course of development.

101D. GATEWAY BUFFER AREA. Anything to the contrary in these Regulations notwithstanding, no building or other improvement shall be located within 50 feet measured in a horizontal plain, of any point on the mean high water line of the Connecticut River or the portion of the Falls River easterly, or downstream, of River Road.

101D.1. EXCEPTION. A marine facility or any accessory improvement which is not intended for human occupancy may be located within such Gateway Buffer Area when specifically authorized in the particular instance by a special exception granted by the Commission subject to the conditions prescribed in or pursuant to Section 130.

101E. BURNING OF UNDERGROWTH. The burning of undergrowth shall be in accordance with those regulations of the Connecticut Department of Environmental Protection which are in effect from time to time to control and abate air pollution and in accordance with all other applicable provisions of law.

SECTION 102

COASTAL MANAGEMENT DISTRICT

102A. COASTAL SITE PLANS. All buildings, uses and structures fully or partially within the coastal boundary as defined by Sections 22a-94 of the Connecticut General Statutes and as further delineated on the Coastal Management Area Map, pursuant to a description, filed with the memorandum of decision in the Town Clerk's Office, shall be subject to the Coastal Site Plan Review requirements and procedures in Sections 22a-105 through 22a-109 of the Connecticut General Statutes.

102B. EXEMPTIONS. Pursuant to Section 22a-109(b) of the Connecticut General Statutes the following uses are exempt from coastal site plan review requirements:

(1) Gardening, grazing and the harvesting of crops;

(2) Minor additions to or modifications of existing buildings or detached accessory buildings, such as garages and utility sheds;

(3) Construction of new or modification of existing structures incidental to the enjoyment and maintenance of residential property including but not limited to walks, terraces, driveways, swimming pools, tennis courts, docks and detached accessory buildings;

(4) Construction of the following new or modification of the following existing on-premises structures: fences, walls, pedestrian walks and terraces, underground utility connections, essential electric, gas, telephone, water and sewer service lines, signs, and such other minor structures as will not substantially alter the natural character of coastal resources as defined by Section 22a-93(7) of the Connecticut General Statutes or restrict access along the public beach;

(5) Construction of an individual single family residential structures except in or within one hundred feet of the following coastal resource areas as defined by Section 22a-93(7) of the Connecticut General Statutes: tidal wetlands, coastal bluffs and escarpments, beaches and dunes;

(6) Activities conducted for the specific purpose of conserving or preserving soil, vegetation, water, fish, shellfish, wildlife and other coastal land and water resources;

(7) Interior modifications to buildings;

(8) Minor changes in use of a building, structure, or property except those changes occurring on property adjacent to or abutting coastal waters.

102C. The forgoing exemptions from coastal site plan review requirements shall also apply to activities which require the following site plans, plans and applications:

(1) Site plans submitted to the Zoning Commission in accordance with Section 22a-109 of the Connecticut General Statutes;

(2) Applications for a special exception submitted to the Zoning Commission in accordance with Section 8-2 of the Connecticut General Statutes and Section 120 of these regulations;

(3) Applications for a variance submitted to the Zoning Board of Appeals in accordance with subdivision (3) of Section 8-6 of the Connecticut General Statutes and Section 140 of these regulations;

(4) A referral of a proposed municipal project to the Planning Commission in accordance with Section 8-24 of the Connecticut General Statutes.

102D. CONTENTS OF COASTAL SITE PLAN. Applications for approval for a Coastal Site Plan filed with the appropriate Zoning Authority shall comply with the provisions of Section 120C.4 (Site Development Plan) of the Essex Zoning Regulations, in so far as the same may be applicable thereto. In addition to the requirements set forth in said section, a Coastal Site Plan shall include a plan showing the location and spatial relationship of coastal resources on and contiguous to the site; a description of the entire project with appropriate plans, indicating project location, design, timing and method of construction; an assessment of the capability of the suitability of the project for the proposed site; an evaluation of the potential beneficial and adverse impacts of the project and a description of proposed methods to mitigate adverse effects on coastal resources. In addition, the applicant shall demonstrate to the Zoning Authority that the adverse impacts of the proposed activity on coastal resources and future water dependent development activities are acceptable and shall demonstrate that such activity is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes, as amended.

102E. PROCEDURE. Whenever a Coastal Site Plan is presented to the Zoning Commission, the Planning Commission or the Zoning Board of Appeals, that Commission or Board shall approve, modify, condition or deny the activity proposed in the Coastal Site Plan on the basis of the criteria listed in Section 22a-106 of the Connecticut General Statutes as amended from time to time, to ensure that the potential adverse impacts of the proposed activity on both coastal resources and future water dependent development activities are acceptable. The Commission or Board shall state in writing to the applicant the findings and reasons for its action.

In approving any activity proposed in a Coastal Site Plan, the Commission or Board shall make a written finding that the proposed activity with any conditions or modifications imposed by the Commission or Board:

(1) Is consistent with all applicable goals and policies in Section 22a-92 of the Connecticut General Statutes, as amended.

(2) Incorporates as conditions or modifications all reasonable measures which would mitigate the adverse impacts of the proposed activity on both coastal resources and future water dependent development activities.

102F. FEE. Applications to the appropriate Zoning Authority for a Coastal Plan review shall be accompanied by a fee established by the Zoning Authority to defray the reasonable cost of reviewing and acting upon the application.

AMENDED AUGUST 28, 2008

SECTION 103

FLOOD PLAIN DISTRICT

103A. STATUTORY AUTHORITY AND PURPOSE. The Legislature of the State of Connecticut has in Title 7, Chapter 98, Section 7-148(c)(7)(A) and in Title 8, Chapter 124, Section 8-2 of the General Statutes delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry (see Section 10A of these regulations). Therefore, the Zoning Commission of Essex, Connecticut does ordain the following regulation. The purpose of this regulation is to:

(1) Minimize public and private losses due to flood conditions in specific areas of the Town of Essex by the establishment of standards designed to:

(A) protect human life and public health;

(B) minimize expenditure of money for costly flood control projects;

(C) minimize the need for rescue and relief efforts associated with flooding;

(D) minimize prolonged business and employment interruptions;

(E) minimize damage to public facilities and utilities;

(F) help maintain a stable tax base;

(G) insure that purchasers of property are notified of special flood hazards;

(H) insure that persons who occupy areas of special flood hazard assume responsibility for their actions; and

(2) To ensure continued eligibility of owners of property in the Town of Essex for participation in the National Flood Insurance Program pursuant to rules and regulations published in the Federal Register.

103B. OTHER RESTRICTIONS. This regulation is not intended to repeal, abrogate or impair any easements or other laws, regulations or ordinances, and whichever imposes the more stringent restrictions shall prevail.

103C. INTERPRETATION. In the interpretation and application of this regulation, all provisions shall be considered as minimum requirements and shall be construed so as to preserve and maintain the purpose and intent hereof.

103D. (1). WARNING AND DISCLAIMER OF LIABILITY. The degree of flood protection established by this regulation is considered reasonable for town-wide regulatory purposes and is based on available scientific and engineering studies. Larger floods may occur on rare occasions, and flood heights may increase as a result of man-made or natural causes. This regulation does not imply that land outside of "special flood hazard areas" will be free from flooding or flood damages. This regulation shall not create liability on the part of the Town of Essex, any officer or employee thereof or the Federal Insurance Administration for any flood damages that result from reliance of this regulation or any administrative decision lawfully made hereunder.

103D. (2). SEVERABILITY. If any section, subsection, paragraph, sentence, clause, or phrase of this regulation should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this regulation, which shall remain in full force and effect; and to this end the provisions of this regulation are hereby declared to be severable.

103E. DEFINITIONS. The following terms and words are used in conjunction with the Flood Plain District and shall have the meaning hereto assigned to them.

BASE FLOOD: The flood having a one percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE): The particular elevation of the base flood, referenced to mean sea level, as specified on the Flood Insurance Rate Map for Zone A1-A30.

BASEMENT: Basement means any area of the building having its floor sub-grade (below ground level) on all sides.

BUILDING – see definition for "Structure".

COST: As related to substantial improvements, the cost of any reconstruction, rehabilitation, addition, alteration, repair or other improvement of a structure shall be established by a detailed written contractor's estimate. The estimate shall include, but not be limited to: the cost of materials (interior finishing elements, structural elements, utility and service equipment); sales tax on materials, building equipment and fixtures, including heating and air conditioning and utility meters; labor; built-in appliances; demolition and site preparation; repairs made to damaged parts of the building worked on at the same time; contractor's overhead; contractor's profit; and grand total. Items to be excluded include: cost of plans and specifications, survey costs, permit fees, outside improvements such as septic systems, water supply wells, landscaping, sidewalks, fences, yard lights, irrigation systems, and detached structures such as garages, sheds, and gazebos.

DEVELOPMENT: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

ELEVATED BUILDING-A AND A1-30 ZONES: A non-basement building built to have the top of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls or by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured home are to be affixed (including, as a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) before the effective date of the floodplain management regulations adopted by a community: August 28, 2008.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Federal Emergency Management Agency (FEMA): The federal agency that administers the National Flood Insurance Program (NFIP).

FINISHED LIVING SPACE: Finished living space can include, but is not limited to, a space that is heated and/or cooled, contains finished floors (tile, linoleum, hardwood, etc.), has sheetrock walls that may or may not be painted or wallpapered, and other amenities such as furniture, appliances, bathrooms, fireplaces and other items that are easily damaged by floodwaters and expensive to clean, repair or replace. A fully enclosed area below the base flood elevation (BFE) cannot have finished living space and needs to be designed for exposure to flood forces. These spaces can only be used for parking, building access or limited storage.

FLOOD INSURANCE RATE MAP (FIRM): An official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones.

FLOOD INSURANCE STUDY (FIS): The official report from the Federal Emergency Management Agency (FEMA) which contains examination, evaluation, and determination of flood hazards and if appropriate, corresponding water surface elevations.

FLOOD BOUNDARY AND FLOODWAY MAP: The official map on which the Federal Emergency Management Agency has delineated the boundaries of the floodway.

FLOOD OR FLOODING: A general and temporary condition of partial or complete inundation of normally dry land areas from (a) the overflow of inland or tidal waters and/or (b) the unusual and rapid accumulation or runoff of surface waters from any source.

FLOODPROOFING: Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY: The channel of a river, other watercourse and the adjacent land area that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 1.0 foot anywhere in Town. For the purposes of these regulations, the term "Regulatory Floodway" is synonymous in meaning with the term "Floodway."

FUNCTIONALLY DEPENDENT USE OR FACILITY: A use or facility that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities. The term does not include seafood processing facilities, long-term storage, manufacturing, sales or service facilities.

HIGHEST ADJACENT GRADE (HAG): The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STUCTURE: Any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(1) by an approved state program as determined by the Secretary of the Interior or

(2) directly by the Secretary of the Interior in states without approved programs.

LOWEST FLOOR: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such an area meets the design requirements of this regulation.

MANUFACTURED HOME: A structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term also includes park trailers, travel trailers, recreational vehicles and other similar vehicles or transportable structures placed on a site for one hundred and eighty (180) consecutive days or longer and intended to be improved property.

NEW MANUFACTURED HOME OR SUBDIVISION: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date, August 28, 2008, of the floodplain management regulation adopted by the community.

MAUFACTURED HOME PARK OR SUBDIVISION: A parcel or contiguous parcels of land divided into two (2) or more manufactured home lots for rent or sale.

MARKET VALUE: Market value of the structure shall be determined by:

The property's tax assessment, minus land value;
Or
An independent appraisal by a professional appraiser at the owner's option.

LOWEST FLOOR: "Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this regulation.

MEAN SEA LEVEL (MSL): The North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

NEW CONSTRUCTION: Means structures for which the "start of construction" commenced on or after the effective date of the initial FIRM, (July 16, 1980), and includes any subsequent improvements to such structures.

RECREATIONAL VEHICLE: A vehicle which is: (a) built on a single chassis; (b) four hundred (400) square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towed by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

SPECIAL FLOOD HAZARD AREA: The land in the flood plain subject to a one percent or greater chance of flooding in any given year.

START OF CONSTRUCTION: "Start of construction" (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-3481), includes substantial improvement, and means the date that the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE: A walled and roofed building which is principally above ground, including a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

SUBSTANTIAL DAMAGE: Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT: Any combination of repairs, reconstruction, rehabilitation, alterations, additions or other improvements to a structure, taking place during a five year time period as determined by the Town, in which the cumulative cost equals or exceeds fifty (50) percent of the market value of the structure as determined at the beginning of such five (5) year period. This term includes structures that have incurred "substantial damage", regardless of the actual repair work performed.

For purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure".

VARIANCE: A grant of relief by a community from the terms of the floodplain management regulation that allows construction in a manner otherwise prohibited and where specific enforcement would result in unnecessary hardship.

VIOLATION: Failure of a structure or other development to be fully compliant with the community's floodplain management regulation. A structure or other development without required permits, lowest floor elevation documentation, flood-proofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION: The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

103F. ZONE DESIGNATIONS. The zone designations are as they appear on the Flood Insurance Rate Map effective as of August 28, 2008 as adopted by the Zoning Commission and made a part of these regulations, and as the same may be amended from time to time, as filed in the Town Clerk's office. Reference is made to the adoption and incorporation of the Flood Insurance Study and Flood Boundary and Floodway Maps of August 28, 2008, or as they may be amended from time to time, as filed in the Town Clerk's office, and any subsequent revisions thereto, are adopted by reference and declared to be part of this regulation. Since mapping is legally adopted by reference into the regulation, it must take precedence when more restrictive, until such time as a map amendment is obtained.

103G. LAND USE AND DESIGN REQUIREMENTS: All new construction and substantial improvements in flood-prone areas must:

1. Be constructed by methods and practices that minimize flood damages; and

2. Be constructed with materials resistant to flood damage.

Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving or excavation operations, may be made within the "special flood hazard area" only in accordance with the following requirements.

(1) Anchoring. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

(2) Construction Materials and Methods. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(3) Utilities. Water supply and sanitary systems shall conform to the following:

(A) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(B) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood water; and

(C) On-site sewage disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(4) Flood Elevation. New construction and substantial improvement of buildings and other structures shall conform to the following:

(A) Any residential structure shall have the lowest floor, including basement, elevated to or above the base flood elevation.

(B) Any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to or above the base flood elevation or shall, together with attendant utility and sanitary facilities, conform to the following:

(i) be flood proofed so that at one foot (1') above the base flood elevation, the structure is watertight with walls substantially impermeable to the passage of water.

(ii) for all new construction and substantial improvements, fully enclosed areas below the lowest floor are usable solely for parking of vehicles; building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically

equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(iii) be certified by a registered professional engineer or architect that the above standards are satisfied, which certifications shall be provided to the Zoning Enforcement Agent.

(5) In Zones A, A1-A30, the requirements of Section 103G.4. that any nonresidential structure shall have the lowest floor, including basement, elevated to or above the base flood elevation shall not apply to the following:

(A) A one story attached garage, provided said garage is not an integral part of a residential structure.

(B) Accessory buildings, which are less than 400 square feet in floor area and are accessory to a residential structure.

(C) One story row garages located on a lot in a residential district containing multiple dwelling units.

(6) Accessory buildings, one story attached garages on residential structures and detached garages, as defined in Section 103G.5. shall conform to the following:

(1) One story attached garages on residential structures.

(A) Shall not be used for human habitation.

(B) Shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwater.

(C) No machinery or equipment which services a building such as furnaces, air conditioners, heat pumps, hot water heaters, washers, dryers, elevator lift equipment, electrical junction and circuit breaker boxes, and food freezers, are permitted below the base flood elevation.

(D) All interior wall, floor, and ceiling materials located below the base flood elevation must be unfinished and resistant to flood damage.

