

TOWN OF ESSEX
Planning and Zoning Commission
Essex Town Hall, 29 West Avenue
Essex, Ct 06426

submitted 1/17/23



Petition for a Text Amendment of Zoning Regulations
or
Petition for a Change to the Town's Zoning Map
PART TWO

Signature of Property Owner(s):
Or Petitioner

Suzanne Thompson
Chair, CT River Gateway Commission

Address:

145 Old Denison Rd.
Centerbrook, CT

Application #

23-1 Date of Receipt 1/17/23

The undersigned request a text amendment to the Essex Zoning Regulations.

☒ This petition **requests a change in zoning regulations** and there is attached:

- 1) A full text of the proposed change in the zoning regulations clearly indicating existing provisions to be repealed and the new provisions to be enacted. *Text 1/12/23 in Land Use Office*
- 2) A complete and comprehensive statement of the reasons for any proposed changes, including any special interest the Petitioner(s) may have in such change, is attached.

☐ This petition **requests a change to the Town's Zoning Map** and there is attached:

- 1) A map clearly showing the area to be re-classified and specifying the present classification and proposed new classification with existing and proposed boundaries.
- 2) A list, keyed to the map, of the names and addresses of the record owners of and within the area to be affected, and within 500 feet outside the area to be affected by such reclassification, and
- 3) A complete written description, by metes and bounds or courses and distances, of the location of any new zoning district boundary or boundaries proposed.

1/15/23

CT River Gateway Commission (CRGC)
Request for Zoning Regulations Changes

In 2019 Essex adopted CT River Gateway's then-current iteration of its Standards. Since that time, minor changes have been recommended by CRGC's lawyer Mark Branse to make language more consistent across the eight member towns' zoning regulations.

By this petition we request the Essex Zoning Commission accept these editorial changes.

In addition to the insubstantial changes suggested by Mr. Branse, we are also asking that the Zoning Commission accept language for a light pollution definition and site plan review standard. Light pollution is an increasingly critical issue in the Gateway Zone, with the proliferation of high-powered LED lights causing brightening of the night sky, visual glare from overlit properties, and damage to terrestrial and aquatic ecosystems through the disruption of natural cycles. The incorporation of a light pollution definition into the zoning regulations allows this issue to be considered as part of zoning regulations.

We are happy to make a presentation about the importance of this proposed regulation and to share the very simple steps that homeowners and builders can take to prevent light pollution by shielding light sources and choosing light color temperatures that do not affect wildlife.

SECTION 20
[additions shown in RED, deletions shown ~~crossed-out~~]
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;

BUSINESS OFFICE: The office of recognized businesses such as consultants, accountants, marketing and advertisers, financial institutions, insurance agents, real estate agents, utilities, sales offices, and others who perform services of a business nature.

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 public; 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 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.

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

COMMISSION. The Essex **Planning and** Zoning Commission;

CONNECTICUT RIVER. Those portions of the Connecticut River or any of its tributaries or associated wetlands located within the Conservation Zone.

CONSERVATION ZONE ~~(SECTION 101)~~. That area along the lower Connecticut River defined in Section 22a-102c of the Connecticut General Statutes in which the Connecticut River Gateway Commission is charged with the protection of the "natural and traditional riverway scene." **Also referred to as the "Gateway Conservation Zone".**

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 with the exception that said home occupation is approved by the Town Sanitarian and licensed by the State Department of Consumer Protection as a Cottage Food Operation;
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.

DEVELOPED AREA ~~(SECTION 101)~~. Developed Area shall be defined by one of the following procedures: (a) An area adjacent to the Connecticut River or its tributaries and associated wetlands which has within the 50-foot Riparian Area immediately landward of the Coastal Jurisdiction Line been characterized by buildings and construction of greater density than average in the Conservation Zone in such a manner so as to make the retention or replacement of vegetation impractical, infeasible, or inconsistent with the traditional riverway scene, and which has been or may be mapped and designated by the Commission as a Developed Area for the purposes of these standards, and approved by the Gateway Commission. Or, (b) The 50-foot Riparian Area will also be considered as “Developed Area” if clearing or constructions have previously occurred in such a manner so as to make the retention or replacement of vegetation within said 50-foot riparian area impractical, infeasible or inconsistent with the traditional riverway scene, as determined by Zoning Commission for the purposes of these Standards in the context of a pending land use application, and approved by the Gateway Commission prior to the approval of such application.

