

EFFECTIVE - 1994

**SECTION 45**

(Amendment dates found in Attachment V)

**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 without negatively impacting established community character.

\*45A. DISTRICTS. An attached accessory dwelling unit shall be permitted in the following districts; Village Residence District (VR), Rural Residence District (RU), Rural Residence – Multifamily (RUM), Essex Village District (EV), River Road Residential (RRR). Where these districts are superimposed by other districts in the Town of Essex, and unless expressly prohibited in these overlay districts, accessory dwelling units shall be permitted in these districts.

\*\*45A.1. Accessory dwelling units proposed within a principal structure or within new or existing detached accessory structure shall be permitted with a zoning permit.

45A.2. Deleted April 29, 2022

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 unit whether or not there is compensation and shall include a separate kitchen and bathroom facility. This use is accessory to a principal single family residential use.

45B.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 dwelling 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 and such parking shall not be located in the front yard setback;

45C.6. Deleted April 29<sup>th</sup>, 2022.

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 dwelling unit 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, functioning garage or barn 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 functioning garage or barn structure with a proposed accessory dwelling unit must meet the required setbacks of the district.

45E. MISCELLANEOUS

The accessory dwelling unit shall conform to the following:

\*\*45E.1. The living area for an accessory dwelling unit shall not exceed 1,000 square feet, or 30% of the combined assessed living area of the principal use and the accessory dwelling unit, whichever is less;

45E.2. Deleted April 29<sup>th</sup>, 2022.

45E.2. (New 45E.2). Be self-contained, with separate cooking, sanitary, and sleeping facilities for the exclusive use of the occupant(s);

\*\*\*45E.3. 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.

45E.4. 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. Deleted April 29<sup>th</sup>, 2022.

45E.5. Accessory dwelling units and the principal building/unit shall meet the requirements of the Building and Public Health Codes;

45E.8. Deleted April 29<sup>th</sup>, 2022.

45E.9. Deleted April 29<sup>th</sup>, 2022.

\*effective April 29<sup>th</sup>, 2022

\*\*effective April 29, 2022.

\*\*\* effective April 29, 2022

45E.6. No family dwelling may be purposely 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 an accessory dwelling unit under this section shall be made pursuant to Section 121. 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. Deleted April 29<sup>th</sup>, 2022.

\*effective April 29, 2022.