(E) There shall be no basement or excavated area below any accessory building or garage.

(2) Detached garages.

(A) Use of the garage must be limited to parking or limited storage.

(B) The garage must be built using unfinished and flood damage resistant materials.

(C) The garage must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure and meet the hydraulic openings requirements of Section 103G. (4) (i) and (ii).

(D) The garage must comply with flood plain encroachment requirements as per Section 103H.

(E) There shall be no basement or excavated area below any accessory building, attached garage, or detached garage.

(3) Manufactured Homes:

(A) All manufactured homes must be elevated and anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

(B) Manufactured homes placed or substantially improved within Zones A1-30, AH and AE must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base elevation and be securely anchored to an adequate foundation system to resist flotation, collapse, and lateral movement, which meet one of the following location criteria:

1. Outside of a manufactured home or subdivision;
2. In a new manufactured home park or subdivision;
3. In an expansion to an existing manufactured home park or subdivision; or
4. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood.

(C) Recreational Vehicles: All recreational vehicles placed on sites within A1-30, AH and AE must be either:

1. On the site for fewer than 180 consecutive days, and be fully licensed and ready for highway use, or

2. Meet the elevation and anchoring requirements of a manufactured home. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnected type utilities and security devices, and has no permanently attached additions.

(4.) Subdivision applications shall include the following:

(A) Base flood elevation data for all new subdivision proposals and other proposed developments greater than 50 lots or five acres, whichever is the lesser;

(B) The Planning Commission shall review subdivision proposals to assure that:

1. Such proposals minimize flood damage;
2. All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
3. Adequate drainage is provided.

(5.) COMPENSATORY STORAGE:

The water holding capacity of the floodplain, except those areas which are tidally influenced, shall not be reduced. Any reduction caused by filling, new construction or substantial improvements involving an increase in footprint to the structure, shall be compensated for by deepening and/or widening of the floodplain.

- Storage shall be provided on-site, unless easements have been gained from adjacent property owners;
- It shall be provided within the same hydraulic reach and a volume not previously used for flood storage;
- It shall be hydraulically comparable and incrementally equal to the theoretical volume of flood water at each elevation, up to and including the 100-year flood elevation, which would be displaced by the proposed project.

Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Compensatory storage can be provided off-site if approved by the municipality.

(6.) EQUAL CONVEYANCE.

Within the floodplain, except those areas which are tidally influenced, as designated on the Flood Insurance Rate Map (FIRM) for the community, encroachments resulting from filling, new construction or substantial improvements involving an increase in footprint of the structure, are prohibited unless the applicant provides certification by a registered professional engineer demonstrating, with supporting hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that such encroachments shall not result in any (0.00 feet) increase in flood levels (base flood elevation). Work within the floodplain and the land adjacent to the floodplain, including work to provide compensatory storage shall not be constructed in such a way so as to cause an increase in flood stage or flood velocity.

103H. FLOODWAYS. Floodways as designated on the Flood Boundary and Floodway Maps are extremely hazardous areas due to the velocity of flood waters which cause erosion and carry debris and potential projectiles. The town may request floodway data of an applicant for watercourses without FEMA published floodways. When such data is provided by an applicant or whenever such data is available from any other source (in response to the town's request or not), the town shall adopt a regulatory floodway based on the principle that the floodway must be able to convey the waters of the base flood without increasing the water surface elevation more than one foot (1') at any point along the watercourse.

In Zone A when base flood elevations become available, but before a floodway is designated, no new construction, substantial improvement, or other development (including fill) shall be permitted which will increase base flood elevations more than one foot (1') at any point along the watercourse when all anticipated development is considered cumulatively with the proposed development. The following additional standards are applicable to development in relation to floodways:

(1) Encroachment: There shall be no encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating that encroachment will not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) If the requirement of 103H.1. is satisfied, all new construction and substantial improvements shall comply with all other applicable standards of the Flood Plain District.

103I. FLOOD HAZARD AREA PERMITS. Development, including new construction, substantial improvement and the placement of prefabricated buildings, may be made within Special Flood Hazard Areas only after a Flood Hazard Area Permit therefore has been obtained.

(1) Application. Application for a Flood Hazard Area Permit shall be made to the Zoning Enforcement Agent on forms furnished for the purpose by the Zoning Enforcement Agent and shall include at least (a) plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; (b) existing or proposed structures, fill, storage of materials and drainage facilities; and (c) the location of the foregoing. The following information is required in connection with all applications:

(A) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;

(B) Elevation in relation to mean sea level to which any structure has been or will be flood proofed;

(C) Certification by a registered professional engineer or architect that the flood proofing methods for any nonresidential structure meet the flood proofing criteria of these regulations;

(D) Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development, certification by a registered professional engineer that the flood carrying capacity within the altered or relocated portion will be maintained, and evidence that adjacent towns affected and the Connecticut Department of Environmental Protection, Water Resources Unit, have been notified;

(E) Plans for any walls to be used to enclose space below the base flood elevation;

(F) All necessary permits from those Federal, State or Town governmental agencies from which prior approval is required.

(2) Fees. The fee for Flood Hazard Area permits shall be as established by the Zoning Commission from time to time.

(3) Duties and Responsibilities of the Zoning Enforcement Agent. Duties and responsibilities of the Zoning Enforcement Agent in the administration of this regulation shall include but not be limited to the following:

(A) Permit Application Review.

1. Review all Flood Hazard Permit applications to determine that the requirements of this regulation have been satisfied;

2. Review all such permit applications to assure that all other necessary permits have been received from those Federal, State or Town governmental agencies from which prior approval is required; and

3. Review plans for walls to be used to enclose space below the base flood level in accordance with these regulations.

(B) Other Base Flood Data. When base flood elevation is not provided on the Flood Insurance Rate Map, the Zoning Enforcement Agent shall obtain, review and reasonably utilize any base flood elevation data available from a Federal, State or other source, in order to administer the standards of this regulation.

(C) Information to be Obtained from the Applicant and Maintained.

1. The actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures;

2. For all new and substantially improved flood-proofed structures, the actual elevation (in relation to mean sea level), to which the structure was flood proofed.

3. Evidence that adjacent towns and the Connecticut Department of Environmental Protection, Water Resources Unit, have been notified prior to any alterations or relocation of a watercourse;

4. Certification that the flood carrying capacity within the altered or relocated portion of a watercourse will be maintained; and

5. Maintain for public inspection all records pertaining to the provisions of this regulation.

(D) Interpretations of Boundaries. Make interpretations where needed, as to the exact location of the boundaries of Special Flood Hazard Areas, such as where there appears to be a conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 103J.

(4) BONDS. The Zoning Enforcement Agent may require, as a condition of issuing a Flood Hazard Area permit, that the applicant post a bond or other surety to assure conformance with all of the requirements of the Flood Hazard Area permit. The bond will be in a form amount and duration acceptable to the Commission and its legal counsel and shall be generally in accordance with the bond requirements found in the Subdivision Regulations of the Town of Essex, as amended from time to time. Should the site developer violate the requirements of the Flood Hazard Area Permit or not remove promptly obstructions from the Special Flood Hazard Area, the bond will be used by the town to complete work necessary for protection of public health, safety, and welfare.

103J. APPEALS AND VARIANCES IN FLOOD PLAIN DISTRICT.

(1) Exemption. Variances for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places and the Connecticut State Inventory of Historic Places may be issued without regard to the considerations and conditions of this section.

(2) General Considerations. In passing upon applications for variances, the Zoning Board of Appeals shall consider (a) the technical evaluations and studies that are the basis of these Regulations, (b) the standards of these Regulations, and (c) the following:

(A) the danger that materials may be swept onto other lands to the injury of others;

(B) the danger to life and property due to flooding or erosion damage;

(C) the susceptibility of the proposed facility and its contents to flood damage, and the effect of such damage on the individual owner;

(D) the importance of the services provided to the community by the proposed facility;

(E) the necessity of a waterfront location for the function of the facility;

(F) the availability of alternative locations for the proposed facility which are not subject to flooding or erosion damage;

(G) the compatibility of the proposed use with existing and anticipated other development;

(H) the relationship of the proposed use to the plan of development for the Town and the flood plain management program for that area;

(I) the safety of access to the property in times of flood for ordinary and emergency vehicles;

(J) the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges;

(K) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.

(3) Conditions for Variance. The following are conditions applicable to the issuances of variances by the Zoning Board of Appeals:

(A) No variance shall be issued within a floodway if any increase in flood levels during the base flood discharge will result.

(B) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(C) Otherwise, variances may be issued for new construction and substantial improvements to be erected on a lot of approved size in the district in which it lies when the lot is contiguous to and generally surrounded by lots with existing structures constructed below the base flood elevation provided that the following criteria are met:

(i) a showing of good and sufficient cause;

(ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with other existing Town laws, ordinances and regulations.

(4) Conditions. When issuing a variance, the Board may attach such conditions that it deems necessary to further the purpose and intent of this regulation.

(5) Written Notice. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation up to amounts as high as $25.00 for $100.00 of insurance coverage.

103K. ENFORCEMENT

(1) Each Zoning Flood Hazard Area Permit shall authorize, as a condition of approval, the Zoning Enforcement Agent (ZEA) or designated agents to make regular inspections of the subject

property. The ZEA or designated agents are also authorized to inspect any property in a Special Flood Hazard Area (SFHA) where it appears that violations of these regulations may be taking place.

If the ZEA finds that any person is undertaking any construction, substantial improvement, filling, or any other activity, or maintaining a condition which is in violation of these regulations, the ZEA shall:

(A) Issue a written order by certified mail, return receipt requested, to the subject property owner, ordering that the activity cease and ordering the property owner to either seek to obtain a Zoning Flood Hazard Area Permit prior to continuing with the activity or, if appropriate, ordering that all violations and/or obstructions be removed from the Special Flood Hazard Area (SFHA) immediately.

(B) Notify the Building Official/Inspector and request that any building permit(s) in force be revoked or suspended and that a stop work order be issued.

(C) The ZEA may suspend or revoke a Floodplain Development Permit if it is found that the applicant has not complied with the terms, conditions or limitations set forth in the permit or has exceeded the scope of work as set forth in the application including application plans. Prior to revoking any permit, the ZEA shall issue notice to the permittee, personally or by certified mail, return receipt requested, setting forth the facts or conduct which warrants the intended action.

(D) Failure to comply with any written order issued under this section shall be considered a violation of these regulations and is subject to the penalties described in Section 103L.

(E) In the event violations or obstructions are not promptly removed from the Special Flood Hazard Area (SFHA), the ZEA may cause such removal and remediation work to be performed utilizing bond money held in escrow pursuant to Section 103I (4) of this regulation, or may direct the appropriate agent to cause such work to be done and to place a lien against the property.

(F) Any person subjected to enforcement action pursuant to this regulation, may appeal any requirement, decision, or determination of the Essex Zoning Board of Appeals, in accordance with Section 103J of this regulation. Such person shall provide such information as necessary including appropriate certifications from a registered professional engineer or architect in order to substantiate the claim that the requirement, decision, or determination of the ZEA was in error or unwarranted.

(G) Nothing contained herein shall prevent the owner of a residential dwelling, commercial or industrial building existing at the time off the adoption of this regulation from repairing, replacing or restoring said building or the components thereof to substantially the same character and form as existed at the time of such adoption.

103L. PENALTIES FOR VIOLATION

Any violation of the provisions of this regulation or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with the granting of variances or special exceptions, shall constitute a misdemeanor. Any person who violates this regulation or fails to comply with any of its requirements shall, upon conviction thereof be subject to the fines, imprisonment, civil penalties, costs and fees as set out in Section 8-12 of the Connecticut General Statutes, as from time to time amended. Nothing herein contained shall prevent the Town of Essex from taking such lawful action as is necessary to prevent or remedy any violations.

SECTION 104

WATER RESOURCE DISTRICTS

104A. PURPOSE. The purpose of the Water Resource Districts is to protect public health by preventing contamination of the ground and surface water resources providing water supply for the Town of Essex.

104B. ESTABLISHMENT OF DISTRICTS. The Water Resource Districts are herein established as overlay districts. Water Resource District I includes the cones of depression of public water supply wells and up gradient area. Water Resource District II includes surrounding stratified drift material and surrounding till or bedrock material to the boundary of the watershed for that cone of depression, as determined by applicable U.S.G.S. studies for the Essex Quadrangle and modified by the Essex Zoning Commission. Water Resource Districts I and II are outlined on the map entitled "Town of Essex, Water Resource Districts," appended to these Zoning Regulations and on file with the Town Clerk, the Building Inspector, and the Zoning Office.

104C. DEFINITIONS.

104C.1. "Hazardous materials" means any substance or combination of substances which, because of quantity, concentration or physical, chemical, or infectious characteristics, pose a significant present or potential hazard to water supplies or to human health if disposed into or on any land or water in this town. Any substance deemed a "hazardous waste" under Section 3001 of the Resource Conservation and Recovery Act of 1976, 40 C.F.R. Part 261 (copy available in the Essex Zoning Office), shall also be deemed a hazardous material for purposes of these regulations.

104C.2. "Impervious" means impenetrable by surface water.

104C.3. "Recharge area" means the drainage area of the topographical basin of any cone of depression of a town/public water supply system. The boundary of the recharge area shall be the topographical divide of the basin containing the existing or potential well.

104D. USE REGULATIONS. Within the Water Resource Districts the requirements of the underlying Zoning Districts continue to apply, except that uses are prohibited where indicated by an "N" in the use schedules set forth in 104D.1.2 and 3. and require a Special Exception where indicated by an "SE," even where underlying Zoning District requirements are more permissive. Where there is no entry in these schedules, the underlying Zoning District controls.

104D.1. Principal Uses.	WR I	WR II
Manufacture, use, storage, or dispersal of hazardous materials as a principal activity;	N	N
Sanitary landfill, junkyard, salvage yard, road salt stockpile, truck terminal with more than 12 trucks;	N	N
Gasoline station, car wash, auto repair or auto body shop.	N	N
104D.2. Accessory Uses.		
Underground storage of hazardous materials, fuel, oil, or gasoline.	N	N
Hazardous materials storage, above ground, in quantities greater than associated with normal household use, other than fuel oil for a residential or commercial structure;	SE	SE
Parking area with more than 200 spaces;	N	SE
Any use generating hazardous wastes in quantities greater than associated with normal household use.	SE	SE
104D.3. Other Uses.		
Rendering impervious more than 30% of total lot area, regardless of size;	N	SE
Any use retaining less than 30% of total lot area in a natural vegetative state with more than a minor removal of existing trees and vegetation;	N	SE
Any use, other than a single family dwelling, having An estimated sewage flow greater than 1,500 gpd, regardless of lot size.	SE	SE

104E. APPLYING FOR A SPECIAL EXCEPTION UNDER THIS SECTION.

Section 120A. B. C. 9. F. H. I. J. K. L. M. N. O. P. shall apply, and the information listed below shall be submitted.

(1) A complete list shall be provided of all potentially hazardous materials to be used or stored on the premises in quantities greater than that associated with normal household use; a description of the measures proposed to protect all storage containers or facilities from

vandalism, corrosion, and leakage, and to provide for control of spills shall also be submitted.

(2) A description shall be provided of any potentially hazardous wastes to be generated, including storage and disposal methods, as in (1) above.

(3) For above ground storage of hazardous materials, other than fuel oil for a residential or commercial structure, evidence shall be submitted of the professional design and the installation of such storage facilities and/or containers.

(4) For runoff from impervious surfaces greater than 30% of the total lot area, evidence shall be provided that such runoff will be recharged on-site and diverted toward areas covered with vegetation for surface infiltration to the maximum extent possible. Dry wells shall be used only where other methods are not feasible and shall be preceded by oil, grease, and sediment traps to facilitate removal of contaminants.