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;

DISTURBED AREA ~~(SECTION 101)~~. An area where the ground cover is destroyed or removed leaving the land subject to accelerated erosion.

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 PRODUCT REMOVAL. The removal, excavation or mining of *Earth Products*.

EARTH PRODUCT ADDITION. The addition or deposition of *Earth Products*.

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;

ENLARGE, TO MAKE AN ENLARGEMENT, TO EXTEND-~~(SECTION 101)~~. Any addition to the gross floor area and/or the three-dimensional envelope of an existing building, an increase in the size of any other structure, or an increase in that portion of a tract of land occupied by an existing use. "To enlarge" is to make an enlargement.

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 DAY CARE HOME. A facility that is located in a single family dwelling caring for no more than six (6) children, including the provider's own children not $\frac{1}{2}$ school full time and as also defined in CT General Statutes Section 19a-77, as amended.

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, hoopouses 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 FRINGE. The Flood fringe is that area between the Floodway and the out limits of the 100-year floodplain (special flood hazard area) within zones A and AE. It thus encompasses the portion of the Flood Plain District which can be encroached upon without raising the water surface elevation of the base flood more than one foot.

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.

GRADE, EXISTING NATURAL. The ground level topography existing on the effective date of these Regulations.

GRADE, FINISHED. The resulting ground level topography adjoining the base of all exterior walls of a building or structure and any related earth retaining structure.

GRADING. 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.

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

HAZARDOUS MATERIALS. Any substance or combination of substances which, because of quantity, concentration or physical, chemical, or infectious characteristics, pose a significant present or potential hazardous to water supplies or to human health if disposed into or on any land or water within the Town of Essex. Any substance deemed a "hazardous waste under Section 3001 of the Resource Conservation and Recovery Act of 1976, 40 CFR Part 261, or as amended, shall be deemed a hazardous material for purposes of these regulations.

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.

IMPERVIOUS SURFACE. A surface that has compacted or is covered with a layer of material so that it is highly resistant to infiltration by water (has a percolation rate slower than 120 minutes per inch).

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.

JOINT OWNER. A person, persons or entity that is listed on a property card as an "owner" or "co-

owner” of a property.

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

LIFE CARE FACILITY. A special combination of housing, supportive services, personalized assistance, and health care designed to respond to individual needs of those who need help with activities of daily living due to advancing age or infirmity. Such a facility contains central kitchen, dining, recreational, and other facilities with separate bedrooms or living quarters, and supportive services.

LIGHT POLLUTION. (For the purposes of Section 101, Gateway Conservation District), Excessive, misdirected, or obtrusive light from artificial sources emanating from a site shone into the sky, onto the land or into the water column of the Connecticut River and its tributaries, including but not limited to site and architectural lighting, lighting on private residential docks, and up-lighting of trees or other site features, which may result in: brightening of the night sky, inhibiting the observation of stars and planets; light trespass onto neighboring properties including the Connecticut River; visual glare and discomfort; or significant disruptions to wildlife and ecological cycles.

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

LOCAL AUTHORITY. The Essex **Planning & Zoning** Commission of the Town of Essex.

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 LINE REVISION. “Lot Line Revision” includes the moving of a lot line where no new lot is created and including the elimination of a lot line that results in a lot merger.

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 COVERAGE. The area of a lot covered by buildings, roofed areas, and impervious surfaces, expressed as a percentage of total lot area;

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.

MARINE, INLAND. A facility, restricted to a rear lot, dealing in the storage of boats, boat trailers and RVs. Activity may include the servicing, repairing, and winterizing of boats and boat trailers as well as the brokering of sales for boats and boat trailers. RV's shall be limited to no more than 5 vehicles at any given time.

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.

MEMBER TOWNS. As designated by Chapter 477a, Section 25-102D of the Connecticut General Statutes, the member towns for the purposes of the Gateway Commission are Chester, Deep River, East Haddam, Essex, Haddam, Lyme, Old Lyme, and Old Saybrook, including the Borough of Fenwick.

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;

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

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 BUILDING. Any building or improvement which is not in conformance with these Regulations, or, was legally and actually existing at the effective date of these Regulations or any pertinent amendment thereto;

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 LOT. Any lot which is not in conformance with 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;

NURSING SERVICES. A professional office providing nursing, home health care, and other health services primarily to persons located off-site, and including only accessory on-premises clinical services.

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.

PAWN. To deposit in pledge or as security especially in exchange for money.

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

PRINCIPAL USE. The primary use of a property.

PROFESSIONAL OFFICE. The office of recognized professions such as physical therapists, psychologists, councilors, physicians, dentists, and others who perform services of a similar medical nature.

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;

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. Compare to "Manufactured Home."

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 except 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.

RIPARIAN AREA. The area upland of the Coastal Jurisdictional Line of the Connecticut River or any of its tributaries or associated wetlands located within the Conservation Zone.

~~REQUIRED VEGETATED BUFFER (SECTION 101). The strip of land extending fifty (50) feet in horizontal distance inland from the Coastal Jurisdiction Line (CJL) of the Connecticut River or its tributaries or associated wetlands. Within such area, no native or indigenous vegetation may be removed, provided that any grass, gardens, and or ornamental shrubs and trees existing as of the adoption of these Standards may be performed.~~

~~RIPARIAN VEGETATION BUFFER (SECTION 101). The natural and traditional plant life indigenous to the Riparian Area as designated and mapped by the Essex Planning and Zoning Commission, but not less than fifty (50) feet from the Coastal Jurisdiction Line (CJL) which plant life was legally existing as of the adoption of these Standards. The strip of land extending fifty (50) feet in horizontal distance inland from the Coastal Jurisdiction Line (CJL) of the Connecticut River or its tributaries or associated wetlands. Within such area, no native or indigenous vegetation may be removed. However, provided that any grass, gardens, and or ornamental shrubs and trees existing as of the adoption of these Standards may be performed~~maintained.

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;

SCHOOL, PUBLIC. A premises or portion thereof that is used for education or instruction in any branch of knowledge, and is primarily funded by the Town of Essex or another government agency.

SCHOOL, PRIVATE. A premises or portion thereof that is used for education or instruction in any branch of knowledge, and is not primarily funded by the Town of Essex or another government agency, but rather from private funding sources.

SEDIMENT. Soil material, either mineral or organic, that is in suspension, is transported or has been moved from its site of origin by erosion.

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;

SETBACK: FRONT, REAR AND SIDE. Front rear and side setbacks are measured perpendicularly from all points on the front, rear and side lot lines, respectively, which setbacks define the size and location of the yards required by these Regulations. Compare to “yard.” See Appendix C, Figure C-1 and C-5.

SETBACK, DRIVEWAY. 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 (%).

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.

SOIL EROSION AND CONTROL PLAN. A scheme, plan, details and narrative that, when implemented, minimizes soil erosion and sedimentation resulting from development and includes, but not limited to, a map and narrative.

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 six (6) 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.

TERRACE. See "Patio."

TOTAL FLOOR AREA ~~(SECTION 101).~~ **The sum of the gross area of all floors in a structure, measured from the exterior faces of exterior walls. Gross floor area includes any area which is capable of being used for human occupancy, including garage or attic space, whether finished or not, provided the area has a structural headroom of at least six (6) feet. A basement or first floor which is located entirely below ground surface will not be included in Total Floor Area calculations.**

TOWN. The Town of Essex.

TRUCK LOADING SPACE(S). One or more designated spaces(s) for service and delivery to a use located on the same premises and adjacent to that use. Loading spaces are not to be located within any other parking spaces, travel lanes, parking aisles, entrances and exits.

USE. Any purpose for which a building, structure, or premises may be designed, arranged, intended, maintained, or occupied; or, any activity, occupation, business, or operation actually carried on in a building or other structure or on a lot or parcel.

USE, GENERAL PRINCIPAL. A use permitted as of right by these Regulations, including by Site Plan Review or Zoning Permit.

USE, SPECIAL PRINCIPAL. A use permitted by Special Exception in accordance with these Regulations.

USE, UNDERLYING ZONING DISTRICT. In the case of an overlay zone, those uses permitted in the zoning district over which the overlay zone is located.

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;

VIEWSHED ANALYSIS (SECTION 101). A visual impact evaluation comprising, at a minimum, topographic maps and photographs showing the site, with such photographs taken from locations along the Connecticut River upriver, downriver, and opposite the site.