(5) For on-site disposal of domestic wastewater, other than from a single family dwelling, with an estimated sewage flow of greater than 1,500 gpd, evidence shall be submitted of professional supervision of design and installation, including an assessment of nitrate or coliform bacteria impact on groundwater quality.

104F. NONCONFORMING USES. Nonconforming uses in the Water Resource Districts shall be regulated as per Section 50 of these Zoning Regulations.

AMENDED OCTOBER 1, 2000
AMENDED NOVEMBER 1, 1999
AMENDED SEPTEMBER 18, 2006

SECTION 110

OFF-STREET PARKING AND TRUCK LOADING SPACE

110A. GENERAL. To serve every use of land or improvement thereon, there shall be provided permanent and conveniently available spaces for off-street parking of motor vehicles and areas affording uncongested and safe access between such spaces and a street. To serve hospitals, institutions, hotels, retail, wholesale and industrial buildings, there also shall be provided permanent and conveniently available space for loading and unloading of trucks and areas affording uncongested and safe access between such spaces and a street. No use of any land or improvement thereon shall be commenced until required off-street parking and truck-loading space has been completed in accord with this section.

110B. LOCATION. Such parking or loading facilities shall be located on the same premises as the use which they serve, except that the Commission may, by grant of a special exception, approve their location elsewhere. On any premises, parking facilities, including access thereto, shall be not less than six feet from the front lot line or less than five feet from any side or rear lot line.

> 110B.1. CONDITIONS OF SPECIAL EXCEPTIONS. The grant of special exception approving an alternate location for parking or loading facilities hereunder shall be subject to the conditions prescribed in or pursuant to Section 130.

110C. NATURE. Such parking or loading facilities may be enclosed within a building or may be open. All spaces for parking, loading and access, except in single family residence lots, shall be graded, surfaced, drained and adequately lighted and suitably maintained in the manner and to the extent necessary to avoid dust, erosion, and excessive discharge of collected surface water onto streets or adjacent property. The spaces and access areas shall be so arranged as to afford clearly safe and convenient maneuvering room, entrances and exits in the light of the volume and frequency of expected parking, loading and unloading. The access areas shall be so connected to a street as to avoid unsafe driving conditions and traffic congestion.

110D. OPERATION AND MAINTENANCE. Such parking or loading facilities shall remain in existence so long as the use which they serve exists and shall at all times be exclusively reserved for, and available to, the persons occupying or visiting the land or improvement, the use of whom such facilities are provided to serve.

110E. MULTIPLE USES: JOINT FACILITIES. A single parking facility may serve more than one use provided that the aggregate number of spaces shall be the sum of those required for each use. Whether or not Section 40B.2. or Section 40B.3. may apply, if more than one permitted individual principal use is proposed to occupy any portion of the gross floor area of any existing or proposed building, an accurate account of the gross floor area to be occupied by each proposed use or proposed uses within such space shall be provided. In addition, the location and calculations of all parking spaces prescribed for each such proposed use shall be provided. Nothing in this Section shall be construed to prohibit the providing of more than the minimum amount of parking for each such proposed use or proposed uses.

110F. PARKING SPACES REQUIRED. Parking facilities serving the following uses shall afford parking spaces as indicated below:

These parking standards are minimum requirements. The Commission may require additional parking spaces where the nature of development, its location, or other unique features require such additional parking. In determining the appropriate parking standards to be applied to a specific use, the decision of the Commission shall be final.

Where the number of car spaces is based on square footage of building area, the building area shall be computed as the gross area of all usable floors in the building.

Where two or more different principal or accessory uses are located on the same premises the parking requirements for the different uses shall be computed separately and cumulatively. The following are typical but not exclusive examples of multiple uses: a bowling alley with a restaurant; a marina with recreational facilities.

Where the number of car spaces is determined by the number of *employees, that number shall be periodically determined by the maximum number working on the premises at any one time. The number of *employees reported on the most recent quarterly report to the State Labor Department shall be considered prima facie evidence of the number of *employees under this Section.

Where computation of required parking spaces results in a fraction of a car space the required number of spaces shall be increased to the next whole number of spaces.

110F.1. ONE AND TWO FAMILY DWELLINGS. Two car spaces per family dwelling unit.

110F.2. Deleted September 20, 1989.

110F.3. MULTIPLE DWELLINGS. One and one-half car spaces per family dwelling unit.

110F.4. BUSINESS AND PROFESSIONAL OFFICES (OTHER THAN MEDICAL OR DENTAL), BANKS AND LENDING INSTITUTIONS. Two car spaces plus one car space per 400 square feet of gross floor area plus one car space per each 1,000 square foot of gross floor area or fraction thereof.

110F.5. RETAIL SALES. Two car spaces plus one car space per 400 square feet of gross floor area, plus one car space per each 1,000 square feet of gross floor area or fraction thereof, plus one truck loading space for each 20,000 square feet of gross floor area or fraction thereof.

110F.6. WAREHOUSES, WHOLESALE DISTRIBUTORS, TESTING, CLEANING, SERVICING OF MATERIALS OR PRODUCTS, PRINTING SERVICE ESTABLISHMENTS. One car space plus one car space per *employee plus one truck loading space per 20,000 square feet of gross floor area or fraction thereof.

110F.7. CUSTOMARY HOME OCCUPATIONS. One car space plus one car space for each *employee.

110F.8. MEDICAL AND DENTAL PROFESSIONAL OFFICES. Five car spaces per doctor on duty, plus one car space per *employee.

110F.9. EMERGENCY MEDICAL FACILITIES. Five car spaces per doctor on duty, plus one car space per additional *employee, plus one car space per 200 square feet of gross floor area.

110F.10. HOSPITALS. One car space per doctor, staff member or *employee on duty, plus one car space per inpatient bed.

110F.11. CONVALESCENT HOMES, REST HOMES, NURSING HOMES, EXTENDED CARE FACILITIES. One car space per *employee or staff member plus one car space per four patient beds.

110F.12. ANIMAL HOSPITALS, KENNELS. Two car spaces per doctor plus two car spaces per *employee.

110F.13. CONTRACTOR OR CONSTRUCTION SHOPS, OFFICES OR YARDS; PUBLIC UTILITIES, MOTOR VEHICLE SALES. One car space per *employee, plus one car space per 400 square feet of gross floor area.

110F.14. MARINAS, BOAT YARDS. One car space per *employee, plus one car space per boat slip, dock space or mooring.

110F.15. BUILDING MATERIAL SALES. One car space per *employee plus one car space per 300 square feet of sales area plus one truck loading space for each 20,000 square feet of building area or fraction thereof.

110F.16. PRODUCTION OR PROCESSING OF MATERIALS OR GOODS OR MANUFACTURING OF PRODUCTS. One car space per *employee plus one truck loading space for each 20,000 square feet of building area or fraction thereof.

110F.17. RESTAURANTS. One car space per three customer seats, other than counter or bar service seating, plus one car space per 1-1/2 counter or bar seats or fraction thereof, plus one car space per *employee.

110F.18. CLUBS, INCLUDING YACHT CLUBS. One car space per four legal occupants (per Fire Safety Code, State of Connecticut), plus one car space per bedroom.

110F.19. POST OFFICES. One car space per *employee plus one car space per 600 square feet of building area plus two truck loading spaces.

110F.20. COMMERCIAL GREENHOUSES AND NURSERIES. Six car spaces plus one car space per *employee plus one truck loading space.

110F.21. CAR WASHING ESTABLISHMENTS. One car space per *employee plus 10 car spaces per bay.

110F.22. AUTOMOBILE SERVICE STATIONS. One car space per *employee plus four car spaces per bay.

110F.23. BOWLING ALLEYS. One car space per *employee plus five car spaces per alley.

110F.24. THEATERS, MEETING HALLS, AUDITORIUMS. Two car spaces per three seats.

110F.25. BEAUTY SHOPS, BARBERSHOPS, OTHER PERSONAL SERVICE ESTABLISHMENTS. Two car spaces per *employee.

110F.26. SELF SERVICE LAUNDRIES AND CLEANERS. One car space per *employee plus one car space per each two washing, drying or cleaning machines.

110F.27. FUNERAL HOMES. 30 car spaces.

110F.28. ELEMENTARY SCHOOLS. One car space per *employee plus safe and convenient space for discharging and picking up passengers from automobiles and school buses.

110F.29. JUNIOR HIGH SCHOOLS. One car space per *employee or one car space per three auditorium seats, whichever is greater, plus safe and convenient space for pickup and discharge of passengers from automobiles and school buses.

110F.30. HIGH SCHOOLS. One car space per *employee plus one car space per each 10 students or one car space per three auditorium seats, whichever is greater, plus safe and convenient space for pickup and discharge of passengers from automobiles and school buses.

110F.31. TECHNICAL, TRADE OR CRAFT SCHOOLS. One car space per *employee plus one car space per each two legal occupants (per Fire Safety Code, State of Connecticut).

110F.32. CHURCHES, SYNAGOGUES. One car space for each four seats in principal worship area.

110F.33. PUBLIC LIBRARIES, PUBLIC MUSEUMS, PUBLIC ART GALLERIES. Eight car spaces plus one car space per 800 square feet of gross floor area; however, in the case of an Auction Establishment or Gallery one car space per two customer seats.

110F.34. RECREATIONAL FACILITIES NOT OTHERWISE SPECIFIED. One car space per each three legal occupants.

110F.35. GROCERY VENDORS INCLUDING, BUT NOT LIMITED TO, VENDORS OF FOODSTUFFS, DRY GOODS, SOAPS, HARDWARE ITEMS, BEVERAGES, CIGARETTES, AND ITEMS CUSTOMARILY ASSOCIATED WITH SUCH RETAIL USE, INCLUDING THE RENTAL OR SALE OF VIDEO MOVIES AND PROVIDERS OF THE SERVICE OF PHOTOGRAPHIC PROCESSING. One car space per 150 square feet of gross floor area, plus one car space per *employee, plus one truck loading space per 20,000 square feet of gross floor area or fraction thereof.

110F.36. VIDEO STORES. Two car spaces, plus one car space per 200 square feet of gross floor area.

110F.37. PHARMACIES AND DRUG STORES. Three car spaces, plus one car space per 200 square feet of gross floor area.

110F.38. PACKAGE AND LIQUOR STORES. One car space per 200 square feet of gross floor area, plus two car spaces, plus one truck loading space per 20,000 square feet of gross floor area or fraction thereof.

110F.39. LOTTERY AGENTS. Notwithstanding the general provisions and requirements of Section 110F of these Regulations, any use having the service of selling lottery tickets for the State of Connecticut shall provide an additional number of two car spaces for each lottery ticket dispensing machine located on the premises of such use.

110F.40. FARM STAND. Two car spaces plus one car space per 100 square feet of gross floor area, plus one car space per each 1,000 square feet of gross floor area or fraction thereof, plus one truck loading space for each 20,000 square feet of gross floor area or fraction thereof, except that square footage of greenhouses and/or hoophouses shall not be included for purposes of determining gross square footage of farm stand buildings.

110F.41. OTHER USES NOT SPECIFICALLY LISTED: Parking space requirements for uses not specifically listed in this section shall be determined by the Commission based upon parking requirements for a listed use of similar characteristics, or upon reference to recent parking standards of the Institute of Traffic Engineers or other recognized source, or upon a determination of spaces actually required for the proposed use.

110G. CONFIGURATION OF PARKING SPACES AND AREAS:

110G.1. Each car space shall be a minimum of 9 feet wide and 18 feet in length and shall be so arranged in relation to other car spaces as to provide easy and convenient access.

110G.2. Truck loading space shall be located only at the side or rear of buildings and shall be not less than 10 feet in width and not less than 50 feet in length.

110G.3. Each plot plan submitted with application for a zoning permit shall clearly show all required parking facilities, and for every use except residential uses shall show truck loading spaces, curbs and curb cuts, lighting, landscaping, surface material, drainage, grades and elevations. The Zoning Commission may require that such plot plan be designed and prepared by a registered professional engineer licensed to practice in Connecticut.

110H. PORTION OF REQUIRED PARKING AREA HELD IN RESERVE. The Zoning Commission may determine that the total number of parking spaces required by this section will not be immediately required by a particular use and may therefore further determine that up to 50 percent of the required parking area may be kept in reserve. It must then be planted and maintained rather than surfaced for parking until such time as the Zoning Commission may determine that the additional parking area is required. At such time as the Zoning Commission shall inform the applicant in writing by certified mail that additional parking area is to be completed, as authorized in the approved application, the area shall be completed within 60 days of dispatch of such notification. No above ground improvement shall be constructed or placed upon such reserve parking area.

110I. PARKING FOR THE PHYSICALLY HANDICAPPED. Every off street parking facility constructed or enlarged after November 13, 1978, and every such facility serving a use which is commenced after said date shall have at least the number of level parking spaces and other appurtenances thereto prescribed in Section 2107.0 of the Building Code, as the same may from time to time hereafter be amended. Such parking spaces shall not be located so that physically handicapped persons are compelled to wheel or walk behind parked cars to reach entrances, ramps, walkways and elevators. The parking spaces to be provided hereunder for the physically handicapped may be counted toward the total number of space prescribed in Section 110F. The identifying signs prescribed for such spaces shall be permitted in addition to the signs accessory to such use otherwise permitted under these regulations.

*110J. For the purposes of this Section 110, an employee shall mean the following: an owner, a manager, an assistant manager, and any other person performing specified duties upon the premises of the use.

110K. HG DISTRICT PARKING. Notwithstanding any standards required in this Section, in an HG District, the Commission may set the number and dimension of spaces pursuant to the formulas approved in the Concept Plan and Standards for such HG District. The petitioner may satisfy the parking requirements with available non-peak hours, parking on public parking lots, approved as part of the formula approved in the Concept Plan and Standards for such HG District.

AMENDED NOVEMBER 1, 1999

SECTION 111

SIGNS AND LIGHTS

111A. GENERAL LIMITATIONS. All signs permitted in any District by these Regulations, including those allowed by Special Exception, shall not exceed the following general limitations:

111A.1. WALL SIGNS. The aggregate area of all signs which are painted on, or affixed parallel against, an exterior wall of a building shall not exceed 10 percent of the gross area of such wall;

111A.2. PROJECTING SIGNS. The aggregate area of all signs projecting from a wall of a building shall not exceed three percent of the gross area of such wall. No such projecting sign shall exceed 12 square feet in area or project more than five feet from the surface of the wall from which it projects and shall be not less than eight feet above the sidewalk;

111A.3. ROOF SIGNS. Roof signs shall be permitted by Special Exception only. No part of a sign affixed to the roof of a building or extending above the exterior wall shall exceed a height above the top of the exterior wall equal to 50 percent of the height of the building. The aggregate area of any such roof sign or signs and of all signs on, or projecting from, the exterior wall of the same building shall not exceed 10 percent of the gross area of such exterior wall;

111A.4. FREESTANDING SIGNS. No freestanding sign shall exceed an area of 40 square feet. The aggregate area of all freestanding signs located on any one lot shall not exceed either (a) one square foot for every five linear feet of such lot's front lot lines or (b) 80 square feet, whichever is less. No freestanding sign shall be located nearer to any side lot line than the width of the required side yard nor less than 10 feet to the rear of the front lot line. No freestanding sign, in a District other than a Village Residence or Rural Residence District, exceeding 12 square feet in area or exceeding 12 feet in height shall be located within 50 feet from the boundary of any Village Residence or Rural Residence District. All signs must be a minimum of five feet from the edge of pave roadways and all signs must be a minimum of two feet from the edge of sidewalks;

111A.5. ILLUMINATION. No sign or light, in a District other than a Village Residence or Rural Residence District, shall be erected in such a manner that any spotlight or other source of illumination is directly visible in a Village Residence or Rural Residence District;

(A) Naked or unshaded incandescent or fluorescent electric light bulbs resulting in glare visible on neighboring premises shall not be allowed by themselves or as part of any sign, except as part of holiday season decorations; or community events or private celebrations not to exceed two days;

(B) Under no circumstances shall the illumination level measured at the property line exceed ten foot-candles.

111A.6. HAZARDOUS SIGNS. No sign shall be so designed, situated, constructed or illuminated as to have any characteristic which may be confused with a traffic control sign or signal;

111A.7. SIGN CONSTRUCTION. Signs must be constructed of sound material, firmly supported and maintained in good condition and repair and must be removed when the purpose for which they were erected no longer exists. Mobile signs shall not be permitted;

111A.8. FLASHING SIGNS. No sign, including an advertising sign, shall move or rotate mechanically or be illuminated by a light source which visibly flashes, oscillates or otherwise automatically changes in intensity or color, except: 1) one barber pole used on the premises of a licensed barber shop; and 2) signs with intermittent lighting with five seconds or more continuous illumination providing time, temperature and/or date. Such time, temperature and/or date signs shall not be located in any Village Residence, Rural Residence, or Gateway Conservation District;

111A.9. LOCATION. Except as provided in 111C., no sign in any District shall be located on any premises other than the same premises as the use or improvement to which such sign is accessory.

111A.10. HG DISTRICTS. In an HG District, the Signs and Lights on the parcels, as approved under Section 81 – HERITAGE GATEWAY DISTRICT, will have the size, shape, location and lighting as provided in the Concept Plan and Standards for such development.

111B. GENERALLY PERMITTED SIGNS. Subject to the General Limitations prescribed in 111A., the following signs shall be permitted as accessory uses in any District:

111B.1. PARKING AND DIRECTIONAL SIGNS. Not more than three signs bearing instructions to regulate access to and parking on the premises upon which they are located;

111B.2. RESTRICTIVE SIGNS. One sign per 15,000 square feet of land bearing notification of restriction upon trespassing, hunting, fishing or dumping upon the premises upon which it is located;

111B.3. SALE OR RENT. One temporary sign advertising the sale or rental of the premises upon which it is located, not exceeding 36 square feet for commercial and industrial buildings, and not exceeding 16 square feet for multifamily residential buildings, and not exceeding four square feet for single family buildings or land. Such four foot square signs shall not exceed five feet in height. No sign referred to in this section shall interfere with traffic sign lines.

111B.4. CONSTRUCTION. One temporary sign pertaining to a construction operation upon the premises upon which it is located; and

111B.5. GARAGE OR TAG SALE. One temporary sign advertising a sale, to be held within three days following its erection, of personal property and effects;

(A) which are owned by the owner or tenant of the premises used for residential purposes upon which such sign is located, and

(B) which were used by the owner or tenant of the premises for domestic household purposes.

Also, one off-premises direction giving sign.

No such sign located in a Village Residence or Rural Residence District shall exceed six square feet in area and no such sign located in a District other than a Village Residence or Rural Residence District shall exceed 12 square feet in area.

111C. SIGNS PERMITTED OFF-PREMISES. Subject to the general limitations prescribed in 111A.1. through 111A.9., the following signs may be located on premises other than the same premises as the use or improvement to which they are accessory:

111C.1. CHURCH AND CHARITY SPONSORED EVENTS. Temporary signs giving notice of a concert, dance, rummage sale, bazaar, auction or other event, open to the general public, and sponsored by a public school, the Essex Volunteer Fire Department, the Essex Ambulance Association or by any organization exempt from Federal income tax under the provisions of Section 501(c) (3) of the Internal Revenue Code which is organized and operated exclusively for religious or charitable purposes;

111C.2. OTHER SPONSORED EVENTS. Temporary signs, not located in a Residence District, giving notice of a concert, dance, rummage sale, bazaar, auction or other event, open to the general public, if the purpose of the event is to raise funds to be used exclusively for charitable purposes;

111C.3. FUND-RAISING PROGRESS SIGNS. Temporary signs, erected and maintained by any organization exempt from Federal income tax under the provisions of Section 501(c) (3) of the Internal Revenue Code which is organized exclusively for religious or charitable purposes, if the purpose of the sign is solely to notify the public of current progress being made in a fund drive carried on by such organization;

111C.4. POLITICAL SIGNS. Temporary signs erected and maintained by a political committee in connection with a political campaign for the nomination or election of a candidate or candidates to public office;

111C.5. GOVERNMENTAL SIGNS. Temporary and permanent signs erected and maintained by the Town or any agency thereof pursuant to the performance of a governmental function;

111C.6. CIVIC AND FRATERNAL ORGANIZATIONS, MUSEUMS, AND CHURCHES. Permanent signs erected on Town of Essex property, and maintained by a church, civic or fraternal organization or museum, all of which shall be exempt from Federal income tax under the provisions of Section 501(c) (3) of the Internal Revenue Code, for the purpose of notifying the public of the presence or location in Town of such church, organization, or museum;

111C.7. PRE-EXISTING SIGNS. Any permanent sign lawfully existing in place on November 17, 1978, provided that, in the case of a sign not described in 111C.1. through 111C.6., written notice given to the Zoning Enforcement Agent on or before December 31, 1978, specifying the location of such sign and the name and address of the owner thereof.

No zoning permit shall be required to authorize the erection of a sign described in Section 111C.1. through 111C.6., but a zoning permit shall be required to authorize the erection of all other signs.

111D. ENFORCEMENT. The Zoning Agent shall issue written order for the removal of any signs that are not maintained or erected in accordance with the provisions of these Regulations. The provisions of Section 150D. shall apply.

AMENDED NOVEMBER 1, 1999

SECTION 112

ALCOHOLIC BEVERAGES

112A. GENERAL. Except as provided in Subsection 112B. below, any other provision in these Regulations to the contrary notwithstanding, no building or land shall be used for:

112A.1. ON-PREMISES; DISTANCE BETWEEN SAME USES. The sale or dispensing of any alcoholic beverage to be consumed on the premises if any public entrance to such building or land is within a radius of 200 feet from any public entrance to any other building or land used for the sale or dispensing of any alcoholic beverage to be consumed on the premises; or

112A.2. OFF-PREMISES; DISTANCE BETWEEN SAME USES. The sale at retail of any alcoholic beverage other than ale or beer to be consumed off the premises if any public entrance to such building is within a radius of 1500 feet from any public entrance to any other building or land used for the sale at retail of any alcoholic beverage other than ale or beer to be consumed off the premises; or

112A.3. ON-OR-OFF-PREMISES. The sale or dispensing of any alcoholic beverage to be consumed on the premises or for the sale at retail of any alcoholic beverage to be consumed off the premises if such building or land is located in a Village Residence or Rural Residence District.

112A.4. EXISTING LICENSES. Not withstanding the foregoing provisions, the premises of any license for the sale at retail of alcoholic beverages to be consumed off the premises, which existed at the effective date of these regulations, may be moved within a radius of 500 feet, provided the new location is within the same district as the old.

112B. HG DISTRICTS. Notwithstanding any standards required in this Section, in an HG District, the standards for the sale or dispensing of alcoholic beverages will be as determined according to the Concept Plan and Standards for such HG District.

SECTION 113

MOBILE HOMES

113A. GENERAL. Any other provisions in these Regulations to the contrary notwithstanding and pursuant to the provisions of Section 7-148 of the Connecticut General Statutes and the Zoning Enabling Act, no mobile home shall be used, or placed upon premises in any District except:

113A.1. PARKED OR STORED. When parked or stored on premises of the owner thereof and not there used for human habitation or other purpose if (1) the number of such mobile homes on said premises does not exceed one and (2) such mobile home is parked or stored indoors or in the most inconspicuous location practicable on said premises as viewed from the street;

113A.2. CONSTRUCTION OFFICE. When used as a temporary office in connection with the prosecution of a construction operation upon the same premises where such mobile home is located; or

113A.3. MANUFACTURER'S INVENTORY. When parked or stored on premises of the owner as inventory or awaiting delivery to customers in the ordinary course of a regular business of manufacturing or selling mobile homes.

113B. The foregoing exceptions, 113A.1., 113A.2., and 113A.3., shall not apply to special flood hazard areas as defined by Section 103F of these regulations. Without exception, no mobile home shall be used, or placed upon premises in a special flood hazard area as delineated on the Flood Insurance Map.

SECTION 114

EARTH REMOVAL, FILLING, REGRADING AND TRANSPORTATION

114A. PURPOSE. To prevent or diminish any adverse effect of all filling, excavation, grading or transportation operations upon the health, safety or welfare of the community, any undue annoyance or disturbance of the occupants of premises in the general neighborhood of such operation, any impairment of the usefulness or value of premises involved in such operations and in the general neighborhood of such operations, and any unwarranted adverse effect upon subsurface water resources.

114B. OPERATIONS PERMITTED WITHOUT SPECIAL EXCEPTIONS.

114B.1 Necessary filling, excavation, grading or removal in connection with:

(a) Construction of the foundation of any building or swimming pool or in land incidental to the construction of any such building or swimming pool, or of access way and parking facility, involving the movement of not more than 1,000 cubic yards of earthen material.

(b) Construction of any single family dwelling that is not part of a subdivision of land and involving the movement of not more than 1,000 cubic yards of earth material.

114B.2. Any earth removal, filling and/or regrading when the disturbed area of the development is cumulatively ½ acre or less.

114C. OPERATIONS REQUIRING A SPECIAL EXCEPTION.

114C.1. Earth material operations not specifically permitted under Section 114B. require a Special Exception as specified under Section 114D.

114C.2. Application for a Special Exception, which the Zoning Commission or its designated agent may grant after public hearing, shall be submitted as specified under Section 114D. in duplicate to the Commission with an application fee of $50.

114D. REGULATIONS FOR LAND DEVELOPMENT UNDER SOIL EROSION AND SEDIMENT CONTROL ACT 83-388.

114D.1. DEFINITIONS:

(a) "Development" means any construction or grading activities to improved or unimproved real estate.

(b) "Disturbed area" means an area where the ground cover is destroyed or removed leaving the land subject to accelerated erosion.

(c) "Erosion" means the detachment and movement of soil or rock fragments by water, wind, ice or gravity.

(d) "Grading" means any excavating, grubbing, filling (including hydraulic fill) or stockpiling of earth materials or any combination thereof, including the land in its excavated or filled condition.

(e) "Inspection" means the periodic review of sediment and erosion control measures shown on the approved control plan.

(f) "Sediment" means solid material, either mineral or organic, that is in suspension, is transported, or has been moved from its site of origin by erosion.

(h) "Soil Erosion and Sediment Control Plan" means a scheme that minimizes soil erosion and sedimentation resulting from development and includes, but is not limited to, a map and narrative.

114D.2. APPLICATIONS FOR SPECIAL EXCEPTION.

2.1 Application for a Special Exception shall include a soil erosion and sediment control plan which shall contain proper provisions to adequately control accelerated erosion and sedimentation and reduce the danger from storm water runoff on the proposed site based on the best available technology. Such principles, methods and practices necessary for plan approval are found in the Connecticut Guidelines for Soil Erosion and Sediment Control (1985) as amended. Alternative principles, methods and practices may be used with prior approval of the Commission.

2.2 Said plan shall contain, but not be limited to:

(A) A narrative describing:

(1) the development;

(2) the schedule for grading and construction activities including:

(a) start and completion dates;

(b) sequence of grading and construction activities;

(c) sequence for installation and/or application of soil erosion and sediment control measures;

(d) sequence for final stabilization of the project site.

(3) the design criteria for proposed soil erosion and sediment control measures and storm water management facilities;

(4) the construction details for proposed soil erosion and sediment control measures and storm water management facilities;

(5) the installation and/or application procedures for proposed soil erosion and sediment control measures and storm water management facilities;

(6) the operations and maintenance program for proposed soil erosion and sediment control measures and storm water management facilities;

(7) an estimate of the number of cubic yards of material to be filled, excavated, graded or removed and an estimate of the time necessary to complete the operation;

(8) an estimate of the number, types and hours of operation of trucks and other machinery to be used on the site, and the locations and types of any buildings, including temporary buildings to be erected;

(9) details of proposed blasting and storing of explosives.

(B) A site plan map at a 1”=40’ sale to show:

(1) the location of the proposed development and adjacent properties;

(2) the existing and proposed topography including soil types, wetlands, watercourses and water bodies;

(3) the existing structures on the project site, if any;

(4) the proposed area alterations including cleared, excavated, filled or graded areas and proposed structures, utilities, roads and, if applicable, new property lines;

(5) the location of and design details for all proposed soil erosion and sediment control measures and storm water management facilities;

(6) the sequence of grading and construction activities;

(7) the sequence for installation and/or application of soil erosion and sediment control measures;

(8) the sequence for final stabilization of the development site;

(9) the proposed vehicular access to the lot and proposed work roadway;

(10) the appropriate method from chapter 9 of the Connecticut Guidelines for Soil Erosion and Sediment Control (1985), (available at the office of the Zoning Commission), as amended, shall be used in determining peak flow rates and volumes of runoff unless an alternative method is approved by the Commission.

(C) Any other information deemed necessary and appropriate by the applicant or requested by the Commission or its designated agent.

2.3 Issuance or Denial of Special Exception:

(A) The Zoning Commission shall grant the Special Exception when the soil erosion and sediment control plan, as filed, complies with the requirements and objectives of this regulation, or it shall deny the Special Exception when the plan does not comply with these regulations.

(B) Prior to granting the Special Exception, any plan submitted to the Zoning Commission may be reviewed by the County Soil and Water Conservation

District which may make recommendations concerning such plan, provided such review shall be completed within thirty days of the receipt of such plan. Where the site plan falls within the area regulated by the Connecticut River Gateway Conservation District, the plan shall be submitted to the plan shall be submitted to the Middlesex County Soil and Water Conservation District.

(C) The Commission may forward a copy of the control plan to the Conservation Commission, Inland Wetlands and Water Courses Commission or other review agency or consultant for review and comment.

2.4 Inspection:

(A) Inspections shall be made by the Zoning Commission or its designated agent during development to ensure compliance with the control plan and that control measures and facilities are properly performed or installed and maintained. The Commission may require the permittee to verify through progress reports that soil erosion and sediment control measures and facilities have been performed or installed according to the control plan and are being operated and maintained.

(B) Planned soil erosion and sediment control measures and facilities shall be installed as scheduled according to the control plan.

(C) Site development shall not begin unless the soil erosion and sediment control plan is approved and those control measures and facilities in the plan scheduled for installation prior to site development are installed and functional.

(D) All control measures and facilities shall be maintained in effective condition to ensure the compliance of the control plan.

2.5 Special Exception Procedure:

(A) The provision for Special Exception procedure specified in Section 120 of these regulations shall apply; in the cases of conflict, however, the provisions of Section 114 shall apply.

114E. GENERAL STANDARDS AND CONDITIONS.

114E.1. All filling, excavation, grading and transportation operations must comply with the following standards and conditions:

(a) No filling, excavation, grading or removal which is more than ten feet below the elevation of any abutting street or property line shall occur within 25' of a property line. Barricades or fences shall be erected as are necessary for the protection of pedestrians and vehicles;

(b) no processing machinery shall be erected or maintained on the lot within 100 feet of any property or street line, and any such machinery shall be removed from the lot upon termination of the operation. No other machinery not required for the operation shall be on the site;

(c) except in an Industrial District, no screening, sifting, washing, crushing or other forms of processing shall be constructed upon the premises;

(d) proper measures shall be taken to minimize nuisance from noise and dust. The access road shall be oiled in such manner as the Zoning Enforcement Agent may direct to ensure compliance with this section;

(e) all vehicles moving through the Town of Essex carrying earth materials shall have their loads covered and secured to prevent dust and spillage.