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 101

GATEWAY CONSERVATION DISTRICT

101A. APPLICATION. The standards included in Section 101 will apply to the “Conservation Zone” as defined in Section 25-102(c) of the Connecticut General Statutes as it now exists or may thereafter be amended. No regulated activity hereunder will commence prior to the issuance of a valid permit by the appropriate local authority having jurisdiction, in accordance with these standards, and no such permit will be granted unless the issuing authority finds upon appropriate evidence that the proposed activity is compatible with the preservation of the natural or traditional riverway scene and consistent with the purposes of Chapter 477a of the Connecticut General Statutes as it now exists or may hereafter be amended.

The Essex **Planning and** Zoning Commission hereby adopts these standards “to prevent deterioration of the natural or traditional riverway scene, provide such standards will not discourage constructive development and uses of such properties within the Conservation Zone which are consistent with the purposes of Chapter 477a of the Connecticut General Statutes.

The provisions of individual member towns regarding casualty losses will govern should any existing or future structure in the Gateway Conservation Zone be damaged or destroyed in circumstances specified in each town’s regulations.

101B. 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 Zone.

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 Zone unless the **Essex Planning and** Zoning 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 Zoning Commission shall deem it necessary, temporary vegetation and/or mulching shall be used to protect areas exposed during development;

- (6) Sediment basis (sic)(debris basins, desilting basins or silt traps) as required by the Zoning Commission shall be installed and maintained to remove sediment from runoff waters from land undergoing development;
- (7) Provision satisfactory to the Zoning 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. BUILDING HEIGHT. No building or other structure will be constructed, reconstructed, enlarged, extended, moved or structurally altered in such a manner as to exceed a height of thirty-five (35) feet. However, spires, cupolas, towers, flagpoles, and other similar architectural features occupying not more than ten (10) percent of the building footprint and not designed or used for human occupancy may be constructed, reconstructed, enlarged, extended, moved or structurally altered to a reasonable and necessary height upon appropriate authorization by the town authority having jurisdiction, provided that the architectural features will not have a significant visual impact on the River scene.

101E. GATEWAY BUFFER AREA. Anything to the contrary in these Regulations notwithstanding, no building or other improvement shall be located within one hundred (100) feet of the coastal jurisdiction line, as defined in the Connecticut General Statutes, of the Connecticut River or any of its tributaries or associated wetlands, or the portion of the Falls River easterly, or downstream, of River Road.

101E.1 EXCEPTION. A marine facility or any accessory improvement which (1) is not intended for human occupancy and (2) requires direct access to the water as an operational necessity such as piers, docks and boathouses, 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.

101F. VEGETATION REQUIREMENTS.

101F.1 REQUIRED ~~RIPARIAN VEGETATION~~ VEGETATIVE BUFFER. There will be no cutting of vegetation within a strip of land extending fifty (50) feet in horizontal distance inland from the Coastal Jurisdiction Line (CJL), as defined in the Connecticut General Statutes, of the Connecticut River or any of its tributaries or associated wetlands, except as provided in this section.

- (1) There will be no clear-cut openings, and a well distributed stand of trees and other vegetation, including existing ground cover, will be maintained. Existing vegetation less than three (3) feet in height and other ground cover will not be removed except to provide for a footpath or other permitted uses. Pruning of tree branches on the bottom third of trees is permitted. Fields which have reverted primarily to shrubs, trees or other woody vegetation will be regulated under provisions of this section. Cleared openings legally in existence on the effective date of these regulations may be maintained by may not be enlarged.

- (2) There will be no timber harvesting within the buffer area except to remove safety hazards. When removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings are to be replanted with native tree species unless existing new tree growth is present. Prior to cutting of diseased or damaged trees, a determination about the conditions of such trees will be made to the town's zoning enforcement officer by a public or consulting forester.
- (3) In no event will an opening be cleared for development, including but not limited to surface regarding, storm water drainage structures, construction of retention walls, construction of principal or accessory structures, driveway construction, sewage disposal areas, and lawns and gardens.
- (4) A footpath not to exceed five (5) feet in width is permitted provided said footpath and associated clearing is not oriented in a direct downslope manner, a practice which may promote unwanted transport of eroded materials into the ~~Connecticut River~~ river.
- (5) Stairs or similar structures may be allowed with a permit from the town's zoning enforcement officer to provide shoreline access in areas of steep slopes or unstable soils, provided that the structure is limited to a maximum of five (5) feet in width and does not extend below or over the Coastal Jurisdiction Line (CJL) of the ~~Connecticut River~~ or its tributaries or the upland edge of a wetlands, and the applicant demonstrates that no reasonable access alternative exists on the property.
- (6) A ~~Riparian Vegetation Buffer~~ vegetated buffer will not be required for areas within the Conservation Zone which have been designated as ~~Developed Areas~~ developed in accordance with the "Definitions" section of these regulations. ~~by agreement between the local authority or its agent and the Gateway Commission or its agent.~~ In such ~~Developed Areas~~, property owners are encouraged, where feasible, to maintain a vegetated area of trees and shrubs immediately adjacent to the water to avoid erosion and enhance the scenic quality of the ~~Connecticut River~~ scene.