114E.2. Restoration. Upon completion of work, the area of excavated, filled or otherwise disturbed ground shall be prepared or restored as follows:

(a) Such area shall be evenly graded to slopes not exceeding one foot of vertical rise to three feet of horizontal distance except where ledge rock makes steeper slopes unavoidable or to such lesser slope necessary for soil stability, safety and reasonable reuse and development of the lot; in addition, the area shall be evenly graded with sufficient slopes, dikes, berms and waterways to assure adequate drainage of the area, to eliminate stagnant pools of water and adjacent area damage;

(b) all debris and all loose boulders not incorporated into the improvement of the lot shall be buried or removed from the lot;

(c) a top layer of any arable soil, which shall be free of any large stones, shall be spread to a depth of not less than six inches over the entire area, and the area shall then be seeded with a perennial grass and maintained until the ground shall be completely stabilized and there exists no danger from erosion.

114F. EXISTING OPERATIONS. Any operation involving the filling, excavation, grading or removal of earthen material which is in existence and has an overall approval on the effective date of these regulations shall be allowed to be completed in accordance with the overall approval.

114G. BONDING. (1) The Commission shall require that one or more performance bond(s) be posted with the Treasurer of the Town to guarantee completion of all work necessary to fulfill all conditions prescribed in connection with the grant of the Special Exception. It may require that a single comprehensive bond be posted to guarantee fulfillment of all such conditions or it may require that several separate bonds be posted to guarantee completion of separable components of any such conditions. Such bond or bonds, in which the applicant shall be the principal and the surety shall be a bonding company licensed to do business in Connecticut, shall be given in such amount or amounts as the Commission shall prescribe. The Commission may at its discretion accept a cash bond or bonds. A single comprehensive bond, posted to guarantee completion of a separable component of any such conditions, shall remain in effect until completion of such component. No removal shall be commenced unless and until the bond or bonds required hereunder have been posted.

SECTION 115

WASTE MATERIAL

115A. GENERAL. Any other provision in these Regulations to the contrary notwithstanding, no land in any District shall be used for the storage or keeping of waste or scrap material, debris, motor vehicles which are partially or wholly dismantled, motor vehicle parts, abandoned machinery, junk or similar material except:

115A.1. BUSINESS OPERATION. When stored or kept on premises of the owner in connection with the operation of a commercial, duly-licensed motor vehicle repair business in a District in which such use is permitted;

115A.2. CONSTRUCTION OPERATION. When stored or kept temporarily in connection with the prosecution of a construction operation upon the same premises where such material is stored or kept;

115A.3. INSIDE STORAGE. When stored or kept within a completely enclosed building;

115A.4. MOTOR VEHICLE IN REPAIR. One motor vehicle temporarily stored or kept on premises of the owner while such vehicle is being repaired, if stored or kept indoors or in the most inconspicuous location practicable on said premises as viewed from the street; or

115A.5. ANTIQUES. Antique household furniture, china, glassware or silver when displayed on premises of a dealer as inventory or awaiting delivery to customers in the ordinary course of a regular business of refurbishing or selling such antiques.

115B. PRE-EXISTING USES. The use of land for the storage or keeping of material described in 115A. shall not be considered a nonconforming use and any such storage or keeping of such material which was being carried on at the effective date of these Regulations shall not be continued after one year there from except in conformity with these Regulations.

SECTION 116

MULTIPLE DWELLINGS AND MULTIPLE DWELLING PROJECTS

Section repealed in its entirety.

AMENDED AUGUST 1, 2007
(ADDED)

SECTION 118

SITE PLAN PROCEDURE

118A. PROCEDURE. An application for site plan approval shall be subject to the procedural requirements of the following sections of Section 120 hereof (Special Exception Procedure):

118A.1. Section 120A. Concerning who may apply.

118A.2. Section 120B. Concerning submission of the application.

118A.3. Section 120C. Concerning supporting information, including the waiver provision of Section 120.C.8.

118A.4. Section 120D. Concerning maps and drawings, except that the applicant may request a waiver of the entity required to prepare said items which the commission may grant if it finds that the maps and drawings submitted are adequate to properly decide the application. In addition, upon request, the commission may allow a site plan of only the portion of a parcel which is proposed for approval, when information on the remainder of the parcel is not needed to decide the application.

118A.5. Section 120H. Concerning maintaining a record.

118A.6. At the time of submitted an application for site plan approval, the applicant shall post a notice of the hearing on the property for which a site plan has been filed. Said notice shall be in the form of a freestanding sign, facing each adjacent public street, placed no more than thirty feet (30') from the public right-of-way and be clearly legible from the public street. Said sign shall be produced of weather resistant material, shall be professionally lettered with a minimum letter size of two inches (2"). The sign shall not be greater than twenty square feet (20 sq. ft.).

The sign shall contain the following text:

"Application pending on this property before the zoning commission for site plan approval. For information, call (860) 767-4340, extension 119 or 115."

Said sign shall not be removed until after a decision on the application has been rendered.

118B. REFERRALS. The commission shall submit the application for review to such entities as required by law or as it deems beneficial to a complete review of said application.

118C. TIME LIMITS. The commission may, but is not required, to hold a public hearing on an application for site plan approval, and shall hold a public hearing only if it determines that the application is of considerable public interest. If no public hearing is held, the commission may, in its discretion, allow written or oral comment from interested parties at or prior to a meeting of the commission to consider the application. If a public hearing is conducted, legal notice thereof shall be provided as required by statute. Whether or not a public hearing is held on the application, the commission shall render its decision on such application within sixty-five days of receipt thereof, except that, the applicant may consent to one or more extensions of such period, provided the total period of any such extension or extensions shall not exceed sixty-five days or may withdraw such application.

If an application involves an activity regulated pursuant to Connecticut General Statutes Section 22a-36 to 22a-45, inclusive, (inland wetlands and watercourses) and the time for a decision by the commission established pursuant to this section would elapse prior to the thirty-fifth day after a decision by the inland wetlands agency, the time period for a decision shall be extended to thirty-five days after the decision of such agency, and the commission shall consider the decision of such agency. The provisions of this subsection shall not be construed to apply to any extension consented to by an applicant or petitioner.

118D. STANDARDS. A site plan application shall be approved, modified and approved, or denied based upon the following standards:

118D.1. CONFORMANCE WITH ZONING REGULATIONS. The plan shall comply with all the specific provisions of these regulations which are applicable thereto.

118D.2 EMERGENCY SERVICES. All buildings, structures, uses, equipment, or materials shall be readily accessible for fire, police and emergency medical services, and protected against hazards from fire and flood and other hazards to public safety.

118D.3 TRAFFIC ACCESS. All proposed traffic access ways shall be located so as not to create traffic hazards and shall be adequate in width, grade, alignment, and visibility to provide safe and convenient access. The capacity of adjacent and feeder streets shall be adequate to accommodate peak and average traffic volume and any special traffic characteristics of the proposed use.

118D.4 CIRCULATION AND PARKING. Adequate off-street parking and loading spaces shall be provided to prevent on-street

congestion and the interior circulation system shall be adequately designed and marked to provide safe and convenient movement for both vehicles and pedestrians through the parking area and to all uses, structures, and parking spaces.

118D.5 LANDSCAPING AND SCREENING. Existing trees shall be preserved to the maximum extent possible, and parking and service areas shall be suitably screened and buffered during all seasons of the year from view of adjacent residential areas and public streets. In addition, land located in the Limited Industrial District shall comply with Section 90C. hereof.

118D.6 LIGHTING. Glare from the installation of outdoor lighting and illuminated signs shall be properly shielded from the view of adjacent property and public streets.

118D.7 PUBLIC HEALTH. All utility systems shall be suitably located, adequately designed, and properly installed to serve the proposed use, to protect the property from adverse air, water or land pollution, and to preserve and enhance the environmental quality of the surrounding neighborhood and that of the town.

118D.8 NATURAL AND HISTORICAL RESOURCES. The development of the site shall seek to preserve sensitive environmental land features such as steep slopes, wetlands, and large rock outcroppings and preserve scenic views of historically and archaeologically significant features.

118E. DECISION. The commission shall approve the application if it complies with the standards set forth in those regulations and shall modify and approve or deny the application if it does not. The commission shall state on the record the reasons for its decision. A copy of any decision shall be sent by certified mail to the person who submitted such application within fifteen (15) days after such decision is rendered, and notice thereof shall be published as required by statute.

When an approval has been granted by the commission, one (1) mylar and three (3) copies of the approved plan, on which all modifications imposed by the commission as part of the approval have been clearly indicated and noted in the revision block, shall be filed with the zoning enforcement agent within sixty (60) days of approval (or such other time as determined by the commission), for signature by the chairman of the commission. The commission may also require that the approved signed site plan be filed by the applicant on the land records of the Town of Essex. Upon filing of said approved site plan, the zoning enforcement agent shall issue a Certificate of Approval to the applicant.

No development shall be permitted except in conformity with the approved site plan.

118F. AMENDMENT TO APPROVED SITE PLAN. The procedure for an amendment to an approved site plan shall be as follows:

118F.1. For land located in the Limited Industrial District, the zoning enforcement agent may grant a zoning permit for amendments to approved site plans, when the magnitude of such amendments would have been subject to a zoning permit under Section 90A.1. hereof. Amendments of larger magnitude shall be subject to the commission's approval of an application for a site plan amendment or special exception application amendment, as determined by the commission based upon the square footage of the amendment.

118F.2. For land located in other than the Limited Industrial District, changes to an approved site plan which the commission determines to be minor, shall be decided by the commission without a public hearing.

118F.3. Any application for an amendment to an approved site plan shall be decided based upon the zoning regulations in effect at the time the application for amendment is filed.

118G. COMPLETION OF WORK. All work in connection with an approved site plan shall be completed within five years after the approval of the plan. The certificate of approval of such site plan shall state the date on which such five-year period expires. Failure to complete all work within such five-year period shall result in automatic expiration of the approval of such site plan, except that the zoning commission may grant one or more extensions of the time to complete all or part of the work in connection with the site plan provided the total extension or extensions shall not exceed ten years from the date site plan is approved. "Work" for purposes of this subsection means all physical improvements required by the approval plan. (Large projects shall be governed by the time limits specified in Section 8-3(j) of the Connecticut General Statutes, as amended.

118H. BONDS. The commission may require, as a condition of site plan approval that the applicant post a bond or other surety to assure conformance with all proposed improvements (excluding buildings) shown on the approved site plan. The bond will be in a form, amount, and duration acceptable to the commission and its legal counsel and shall be generally in accordance with the bond requirements found in the Subdivision Regulations of the Town of Essex, as amended from time to time. Should the site developer be unable to complete the required site improvements, the bond will be used by the town to complete work necessary for protection of public health, safety and welfare. A separate bond may be required for installation of sedimentation and erosion controls, landscaping, or other separate aspects of site plan development.

118I. FEES. The fees for site plan application and review shall be those established by the commission or by town ordinance.

AMENDED MARCH 20, 2000
AMENDED OCTOBER 17, 2005
AMENDED NOVEMBER 1, 2006
AMENDED AUGUST 1, 2007
AMENDED OCTOBER 1, 2007
AMENDED AUGUST 1, 2007

SECTION 120

SPECIAL EXCEPTIONS PROCEDURE

120A. WHO MAY APPLY. An application for a Special Exception under these Regulations may be made by:

120A.1. OWNER. The owner, or all the joint owners, or the authorized agent thereof, of the premises to which such application relates;

120A.2. PURCHASER. The purchaser, or all the purchasers, or the authorized agent thereof, under a written contract to purchase the premises provided that the written consent to the grant of such special exception of the owner, or all the joint owners of the premises, accompanies the application; or

120A.3. LESSEE. The owner, or all the joint owners, or the authorized agent thereof, of a leasehold interest in the premises under a written lease provided that the written consent to the grant of such special exception of the owner, or all the joint owners, of the premises accompanies the application.

120B. SUBMISSION OF APPLICATION. A complete application shall consist of the application form, the signed and completed checklist as provided in Appendix "A", all supporting information and filing fee prescribed by the Commission and required to accompany the application form. Fifteen (15) copies of the complete application shall be delivered to the Zoning Enforcement Agent for transmittal to the Commission at its next regularly scheduled meeting. The date of receipt of such application shall be deemed to be the earlier of:

(a) the date of such next regularly scheduled meeting, or

(b) the thirty-fifth (35th) day following the date it was delivered to the Zoning Enforcement Agent.

120C. SUPPORTING INFORMATION. Each application form shall contain or be accompanied by, in writing:

120C.1. DESCRIPTION OF PREMISES. A description, by metes and bounds or courses and distances, of the land to which such application relates;

120C.2. LIST OF NEIGHBORING OWNERS. A list, keyed to an appropriate map, of the names and addresses of the record owners of land abutting, and directly across the street from, the land to which such application relates;

120C.3. DESCRIPTION OF PROPOSED USE. A complete and comprehensive statement describing the proposed use and all improvements relating thereto;

120C.4. SITE DEVELOPMENT PLAN. A Site Development Plan showing the following information:

(a) The names and addresses of the owner or owners of the premises of the proposed use and the name and address of the applicant if different from the owner;

(b) date, scale, north point, town and state;

(c) the layout, location, and boundaries of any proposed roadways;

(d) all existing and proposed survey monuments;

(e) any municipal boundary lines and zoning district boundary lines, including a notation of the municipalities and zoning districts involved;

(f) a notation of the general nature, and the layout, location and dimensions of all land within the premises of the proposed use burdened by any existing real estate covenants, restrictions, rights-of-way and easements of any nature;

(g) all existing, and any proposed relocation of, watercourses, whether intermittent or continuous flowing, the location and dimensions of all areas reserved or to be reserved for the protection of watercourses, wetlands, flood plains or other land subject to potential flooding;

(h) a notation of the total area of the premises of the proposed use;

(i) a computation of the ratio of total lot area coverage of all existing and proposed buildings and parking facilities to the prescribed maximum building coverage and maximum lot coverage;

(j) the location, including setback distances, of all existing and proposed buildings and structures;

(k) the dimensions, including height, of all existing and proposed buildings and structures;

(l) the location and width of the pavement or surfacing of any proposed roadway or parking facility;

(m) the location of any existing and proposed storm drains, catch basins, manholes, ditches, watercourses, headwalls, sidewalks, gutters, curbs and other structures and improvements; and existing and proposed water mains, sanitary sewers and related facilities;

(n) the location and dimensions of all existing and proposed roadways, sidewalks, parking facilities, open spaces, playgrounds or other recreational areas, including the nature and extent of any proposed disturbance of vegetation and/or soil cover;

(o) the location of the percolation tests and observation pits referred to in the data prescribed in 120C.5.; the location proposed for any water supply well site and the location and dimensions of the areas suitable for leaching fields for any existing or proposed on-site sewage disposal system and the reserve areas for future fields;

(p) all existing and proposed contours at intervals not exceeding five feet based on field or aerial survey and using U.S.G.S. vertical datum; the benchmark used for the field or aerial survey shall be noted on the plan;

(q) the location of the boundaries, as shown on the official Inland Wetlands and Watercourses Map of the Town, of any and all wetlands or watercourses upon, and within 75 feet outside the boundaries of, the premises of the proposed use;

(r) the boundaries and classification codes of soil types under the National Cooperative Soil Survey of the Soil Conservation Services, the U.S. Department of Agriculture;

(s) the limits of any areas proposed for regrading by excavation or filling; and the limits of any areas proposed to be reserved and protected from excavation or filling;

(t) the boundaries of any special flood hazard area as defined by Section 103D. of these regulations, and the minimum floor elevations for any new construction or substantial improvement of buildings and other structures within that area;

(u) whether or not Section 40B.2. or Section 40B.3. may apply, if more than one permitted individual principal use is proposed to occupy any portion of the gross floor area of any existing or proposed building, an accurate account of the gross floor area to be occupied by each proposed use or proposed uses within such space shall be provided. In addition, the location and calculations of all parking spaces prescribed for each such proposed use shall be provided. Nothing in this Section shall be construed to prohibit the providing of more than the minimum amount of parking for each such proposed use or proposed uses.

120C.5. SANITATION LETTER AND DATA. Except when the use to which such application relates does not involve any existing or proposed buildings to be used for human occupancy or when any such buildings are to be served by a municipal sewer system or by a mechanical, chemical or other device approved by the Connecticut Department of Health which does not involve subsurface disposal of septic effluent; a letter from the Town Director of Health or the Town Sanitarian stating that the premises to which such application relates is satisfactory for a private on-site subsurface sewage disposal and water supply system, together with, in writing, all of the observation data and results obtained of all of the percolation tests made for the purpose of determining the suitability of soil conditions for subsurface sewage disposal, including a description of the methods of making such tests and of obtaining such data as prescribed by the State Health Code (the location of all percolation tests and observation pits shall be accurately shown on the Site Development Plan referred to in 120C.4. above);

120C.6 MULTIPLE DWELLINGS AND MULTIPLE DWELLING PROJECTS. Whenever such application relates to a use authorized pursuant to 62A.4. of these Regulations, in addition to the information prescribed in 120C.4., the Site Development Plan shall show or be accompanied by:

(a) All and the same information required to be shown upon a final subdivision plan under Section 6C of the Essex Subdivision Regulations (with the exception of the statement prescribed in Section 6C.21 of said Regulations) shall be shown on the required Site Development Plan;

(b) Complete plan profiles for all proposed streets, utilities, special structures, and other improvements to be dedicated to the Town in the manner and containing the information prescribed in Section 6C.22 of the Essex Subdivision Regulations;

(c) Principal wooded areas and the approximate location of any large isolated trees;

(d) Any ledge outcrops and existing and proposed roadways to indicate grading of roadways;

120C.7. NONCOMMERCIAL CUTTING OF TIMBER. Whenever such application relates to premises located wholly or partially within the Gateway Conservation District: a plan describing the existing mix of forest tree species and their approximate height, age, and density; and a complete description of the cutting or removal activities to be undertaken in preparing the site for any proposed improvement;

120C.8. WAIVER. An applicant may request a waiver or modification of the requirement herein to furnish any one or more of the items of information prescribed in Section 120C. Such request shall be made in writing as a part of the application and the Site Development Plan may be submitted as if such request will be granted. The Commission shall act upon such request within twenty-one (21) days after submission of the application and shall send written notice of its decision to the applicant. In deciding any such request, the Commission shall consider whether or not the submission of the information prescribed by the items for which waiver is requested is reasonably necessary or appropriate to a proper disposition of the application. An application with respect to which a waiver is requested hereunder, although previously incomplete, shall be deemed complete upon the grant of a waiver of all items for which such waiver is requested. In the event of denial of any such request as to one or more of the items for which a waiver is requested, a complete application shall not be considered to have been received by the Commission until all items for which waiver was denied have been submitted in the form and manner herein prescribed;

120C.9. SUPPLEMENTAL INFORMATION. The Commission may, at any time within thirty-five (35) days after the submission of any application hereunder, determine that additional information is reasonably necessary or appropriate to a proper disposition of the application, and shall then notify the applicant in writing of the specific additional information required. Such additional information may, for example, include a sanitation report prepared by a licensed professional engineer where the application indicates that proposed or existing buildings upon the premises to which such application relates are to be used for human occupancy, and that the premises, or portions thereof, have severe subsurface absorption limitations. If the applicant shall elect to furnish such additional information, the applicant shall file with the Commission a written consent to the extension, for an additional period of sixty-five (65) days, of the period within which the Commission is required to act upon the application under Section 8-26 of the Connecticut General Statutes and Section 120I hereof. If the applicant shall decline or fail to furnish such additional information, the Commission shall proceed to a determination upon the application under these Regulations.

120C.9(a) SUPPLEMENTAL INFORMATION. The commission may, at any time within thirty-five (35) days after the receipt of any application hereunder, (as "receipt" is defined in Section 120B), determine that additional information is reasonable necessary or appropriate to a proper disposition of the application, and shall then notify the applicant in writing of the specific information required. Such additional information may, for example, include a traffic report prepared by a licensed professional engineer specializing in traffic and highway topics. If the applicant shall decline or fail to furnish such additional information, the commission shall proceed to a determination upon the application under theses Regulations.

120C.9(b) If the applicant determines to present a revision to its application or to supplement it with additional information or reports, either based on its own determination or based upon a request from the Commission as described in Subsection (a) above, it shall do so by filing said information in the zoning office at least eleven (11) days before the commencement of the public hearing on said application or any continuance thereof. If said information is not filed by said time, the commission may refuse to consider said information or may continue said public hearing to allow a thorough review of said information by the Commission and the public. If necessary, the Commission shall request from the applicant its consent in writing to an extension of the time limits specified in Section 120F hereof for commencement of completion of said public hearing.

120D. MAPS AND DRAWINGS. All information required under Section 120C above concerning distances, areas, grades, contours and other existing or proposed geo physical and topographical information shall be shown on a map or maps prepared by a registered professional engineer or registered land surveyor. All information concerning the design and construction of proposed improvements shall be shown on a drawing or drawings prepared or approved by a licensed professional engineer, provided, however, that information relating to structural factors concerning aesthetic design may be shown on a drawing or drawings prepared or approved by a registered architect.

120E. REFERRALS. Whenever an application is made to the Commission for a special exception:

120E.1. for a use or improvement located wholly or partially within the Conservation District, such application shall be referred to the Essex Conservation Commission for an advisory opinion: and

120E.2. for a use or improvement located wholly or partially within the Gateway Conservation District, which may result in potential erosion or sedimentation problems, such application shall be referred to the Middlesex County Soil and Water Conservation District for a report upon the applicant's proposed erosion and sedimentation controls under the criteria specified in Section 101C.

The full report of the Essex Conservation Commission and/or the Middlesex County Soil and Water Conservation District regarding such application shall be publicly read at and incorporated into the records of the public hearing thereon.

120F. PUBLIC HEARING. The Commission shall hold a public hearing on each application for a special exception. A copy of such application shall be filed in the office of the Town Clerk for public inspection at least ten (10) days before such hearing. Notice of the time and place of such hearing shall be published in the form of a legal advertisement appearing in a newspaper having a substantial circulation in the Town, at least twice, at intervals of not less than two (2) days, the first not more than fifteen (15) days, nor less than ten (10) days, and the last not less than two (2) days before the hearing. Such notice shall fairly and sufficiently apprise those who may be interested in the proceeding of the nature and character of the matter proposed in order that intelligent preparation for the hearing may be made. Such hearing shall commence within sixty-five (65) days after the receipt of the application. The hearing shall be completed within thirty-five (35) days after it commences. The commission shall render a decision on all applications within sixty-five (65) days after completion of such hearing. The petitioner or applicant may consent to one or more extensions of any period specified in this section, provided the total extensions all such periods shall not be longer than sixty-five (65) days, or may withdraw such petition or application.

Not less than fifteen days prior to the commencement of the public hearing, the applicant shall post a notice of the hearing on the property involved. Said notice shall be in the form of a freestanding sign, facing each adjacent public street, placed no more than thirty feet (30') from the public right-of-way and shall be clearly legible from the public street. Said sign shall be produced of weather resistant material, shall be legibly lettered with a minimum letter size of two inches (2"). The sign shall not be greater than twelve square feet (12 sq. ft.).

The sign shall contain the following text:

"Application pending on this property before the Zoning Commission for Special Exception approval for which a public hearing is being held:

Time:
Date:
Place: Town Hall, 29 West Avenue, Essex, CT 06426
For more information, call (860)767-4340 (or as said number is changed from time to time).

Said sign shall not be removed until after the public hearing has concluded. (August 1, 2007)

120G. STANDARDS. Whenever an application for a special exception is made to the Commission under these Regulations, the Commission shall, in deciding such application, consider, and make appropriate findings relating to, the following criteria in the light of the nature, location, size, intensity, and other structural and functional characteristics of the proposed use and the buildings and other improvements associated with it:

120G.1. NEIGHBORING PREMISES. The probable effect of such use upon the enjoyment, usefulness and value of premises in the general neighborhood thereof and the degree and character of noticeable noise, odor, smoke, fumes, vibration, illumination or radio or television interference produced thereby;

120G.2. TRAFFIC. The probable effect of such use upon the pattern, flow, intensity or character of traffic in the streets and the degree of traffic congestion produced thereby; and

120G.3. CROWDING. The degree of population concentration and building density resulting from such use and availability of existing provisions for fire and police protection, transportation, water, sewage, schools, parks or other public requirements;

and in deciding an application for a special exception under 100B.1. also the following criteria:

120G.4. NATURAL RESOURCES. The effect of such use upon the natural resources and natural ecological processes in the Conservation District.

120H. RECORD. The Commission shall call in a competent stenographer to take the evidence, or shall cause the evidence to be recorded by a sound recording device in each hearing upon an application for a Special Exception. All exhibits accepted in evidence shall be identified and duly preserved or, if not accepted in evidence, shall be properly identified and the reason for the exclusion clearly noted in the record. Upon request of any person interested in the proceeding made within 90 days following the Commission's decision, the Commission shall furnish to such person copies of a transcript of the hearing or hearings upon payment of the cost of such copies and of all, or such portion as the Chairman of the Commission may determine, of the cost of such transcript. All testimony given, or statements made at a public hearing may, if so required by the Commission, be given or made under oath.

120I. DECISION. The Commission shall grant an application for a special exception hereunder if it finds that the nature, location, size, intensity, and other structural and functional characteristics of the proposed use, and the buildings and other improvements associated with it, conform to all of the conditions prescribed therefore in these Regulations. The Commission shall deny any application for a Special Exception hereunder if:

120I.1. it is unable, for lack of information, to determine whether or not the nature, location, size, intensity, and other structural and functional characteristics of the proposed use, and the buildings and other improvements associated with it, conform to all of said conditions: or

120I.2. it finds that any aspect or element of the proposed use, and the buildings and other improvements associated with it, does not conform to any of said conditions.

The concurring vote of a majority of the members of the Commission shall be necessary to grant any application for a Special Exception hereunder. The Commission shall decide an application for a Special Exception hereunder within sixty-five (65) days after the first public hearing thereon unless such period shall have been extended with the written consent of the applicant. Whenever the Commission grants an application for a Special Exception, the Commission's decision shall become effective at such time as is specified by the Commission or, if not specified, upon recordation of a copy of the Commission's Memorandum of Decision, referred to in Section 120N. on the Essex Land Records. The grant of a Special Exception hereunder shall not constitute, nor relieve the applicant from seeking, any other license, permit or approval required to implement any aspect of the proposed use or improvements approved including, but not limited to, a permit to conduct a "regulated activity" from the Essex Inland Wetlands and Water Courses Commission as required in the Essex Inland Wetlands and Water Courses Regulations.

120J. NOTIFICATION OF DECISION. A legal notice of the decision of the Commission upon each Special Exception application shall be published in a newspaper having a substantial circulation in the municipality within fifteen (15) days after such decision has been rendered. A copy of the text of said legal notice shall be filed in the Office of the Essex Town Clerk prior to the effective date of the decision to which it relates and a copy thereof shall also be dispatched, by certified mail, to the applicant or his attorney or agent of record within fifteen (15) days after the date of the decision is rendered. Such legal notice shall be a simple statement that such application was granted or denied together with the date of such action.

120K. AMENDMENT OF SPECIAL EXCEPTION. The Commission may, upon application therefore, grant an amendment to any Special Exception previously granted subject to and in accordance with the provisions of these Regulations authorizing the grant of the original Special Exception. No such amendment shall authorize any use or improvement except in conformity with these Regulations as in effect on the effective date of such amendment. Any application for an amendment shall include a copy of any and all prior memorandum(a) of Decision(s) as recorded in the Essex Land Records. Minor changes to an approved site plan submitted as part of the approved Special Exception may be approved by the Zoning Commission without a public hearing unless the Commission deems that a public hearing is necessary. (October 17, 2005)

120L. COMPLETION OF WORK. All work in connection with an approved special exception shall be completed within five years after the approval of the application. The approval of such special exception shall state the date on which such five-year period expires. Failure to complete all work within such five-year period shall result in automatic expiration of the said approval, except that the zoning commission may grant one or more extensions of the time to complete all or part of the work in connection with the special exception provided the total extension of extensions shall not exceed ten years from the date such site plan is approved. "Work" for purposes of this subsection means all physical improvements required by the approved plan. (Large projects shall be governed by the time limits specified in Section 8-3(j) of the Connecticut General Statutes, as amended). (August 1, 2007)

120M. CASUALTY. The authorization of a Special Exception shall not terminate pursuant to 120L.2. if the pertinent use or improvement ceases by reason of fire or other casualty, provided that:

120M.1. NOTICE. Notice of intention to resume or restore such use or improvement is filed with the Zoning Enforcement Agent within six months after cessation; and

120M.2. COMPLETION. Such resumption or restoration is made and completed within two years after cessation.

120N. MEMORANDUM OF DECISION. The Commission's decision upon each application for a Special Exception shall be embodied in a writing which shall be entitled "Memorandum of Decision." Each Memorandum of Decision granting a special exception shall:

(1) Specify the name of the record owner or owners of the premises with respect to which it is granted.

(2) Describe the premises by metes and bounds or courses and distances, with respect to which it is granted.

(3) Describe in detail the particular use and improvements authorized, and

(4) Specify any conditions, other than those prescribed in these Regulations, imposed by the Commission.

Each Memorandum of Decision shall contain the reasons for the Commission's decision, shall be signed by the Chairman or Secretary of the Commission and shall become a permanent record of the Commission. Upon payment in full of all fees, costs, and charges, a copy of the Memorandum of Decision shall be dispatched, by certified mail, to the applicant or his attorney or agent of record. No Special Exception granted shall become effective until a copy of the Memorandum of Decision shall have been recorded in the Essex Land Records.

120O. REAPPLICATION. A Special Exception shall not be granted hereunder to any applicant if a previous application by him for a Special Exception to authorize substantially the same use has been denied on its merits after a public hearing within five years prior to the date of submission of his new application.

120P. FILING FEE. The Commission shall require payment of a filing fee of such amount as it may determine for the processing of applications, publication of notices of hearing and decision, and inspection of the proposed site and improvements.

120Q. BONDS. The Commission may require, as a condition of special exception approval, that the applicant post a bond or other surety to assure conformance with all proposed improvements (excluding buildings) shown on the approved site plan. The bond will be in a form, amount and duration acceptable to the Commission and its legal counsel and shall be generally in accordance with the bond requirements found in the Subdivision Regulations of the Town of Essex, as amended from time to time. Should the site developer be unable to complete the required site improvements, the bond will be used by the town to complete work necessary for protection of public health, safety, and welfare. A separate bond may be required for installation of sedimentation and erosion controls, landscaping, or other separate aspects of the development.
(August 1, 2007)

AMENDED SEPTEMBER 1, 2007
AMENDED JULY 15, 2012

SECTION 121

ZONING PERMITS

121A. PERMIT REQUIRED. Whether or not a special exception or a variance has been granted therefore, the issuance of a Zoning Permit shall be required before:

121A.1. New Improvements. Commencement of construction, placement, relocation or installation of any improvements, other than an accessory improvement which is neither a building nor a sign;

121A.2. Changes in Improvements. Commencement of enlargement or exterior alteration of any improvement other than an accessory improvement which is neither a building nor a sign;

121A.3. Uses. Commencement of any new nonresidential use of premises including commencement of any continuing nonresidential nonconforming use by a new owner or occupant;

121A.4. Increases in Off-Street Parking and Truck Loading Space Factors. Any increase, with respect to an existing use, of any factor with reference to which off-street parking or truck loading spaces are prescribed in Section 110F; and

121A.5. Diminution in Off-Street Parking and Truck Loading Spaces. Any diminution in the size or number of off-street parking spaces or truck loading space serving any existing use.