(Note: The Gateway Commission urges each town to identify ~~Developed Areas~~ for exclusion from this requirement and submit such areas to the Gateway Commission for approval. If towns wish the Gateway Commission to make recommendations as to the location of these areas, please request assistance.)

101F.2 CUTTING OF TIMBER.

- (1) 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.
- (2) 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 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.

101G. BURNING OF UNDERGROWTH. The burning of undergrowth shall be in accordance with those regulations of the Connecticut Department of Energy and 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.

101H. SOIL AND EARTH MATERIALS. ~~REMOVAL OF SOIL AND EARTH MATERIALS~~. The ~~removal of earth products except:~~

- (1) REMOVAL. The removal of *Earth Products* will be prohibited except for:
 - (a) valid non-conforming uses in existence as of May 14, 1974;
 - (b) foundation, trench and related site excavation performed after the issuance of building permit and in conformance with all plans submitted in support thereof; and
 - (c) 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 will not exceed three hundred (300) cubic yards of ~~material~~ *Earth Products*.
- (2) ADDITION. The deposition of *Earth Products* will be prohibited except for:
 - (a) valid non-conforming uses in existence as of May 14, 1974;
 - (b) foundation, trench and related site filling performed after the issuance of building permit and in conformance with all plans submitted in support thereof; and
 - (c) deposition in connection with the landscaping and grading of land for a purpose for which a building permit is not required, provided that such ~~removal~~ addition will not exceed three hundred (300) cubic yards of *Earth Products*.

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.

101I. 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.

101J. ADDITIONAL REQUIREMENTS FOR RESIDENTIAL STRUCTURES OVER FOUR THOUSAND (4,000) SQUARE FEET IN TOTAL AREA. To assure that large scale residential structures and significant site modifications located within the Gateway Conservation Zone will not cause deterioration of the natural and traditional river scene, a special permit is required for all construction, reconstruction, enlargement, or structural alterations of principal and accessory residential structures which results in one or more buildings or structures having a combined **Total Floor Area** in excess of four thousand (4,000) square feet of total floor area (all floors) except in accordance with the exceptions below.

101J.1 EXCEPTIONS FROM SPECIAL PERMIT REQUIREMENT.

- (1) No exceptions to review by Special Permit are permitted for development on parcels fronting the ~~river~~ *Connecticut River* or only one lot removed from the ~~river~~ *Connecticut River* nor if significant clearing of natural vegetation is proposed.
- (2) Site Plan in Lieu of Special Permit: ~~A local authority~~ **The Essex Planning and Zoning Commission** may choose to allow a Site Plan application instead of a Special Permit

review for residential structures over four thousand (4,000) square feet in total floor area under this Section if it can be demonstrated by a view shed analysis that:

- (a) The proposed structure or structures will not be significantly visible from the Connecticut River due to an intervening land mass or existing permanent structure, OR
- (b) The proposed addition to an existing structure is either substantially hidden from view from the river by the existing structure or other structures either on or off-site or the addition does not add significantly to the visual profile of the existing structure even when seen from an angle, OR
- (c) The structure's distance from the river combined with its elevation/lack of elevation below the ridge line causes it to be of insignificant visual impact, OR
- (d) If the **Essex Planning and Zoning Commission** ~~the local authority~~ has received a written communication from the Gateway Commission or its staff stating that based on Gateway's pre-application review of the proposal, a Special Permit application is not necessary to determine compliance with Gateway Standards so long as all materials submitted for the site plan application are clearly identified as those used for the pre-application review.

101J.2 EXEMPTION FROM BOTH SITE PLAN AND SPECIAL PERMIT REQUIREMENT.