121A.6. Lot Line Revisions All lot line revisions that are not deemed a subdivision or resubdivision.

The term "improvement" as used herein includes a swimming pool and any tennis or other surfaced outdoor recreational court facility exceeding 10 square feet in area. Nothing herein shall be construed to require a Zoning Permit for ordinary repairs and maintenance of an existing improvement.

121B. WHO MAY APPLY. An application for a Zoning Permit may be made by:

121B.1. Owner. The owner, or all the joint owners, of the premises to which such application relates;

121B.2. Purchaser. The purchaser, or all the purchasers, under a written contract to purchase the premises provided that the written consent to the grant of such Zoning Permit of the owner, or all the joint owners, of the premises accompanies the application; or

121B.3. Lessee. The owner, or all the joint owners, of a leasehold interest in the premises under a written lease provided that the written consent to the grant of such Zoning Permit of the owner, or all the joint owners, of the premises accompanies the application.

121C. SUBMISSION OF APPLICATION. A complete application shall consist of the application form and filing fee prescribed by the Commission and all documents and statements required to accompany the form. Each application form and accompanying documents and statements shall be delivered, in triplicate to the Zoning Enforcement Agent. The date of receipt by him of a complete application shall be deemed to be the date of submission of such application.

121D. SUPPORTING INFORMATION. Each application form shall contain or be accompanied by, in writing:

(1) A site plan showing the tax map lot number or numbers of the land to which such application relates, and

(2) A complete and comprehensive statement describing the improvement or change and the use made or to be made thereof.

(3) Identification of adjacent property owners.

(4) A soil erosion and sediment control plan as described in Section 114.D. hereof. The Zoning Enforcement Agent shall require the posting of a bond, as described in Section 114G., per the bond schedule as amended from time to time, to guarantee implementation and maintenance of said plan. In addition, the Zoning Enforcement Agent may revoke a zoning permit for failure to implement and maintain said plan, or may refuse to approve a building permit or certificate of occupancy as required by Section 8-3(f) of the Connecticut General Statutes.

All new single family houses.	$2,000.00
Residential additions requiring a foundation over 800 sq. ft. and minor grading for projects under ½ acre on grades in excess of 5%.	$1,000.00
Grading and earthwork exceeding ½ acre for commercial operations in conjunction with a zoning permit.	$5,000.00 minimum Plus $1,000.00 per acre in excess of 5 acres

This requirement is independent of any road or street cut/ROW or driveway bonds.
The bond shall be released on completion of grading and after permanent vegetative growth is established, as determined by the Zoning Enforcement Agent. (Sept. 1, 2007)

Whenever the Zoning Enforcement Agent shall deem it reasonable, necessary or appropriate to a proper disposition of any application, he may require the applicant to submit any one or more of the items of information described in 120C.1 through 120C.7, or other information, in such form as he may prescribe, including a report issued by an attorney admitted to practice law in Connecticut describing the state of the title to the land to which such application relates.

121D.1. Whenever such application relates to premises, located wholly or partially within the Gateway Conservation District, a plan of development setting forth proposed erosion and sedimentation controls under the criteria specified in Section 101C. may be required.

121E. DETERMINATION. The Zoning Enforcement Agent shall grant the application and issue a Zoning Permit if he finds that the proposed improvement or change, and the land upon which it is to be situated, complies with all the pertinent requirements of these Regulations, including any Special Exception or variance granted therefore. He shall deny the application if he:

(1) is unable, for lack of information, to determine whether or not the proposed improvement or change, and the land upon which it is to be situated, complies with all such pertinent requirements.

(2) finds that the proposed improvement or change, or the land upon which it is to be situated, does not comply with all such pertinent requirements,

(3) finds that the land upon which a proposed building is to be situated is within a subdivision, as that term is defined in Section 8-18 of the Connecticut General Statutes as the same may hereafter from time to time be amended, which has not previously been duly approved by the Essex Planning Commission, or

(4) finds that the proposed use or improvement is or involves a "regulated activity" as that term is defined in the Essex Inland Wetlands and Water Courses Commission as required in said Regulations.

121F. TIME FOR DECISION, NOTICE OF DENIAL. The Zoning Enforcement Agent shall grant or deny application for a Zoning Permit within 30 days after receipt by him of such application, except that said period may be extended with the consent of the applicant. If such application shall have been neither granted or denied within such period, it shall be considered to have been denied upon the expiration thereof. In the event of denial, other than by expiration of the period for decision, the Zoning Enforcement Agent shall issue, within five days after his decision, written notice of denial to the applicant either personally or by certified mail. Each Zoning Permit granted shall be embodied in a writing which shall:

(1) specify the name of the record owner or owners of the premises with respect to which it is granted,

(2) specify the tax map lot number or numbers of said premises, and

(3) describe in detail the particular improvement or change authorized. Said writing shall be signed by the Zoning Enforcement Agent.

121G. EXPIRATION OF PERMIT. A Zoning Permit shall expire one year following its issuance if construction shall not have been commenced within said period and shall expire two years following its issuance if construction shall not have been completed within said period. A new permit shall be required to complete construction begun under a permit which has expired.

121H. FEE. The Commission shall require payment of a fee of such amount as it may determine for the processing of applications and inspection of the proposed site and improvements.

121I. NOTIFICATION TO ADJACENT PROPERTY OWNERS. Written notification of issuance of a Zoning Permit shall be mailed within seven days of the date of issue of the Zoning Permit to adjacent property owners within 60 feet of an applicant's property line.

121J. ZONING CERTIFICATE OF COMPLIANCE. If the Zoning Enforcement Agent shall deem it reasonable, necessary, or appropriate to verify that a lot, structure, and/or use is in compliance with the requirements of the Zoning Regulations, he may require the applicant/owner to submit a certified A2 plot plan, prepared by a registered professional engineer or a registered land surveyor licensed to practice in the State of Connecticut.

SECTION 122

CERTIFICATES OF COMPLIANCE

Section repealed in its entirety.

AMENDED SEPTEMBER 1, 2007

SECTION 123

AMENDMENTS OF REGULATIONS AND DISTRICT BOUNDARIES

123A. GENERAL. These Regulations and the District boundaries established may, from time to time, be amended, changed or repealed by the Commission in accordance with the provisions of the Zoning Enabling Act.

123B. PETITION FOR CHANGE. Any person may petition the Commission requesting a change in these Regulations or the boundaries of the Districts. A complete petition shall consist of the petition form and filing fee prescribed by the Commission and all documents and statements required to accompany the form. Twelve (12) copies of the complete petition shall be delivered to the Zoning Enforcement Agent for transmittal to the Commission at its next regularly scheduled meeting. The date of receipt of such petition shall be deemed to be the earlier of: (a) the date of such next regularly scheduled meeting, or (b) the thirty-fifth (35th) day following the date it was delivered to the Zoning Enforcement Agent.

123C. SUPPORTING INFORMATION. Each petition form shall contain or be accompanied by, in writing:

(1) A full text of any proposed change in these regulations clearly indicating existing provisions to be repealed and new provisions to be enacted;

(2) A map clearly showing, and a complete written description, of any proposed change in District boundaries, including a precise description by metes and bounds or courses and distances, of the location of the new boundary to be established and a list, keyed to said map, of the names and addresses of the record owners of land within, and within 500 feet outside, the area to be affected by such boundary change; and

(3) A complete and comprehensive statement of the reasons for any proposed change, including any special interest the petitioner may have in such change.

Said map required hereby shall be prepared at a scale of 100 feet to one inch unless otherwise prescribed by the Commission. Whenever the Commission shall deem it reasonably necessary or appropriate to a proper disposition of any petition, it may require the petitioner to submit, at or prior to the public hearing thereon, any other information in such form as it may prescribe.

123D. FILING FEE. The Commission shall require payment of a filing fee of such amount as it may determine for the processing of petitions and publication of notices of hearing and decision.

123E. PUBLIC NOTICE REGISTRY. Notice of any application regarding adoption or change of any zoning regulation or zoning district boundary shall be provided in accordance with this subsection in addition to any other notice required under any provision of the general statutes.

The zoning commission shall establish a public notice registry of landowners, electors and nonprofit organizations qualified as tax exempt organizations under the provisions of Section 50 1(c) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of United States, as from time to time amended, requesting notice under this subsection. The zoning commission, shall place on such registry the names and addresses of any such landowner, elector or organization. A landowner, elector or organization may request such notice be sent by mail or by electronic mail. The name and address of a landowner, elector or organization who requests to be placed on the public registry shall remain on such registry for a period of three years after the establishment of such registry. Thereafter any landowner, elector or organization may request to be placed on such registry for additional periods of three years.

Any notice under this subsection shall be mailed to all landowners, electors and organizations in the public notice registry not later than seven days prior to the commencement of the public hearing on such action, if feasible. Such notice may be mailed by electronic mail if the zoning commission or the municipality has an electronic mail service provider.

No zoning commission shall be civilly liable to any landowner, elector or nonprofit organization requesting notice under this subsection with respect to any act done or omitted in good faith or through bona fide error that occurred despite reasonable procedures maintained by the zoning commission to prevent such errors in complying with the provision of this section. (September 1, 2007)

SECTION 130

CONDITIONS OF CERTAIN SPECIAL EXCEPTIONS

130A. GENERAL. The conditions subject to which a Special Exception shall be granted when reference is made in these Regulations to this Section 130 are as follows:

130A.1. ARCHITECTURAL DESIGN. The architectural design of buildings and signs, including the building materials, and exterior elevations, shall be of such character as to harmonize with the neighborhood and accomplish a transition in character between premises of dissimilar uses and improvements;

130A.2. SITE PLAN. The site plan, arrangement of buildings and other improvements, including landscaping, storm drainage, sanitary facilities, outdoor illumination, and vehicular parking facilities shall be of such character as to harmonize with the neighborhood and accomplish a transition in character between premises of dissimilar uses and improvements;

130A.3. NEIGHBORING PREMISES. The proposed use and improvements shall not adversely affect the enjoyment, usefulness and value of premises in the general neighborhood thereof;

130A.4. TRAFFIC. The proposed use and improvements shall not adversely affect the pattern, flow, intensity or character of traffic in the streets or produce unsafe or inconvenient traffic congestion.

130A.5. CROWDING. The proposed use shall not unduly or unsafely increase the degree of population concentration and building density in the general neighborhood thereof;

130A.6. ON-SITE SEWAGE DISPOSAL SYSTEM. When, in connection with the proposed use, any existing or proposed building is to be used for human occupancy, such use or building shall either be served by a municipal sewage system or the lot of such proposed use shall be of such shape, size, location and of such geologic and topographic character as to accommodate, without endangering or disturbing any wetland or watercourse, all proposed buildings and improvements, with setbacks and off-street parking facilities required hereunder, as well as any necessary on-site subsurface sewage disposal system, with required reserve area, and a water supply system, both of which systems shall conform in design and function to the requirements of the State Health Code and regulations enacted by the State Department of Health thereunder, and to the requirements of any applicable Town sanitary regulations pertaining thereto.

130A.7. CONSERVATION DISTRICT. Where such application relates to premises wholly or partially within a Conservation District, the proposed use and improvements shall not adversely affect the natural resources and natural ecological processes within or in the general neighborhood of the premises;

130A.8. GATEWAY CONSERVATION DISTRICT. Where such application relates to premises wholly or partially within the Gateway Conservation District, the proposed use and improvements shall be consistent with the purposes of Public Act 74-103, as the same may from time to time hereafter be amended, for promoting and protecting the "Conservation Zone" described therein and shall not detract from the natural or traditional riverway scene; and

130A.9. OTHER CONDITIONS. Such other reasonable conditions as the Commission may deem necessary or appropriate to impose for the purpose of preventing or diminishing: (a) any adverse effect of the use, land, or improvements to be authorized upon the health, safety, and welfare of the community, (b) any undue annoyance or disturbance of the occupants of premises in the general neighborhood of such use, land or improvements for the general principal uses permitted in the district thereof under these Regulations and predominately existing therein.

130A.10. WATER SUPPLY FACILITIES. When such application relates to "Water Supply Facilities'," the Commission shall determine whether or not the proposed facility constitutes a feasible and prudent method of providing water service taking into account (1) the need for the benefit to be derived from the proposed facility, (2) alternatives to the proposed facility, (3) the comparative economic costs involved, and (4) the character and degree of impact to the surrounding area. The Commission shall approve the application if it finds that the proposed facility constitutes a feasible and prudent method of providing water service.

In considering the impact of the proposed facility to the surrounding area under (4) above, (1) the Commission shall consider and take into account the degree of care that applicant has exercised to protect the surrounding area and the Commission shall not approve an application if the applicant has not exercised reasonable care, and (2) the Commission shall consider and take into account the public purpose to be served by the proposed facility and shall balance such public purpose against any adverse impact to the surrounding area and determine whether or not the proposed facility, on balance, promotes the general welfare of the Town and its citizens.

Subsections 130A.1, 130A.2, and 130A.3 shall not apply to an application for a special exception for a water supply facility.

AMENDED SEPTEMBER 1, 2000

SECTION 131

CONDITIONS OF MULTIPLE DWELLING AND MULTIPLE DWELLING PROJECT SPECIAL EXCEPTIONS

131A. GENERAL. In addition to the conditions prescribed in Section 130, the conditions subject to which a Special Exception shall be granted for a multiple dwelling or multiple dwelling project under Section 62A.4 are as follows:

131A.1. BUILDINGS.

(A) No multiple dwelling shall contain more than four family dwelling units;

(B) Only the first and second stories shall be used for dwelling purposes; no space having its floor level below the finished grade shall be used for dwelling purposes except as a recreation or utility room;

(C) The minimum distance between any two dwelling buildings in a multiple dwelling project shall not be less than 60 feet but where the number of such buildings exceeds two, the intervals between them and their orientations shall be varied sufficiently to avoid the uniform appearance of a gridiron pattern and to make efficient use of the entire lot as an integrated whole;

(D) There shall be in respect of each building a minimum setback of 50 feet from all streets and all lot lines of adjacent property;

(E) The required minimum floor area of each family dwelling unit shall be 700 square feet. For each room in excess of three, the family dwelling unit shall have an additional 120 square feet of floor area. In determining the number of rooms of a family dwelling unit and its floor area for purposes of this subparagraph, there shall not be included halls, stairways, foyers, closets, porches or bathrooms;

(F) The maximum number of separate bedrooms in any family dwelling unit shall be three, and the minimum one;

(G) There shall be provided for each family dwelling unit an enclosed storage space within the dwelling, in addition to closet space, equal to 10 percent of the floor area of such family dwelling unit. In determining the floor area for purposes of this subparagraph, there shall not be included halls, stairways, foyers, closets, porches or bathrooms;

(H) One or more surfaced areas for use as a drying area and for temporary storage and rubbish shall be provided at the rear of each dwelling building. Such area or areas shall be surrounded by a closed fence, latticework or shrubbery;

(I) Storage of rubbish and garbage shall be in one or more suitable vermin and rodent proof containers having at least a 40 gallon capacity per each family dwelling unit;

(J) Radio and television facilities shall be served by a master antenna only. No individual external radio or television antennas shall be permitted.

131A.2. UTILITIES.

(A) Each family dwelling unit shall be connected to a water supply and a minimum daily supply of 500 gallons of pure potable water shall be made available under adequate water pressure to each family dwelling unit. The water supply system shall be so designed and constructed as to provide adequate fire protection with hydrants installed within 500 feet of all structures or as required by the Town Fire Marshal;

(B) Each dwelling building shall be connected either to a municipal sewage disposal system or to a private sewage disposal system which shall have been approved by the Town Health Officer and a licensed engineer as suitable for the local soil conditions. In no case shall the sanitation requirements be less than those required by the State Department of Health;

(C) All wires, cables and other conduits and equipment used to transmit utilities to or among multiple dwellings and buildings within multiple dwelling projects shall be installed underground in accordance with and to the extent permitted by generally accepted engineering principles.

131A.3. STREETS, TRAFFIC, PARKING.

(A) All proposed streets associated with any multiple dwelling or multiple dwelling project shall conform to the design criteria and construction standards prescribed by the Essex Subdivision Regulations, as the same may from time to time be amended, in the case of subdivisions. All such streets shall have a right of way not less than 50 feet wide and shall be so arranged that they connect in a reasonable way considering traffic problems, the convenience of future occupants and the public, with other proposed or existing streets. Whenever the Commission shall so require, a driveway shall be considered as a street for purposes of this subparagraph. In making such requirement, the Commission shall have regard to the length, location and reasonably foreseeable intensity of use of said driveway;

(B) The area shall be served from, or have access to an accepted, improved town road or state highway which provides adequate circulation and access to other sections of the Town. Where such Town road is not deemed adequate to serve the area, the Commission may require participation by the developer in the improvement of said Town road in accordance with the Town Road Ordinance. Ease of entrance to, and exit from, the development with minimum impact on normal traffic flow shall be of prime importance. Interior streets and driveways shall be designed to eliminate through traffic, reduce traffic speeds and provide for adequate circulation within the development and to its facilities and open space. Walkways, courts and paths shall provide pedestrian access to and between residential structures, supporting facilities and community open space and shall be separated from vehicular traffic whenever reasonably possible;

(C) Off-street parking spaces shall be provided at a minimum of 1.5 spaces per dwelling unit. Parking may be provided beneath dwelling units, in separate parking garages or in open parking areas. Parking facilities shall be designed as an integral part of the site development design, and arranged to prevent undue concentration of parking facilities. Access to dwelling units from parking facilities shall be by walkway or with structures.

131A.4. OPEN SPACE.

(A) All land not used for the construction of dwellings, supporting facilities, parking, vehicular circulation, or private yards shall be considered open space. It shall be so arranged and defined that its area, permanent use and control can be established. Except when required for Town use, it shall be dedicated for use by the residents of the development with adequate controls to assure its maintenance and with restrictions or covenants prohibiting or restricting building on it;

(B) The following types of supporting facilities to serve the residents of the development are permitted: recreational facilities such as tennis courts and swimming pools; also, storage for owners' or tenants' boats, trash removal facilities, and school bus pickup shelters.

131A.5. OTHER REQUIREMENTS.

(A) Housing units may be for rental or for sale in cooperative or condominium ownership. Documentation as to the organization and incorporation of applicable ownership associations shall be submitted to the Commission. All open space, other than that accepted by the Town, and supporting facilities, including streets and driveways, shall be under specified common ownership with provision for maintenance, liability and the rights of access and use by residents of the development which is acceptable to the Commission.

(B) All signs shall be designed as an integral part of the design concept, and shall otherwise meet the requirements of Section 111.

(C) Before holding a public hearing on the application for a Special Exception under this section, the Commission may require the applicant to furnish any or all of the information required for the approval of a subdivision under the Subdivision Regulations of the Town of Essex.

(D) All site plans and landscape plans shall be prepared by a registered landscape architect, registered architect or registered civil engineer; all structures intended primarily for human occupancy shall be designed by a registered architect; boundary surveys shall be prepared by a registered land surveyor; engineering work, road and utility layouts and sanitary sewage facilities shall be prepared by a qualified registered engineer. All such plans shall bear the seal of the registered professional or professionals involved

when submitted to the Commission for approval. As used herein, the term "registered" shall mean registered or licensed by the appropriate authority of the State of Connecticut.

131B. PURPOSES. The provisions of this Section 131 are designed to enable a developer of land for multifamily residential purposes to make such use pursuant to a plan which is in keeping with the overall residential density and open space objectives of these Regulations in order to:

(1) Permit a creative approach to the development of residential land by avoiding the conventional gridiron pattern;

(2) Accomplish a more desirable environment than would be possible under the strict application of the requirements of Section 61B;

(3) Provide for the most efficient use of land, and thus counteract the effects of urban congestion and monotony;

(4) Enhance the appearance of neighborhoods through preservation of natural features, and open space areas;

(5) Provide structure to neighborhood design, add to the sense of spaciousness and encourage participation by all age groups in the use and care of local open space tracts within new residential subdivisions; and thereby

(6) Help promote the public health, safety, and welfare of the people residing nearby, and to aid in stabilizing property values.

131C. BONDS. The Commission may require that one or more performance bonds be posted with the Treasurer of the town to guarantee completion in strict conformity with the maps and drawings submitted of all improvements to be made for a use permitted by the grant of a Special Exception under this section. It may require that a single comprehensive bond be posted to guarantee completion of all such improvements or it may require that several separate bonds be posted to guarantee completion of separable components of such improvements. A single comprehensive bond, posted to guarantee completion of a separable component of such improvement, shall remain in effect until completion of such component. The Commission may also require the posting of bonds to guarantee maintenance of streets and care of open space. Such bond or bonds, in which the applicant shall be the principal and the surety shall be a bonding company licensed to do business in Connecticut, shall be given in such amount or amounts as the Commission shall prescribe. The Commission may, at its discretion, accept a cash bond or bonds. The posting and maintenance of a bond or bonds required by the commission hereunder shall themselves be conditions of the use permitted under this section. No improvement shall be commenced and no zoning permit for any

improvement shall be issued unless and until the bond or bonds required hereunder shall have been posted.

131D. REQUIRED CHARACTERISTICS. The minimum lot area is determined by the proposed number of family dwelling units. If the lot is served by public water supply, by a company under the jurisdiction of the Public Utilities Commission and the State Department of Health, the minimum lot area shall be 40,000 square feet per family dwelling unit; otherwise it shall be 60,000 square feet per family dwelling unit. The only required setbacks are those specified in paragraph 131A.1. Each lot shall contain a contiguous building site of at least 42% of the minimum lot area which is considered buildable land. Maximum building coverage is 10%. The maximum building height is 30 feet.

"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.

SECTION 140

ZONING BOARD OF APPEALS

140A. COMPOSITION. In accordance with the provisions of the Zoning Enabling Act, the Zoning Board of Appeals shall consist of five regular members and three alternate members.

140B. CHAIRMAN. The Board shall, by vote of its regular members only, elect a Chairman from among its regular members. The Chairman, or in his absence, the Acting Chairman, may administer oaths and compel the attendance of witnesses.

140C. MEETINGS. All meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine and, except when lawfully in executive session, shall be open to the public.

140D. MINUTES, VOTING. The Board shall keep minutes of its proceedings showing the vote of each member upon each question or, if any are absent or fail to vote, shall indicate such fact and shall keep records of its examinations and other official actions.

140E. RULES. The Board shall adopt rules, not inconsistent with the Zoning Enabling Act or these Regulations, governing the procedure for its meetings, hearings and other official actions as it shall deem necessary or appropriate.

140F. RECORDS. Each rule and each amendment or repeal thereof and each order, requirement or decision of the Board shall immediately be filed in the office of the Board and shall be a public record.

140G. POWERS AND DUTIES. The Zoning Board of Appeals shall have the following powers and duties:

> 140G.1. APPEALS. To hear and decide appeals where it is alleged that there is an error in any order, requirement or decision made by the Zoning Enforcement Agent; and
>
> 140G.2. APPLICATION FOR VARIANCE. To determine and vary the application of these Regulations in harmony with their general purpose and intent and with due consideration for conserving the public health, safety, convenience, welfare and property values solely with respect to a parcel of land where, owing to conditions especially affecting such parcel but not affecting generally the District in which it is situated, a literal enforcement of such regulations would result in exceptional difficulty or unusual hardship so that substantial justice will be done and the public safety and welfare secured.

140H. CERTAIN PROCEDURAL PROVISIONS. Whenever an application for the grant of a variance is joined with an appeal from any order, requirement or decision of the Zoning Enforcement Agent, the Board shall first decide the issues presented by such appeal. Whenever the Board decides to grant a variance it shall, in stating upon its records the reason for such decision.

140H.1. SPECIAL CIRCUMSTANCES. Describe specifically in detail the conditions especially affecting the premises to which the variance relates but which do not affect generally the District in which such premises are situated and which are the result of the application of these Regulations to circumstances beyond the control of the applicant; and

140H.2. PARTICULAR VARIATIONS. State the particular respect or respects in which the premises contravene the provisions of these Regulations which are varied in their application.

Written notice of each hearing and a complete copy of each application, upon any appeal from any order, requirement or decision of the Zoning enforcement Agent and upon any application for a variance shall be mailed or delivered, at least 10 days before such hearing, to the Zoning Enforcement Agent who shall be entitled to appear and be represented by Counsel. Written notice of each decision of the Board shall be mailed or delivered, not later than the date such notice is published in a newspaper pursuant to the Zoning Enabling Act, to the Zoning Enforcement Agent. No variance shall be effective until a copy thereof, certified by the Zoning Board of Appeals, containing a description of the premises to which it relates and specifying the nature of such variance, including the regulation which is varied in its application, and stating the name of the owner of record, is recorded in the Essex Land Records.

140I. CONDITIONS, SAFEGUARDS AND STIPULATIONS. Whenever the Board decides to grant a variance it shall be authorized to attach to the grant of such variance such conditions, safeguards and stipulations as it may deem necessary or appropriate to prevent or diminish any adverse effect of the use or characteristic of land or improvement authorized thereby upon the health, safety and welfare of the community, any undue annoyance or disturbance of the occupants of premises in the general neighborhood of such use or characteristic and any impairment of the suitability, usefulness or value of premises in the general neighborhood of such use or characteristic for the uses permitted in the District thereof under these Regulations and predominantly existing therein.

140J. TERMINATION OF VARIANCE. Except as provided in 140K., the authorization of a variance shall terminate:

140J.1. CESSATION. If the use or improvement so authorized shall not have actually existed for a period of one (1) year from the date of cessation or from the effective date of the grant of such variance, whichever is later;

140J.2. ABANDONMENT. If the use or improvement so authorized is abandoned or is intentionally changed to conformity with these Regulations (without regard to such variance); or

140J.3. TERMS OF GRANT. Upon the happening of any event or the expiration of any period of time prescribed by the terms of grant of such variance.

140K. CASUALTY. The authorization of a variance shall not terminate pursuant to 140J.1. if the pertinent use or characteristic ceases by reason of fire or other casualty, provided that:

140K.1. NOTICE. Notice of intention to resume or restore such use or characteristic is filed with the Zoning Enforcement Agent within six months after such cessation; and

140K.2. COMPLETION. Such resumption or restoration is made and completed within two years after cessation.

AMENDED SEPTEMBER 1, 2007

SECTION 150

ENFORCEMENT

150A. ZONING ENFORCEMENT AGENT. These Regulations shall be enforced by the Zoning Enforcement Agent who shall be appointed by and serve at the pleasure of the Zoning Commission. In the absence or during the incapacity of the person so appointed the Chairman of the Zoning Commission may act as, and shall have all of the powers and duties of, the Zoning Enforcement Agent.

150B. AUTHORITY. The Zoning Enforcement Agent shall have all such authority as is prescribed by the Zoning Enabling Act and as can otherwise by law be conferred upon such official to enforce the Zoning Enabling Act and these Regulations. In addition, he shall review and decide all applications for Zoning Permits and Certificates of Compliance made pursuant to these Regulations. He may, in his discretion, take an appeal from any decision of the Zoning Board of Appeals in the manner prescribed therefore by the Zoning Enabling Act, and may withhold the granting of any Zoning Permit or Certificate of Compliance in connection with any use or improvement involved in such decision of the Board pending final judgment or their disposition of the appeal.

150C. ENFORCEMENT OF SPECIAL EXCEPTIONS AND VARIANCES GRANTED. Within fifteen (15) days following the grant of any variance, the granting authority shall deliver to the Zoning Enforcement Agent a copy of the writing embodying such special exception or variance. The Zoning Enforcement Agent shall keep each such writing, together with an appropriate index by location of the premises affected, and shall enforce the provisions of variance and of all special exceptions granted by the Commission, including any conditions imposed, as in the case of these Regulations themselves.

150D. CIVIL PENALTY; VIOLATION OF ORDER TO DISCONTINUE. Any person who, having been served with an order to discontinue a violation of any provision of these Regulations, fails to comply with such order within ten (10) days after such service, or, when the violation involves grading of land or the removal of earth, fails to comply with such order immediately, or continues to violate any provision of these Regulations specified in such order shall be subject to a civil penalty in the amount specified in Section 8-12 of the Connecticut General Statutes as from time to time amended.

150E. CRIMINAL PENALTY. The owner or agent of any building or premises where a violation of any provision of these Regulations has been committed or exists, or the lessee or tenant of an entire building or entire premises where such violation has been committed or exists, or the agent, architect, builder, contractor or any other person who commits, takes part or assists in any such violation who maintains any building or premises in which any such violation exists, shall be fined not less than $10.00 not more than $100.00 for each day that such violation continues; but, if the offense is willful, the person convicted thereof shall be fined not less than $100.00 nor more than $250.00 for each

day that such violation continues, or imprisoned not more than 10 days for each day such violation continues, or both. The amounts of all fines and the period of imprisonment provided for in this subsection shall be automatically amended to comply with any future amends to Section 8-12 of the Connecticut General Statutes.

150F. HANDLING OF COMPLAINTS. The Zoning Enforcement Agent shall promptly investigate any written complaint concerning the violation of any provision of either the Town of Essex Zoning Regulations or the provisions of the grant of any Variance, Site Plan approval, or Special Exception. Said written complaint shall be on a form provided by the zoning office and shall be signed by the complaintant.

The Zoning Enforcement Agent shall respond in writing to the complaintant by regular mail in a timely fashion. However, for purposes of appeal to the Zoning Board of Appeals pursuant to Section 140G.1. hereof, failure to so respond with a decision regarding the complaint within sixty (60) days of receipt of the written complaint shall be considered a decision to deny the complaint. The complaintant may agree in writing to an extension of said sixty (60) day period.
(September 1, 2007)

SECTION 160

MISCELLANEOUS

160A. SEPARABILITY. If a court of competent jurisdiction finds any provision of these Regulations to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to the particular provision which is expressly held to be invalid or ineffective and all other provisions of these Regulations shall continue to be separately and fully effective.

160B. APPLICABILITY. If a court of competent jurisdiction finds the application of any provision of these Regulations to any use, land or improvement to be invalid or ineffective in whole, or in part, the effect of such decision shall be limited to the person, property or situation immediately involved in the controversy and the application of any such provision to other persons, property or situations shall not be affected.

160C. ENACTING CLAUSE; TITLE AND REPEAL. The Zoning Commission acting under the authority of the Zoning Enabling Act, hereby adopts and enacts these Regulations as the "Essex Zoning Regulations (Revision of 1971)." The provisions of the Essex Zoning Regulations, adopted on June 30, 1966, and any amendments thereto, so far as they are the same as in these Regulations, are to be deemed continued and not as new enactments. Any and all provisions of said Regulations and amendments thereto which are inconsistent with the provisions of these Regulations are hereby repealed, but this shall not affect any violation thereof already existing or any penalty incurred and the same may be prosecuted as if these Regulations had not been adopted.