A special permit or site plan review will not be required for residential structures over four thousand (4,000) square feet in total floor area and separated from the river by two lots under this Section if it can be demonstrated by the applicant that the proposed structure or structures will not be visible or will be barely visible by virtue of distance from the Connecticut River, intervening land mass, or an additional not visible since fully blocked from view by structure to which it is an addition. Demonstration that a structure will not be visible or will be barely visible by virtue of distance from the Connecticut River will consist of any one or combination of the following:

- (1) An area topographic map and photographs of the property from the river and its tributaries showing there is intervening ground at an elevation at least thirty-five (35) feet above ground elevation of the proposed structure.
- (2) A plan view map of the property showing a proposed addition to an existing structure where the existing structure or on the same property block the view of the addition from the river and its tributaries.
- (3) A plan view map of the property showing a proposed addition to an existing structure or a new structure blocked by a structure or structures located on adjacent properties.
- (4) Large stands of trees located on an intervening property or properties which will obscure sight of the proposed development from view from the river.

101J.3 SUBMISSION. In addition to other town requirements for special permit applications, the applicant will provide site plans and building elevations prepared by an architect and/or landscape architect which show information on existing and proposed topography, building design and height measurements, proposed grading including cuts, fills and retaining walls, any required buffer area, proposed landscaping and plans for access to the waterfront, if applicable.

101J.4 REVIEW CRITERIA FOR SPECIAL PERMIT AND SITE PLAN APPLICATIONS.

- (1) Proposed site development is to maintain the essential natural characteristics of the site, such as major landforms, natural vegetative and wildlife communities, hydrologic features, scenic qualities and open space that contributes to a sense of place.
- (2) Structures are to be adapted to the existing terrain, rather than altering the earth form to create a platformed development site.
- (3) Structures located above the crest of hillsides facing the *Connecticut River* are to be held back from the crest of the hill to maintain a clear sense of the hillside brow in its natural condition.
- (4) Vertical architecture elements are not to be over emphasized in a manner which disrupts the natural silhouette of the hillside. Structures will be designed so that the slope angle of the roof pitch is generally at or below the angle of the natural hillside or manufactured slope.
- (5) Building forms are to be scaled to the particular environmental setting to avoid excessively massive forms that fail to enhance the hillside character. Massing of structural elements such as large roof areas are to be broken up to approximate natural slopes.
- (6) Roof lines are to relate to the slope and topography. Rooftop treatment is to be designed to avoid monotony of materials, forms and colors. Dark colored roof treatments, which reduce visual impact of the structure on the landscape, are preferred.
- (7) Site design is to preserve the existing natural landscape where possible and include new landscaping which is compatible with existing natural vegetation, the scenic character of the area, and increases visual buffering between the building and the *Connecticut River* or its tributaries within the Gateway Conservation Zone.
- (8) Development is to be located so as to minimize disturbance of sensitive areas. The smallest practical area of land should be exposed at any one time during development, and the length of exposure should be kept to the shortest practical time. Disturbed areas are to be replanted with trees, shrubs and ground cover which are compatible with existing vegetation.
- (9) Site grading is to avoid straight and unnatural slope faces. Cut and fill slopes are to have curved configurations to reflect as closely as possible the forms and shapes of surrounding topography. At intersections of manufactured and natural slopes, abrupt angular intersections are to be avoided and contours are to be curved to blend with the natural slope.
- (10) Within the *Conservation Zone*, lighting of properties including adjacent waters, including site lighting and up-lighting of trees and other site features, the illumination of building facades and other architectural features and the lighting of private residential docks, shall be the minimum necessary for health and safety. The purpose of this standard is to minimize the amount of artificial lighting emanating from *Conservation Zone* properties in a way that may contribute to Light Pollution.

101J.5 FINDINGS. A special permit or site plan approval is not to be granted until the local authority has determined that all of the following conditions have been satisfied.

- (1) Proposed structures and site work have been designed to fit the hillside rather than altering the hillside to fit the structure and site design.
- (2) Disturbance to existing topographic forms is minimized and proposed grading and excavation will not result in soil erosion and silting of lower slopes.
- (3) The proposed development retains or enhances the visual character of the site and the area by utilizing proper structural scale and character, varied architectural treatments, and appropriate plant material to buffer the mass of the building from the *Connecticut River* or its tributaries in the Gateway Conservation Zone.
- (4) The proposed design preserves or enhances significant natural features and maintains or restores the natural and traditional character of the *Connecticut River* scene.