

CHAPTER VI – ZONING

(Formerly CHAPTER VI – ZONING)

The power of the town to adopt acts concerning zoning is contained in M.G.L. 40A et seq.

Section 6-1: General Provisions

(Formerly 6-1 General Provisions)

6-1.1: Short Title

(Formerly 6-1.1 Short Title)

This chapter shall be known and may be cited as the zoning by-laws of the Town of Essex.

6-1.2: Authority

(Formerly 6-1.2 Authority)

The power of the town to adopt acts concerning zoning is contained in M.G.L.A 40A et seq.

6-1.3: Purpose & Intent

(Formerly 6-1.3 Purpose)

This chapter is enacted in accordance with the provisions of Chapter 40A, Massachusetts General Laws, for the purpose of promoting the health, safety, and welfare of the inhabitants of the town.

6-1.4: Severability

(Formerly 6-1.4 Severability)

Each provision of this Bylaw shall be construed as separate to the end that if any provision, or sentence, clause or phrase thereof, shall be held invalid for any reason, the remainder of that section and all other sections shall continue in full force and effect.

Section 6-2: Definitions

(Formerly 6-2 Definitions)

6-2.1: Rules of Interpretation

(Formerly 6-2.1 Rules of Interpretation)

Except as specifically designated herein, all words used in this chapter shall carry their customary dictionary meanings. The word "lot" shall include the words "plot" and "parcel". The word "building" shall include the word "structure". The terms "used" or "occupied" as applied to any land or building shall be construed to mean also, "intended, arranged or designed to be used or occupied."

6-2.2: Definitions

(Formerly 6-2.2 Definitions)

ABUTTER

Owners of property located across a street or road from any premises shall be considered to be abutters as well as the owners of adjoining abutting property.

ACCESSORY BUILDING

A building on the same lot with and of a nature customarily subordinate to, and physically separated from the principal building.

AQUIFER

A geologic formation composed of rock or sand and gravel that contains significant amounts of potentially recoverable potable water.

AUTOMOBILE OR MOTOR VEHICLE JUNK YARD

An area occupied by two or more unregistered, unserviceable, discarded or junked automotive vehicles or bodies, engines or other parts sufficient in bulk to equal two vehicles.

BILLBOARDS

A structure, either freestanding or affixed to a building, the surface of which is for hire for advertising purposes.

BUILDING AREA

The portion of a lot remaining after required yards have been provided.

BUILDING

Any structure affording shelter.

BUILDING HEIGHT

The vertical height from the sidewalk or finished grade at the center of the front of the building to the highest point of the roof surface, if a flat roof; to the deck line for mansard roofs; and to the mean height between eaves and ridges for gables, hip, and gambrel roofs.

BUSINESS

The transaction or carrying on of a trade or commercial enterprise, not manufacturing, operating for profit or for a livelihood, or as a non-profit entity.

DWELLING, MULTI-FAMILY

A detached building containing three or more dwelling units, other than a trailer or mobile home.

DWELLING, SINGLE FAMILY

A single detached dwelling unit other than a trailer or mobile home.

DWELLING, TWO-FAMILY

A detached building containing two dwelling units, other than a trailer or mobile home.

DWELLING UNIT

A room or suite of rooms providing complete, independent living facilities for one or more persons including permanent provision for living, sleeping, eating, cooking, and sanitation.

FAMILY

Persons occupying a dwelling unit who are related to each other by blood, adoption or marriage in no less than the second degree.

GROUNDWATER

All the water found beneath the surface of the ground (in this Bylaw, the term refers to the slowly moving subsurface water present in aquifers and recharge areas).

HAZARDOUS MATERIALS

- a. A product, a waste or a combination of substances which because of quantity, concentration, or physical or chemical, or infectious or radioactive characteristics may reasonably pose, in the determination of the enforcing authority, a substantial present or potential hazard to human health, safety or welfare, or the

environment when improperly treated, stored, transported, used or disposed of, or otherwise managed;

- b. Any substance which may create a special hazard in the event of a spill, leak, fire or exposure, and;
- c. All substances deemed to be hazardous waste as defined in M.G.L. Chapter 21C, s.2 and the Hazardous Waste Regulations promulgated hereunder by Massachusetts Department of Environmental Protection ("D.E.P.") at 310 CMR 30.010 in amounts in excess of that normally used in household maintenance or other materials which are listed as toxic, hazardous or a priority pollutant by the United States Environmental Protection Agency under any of the following laws:

- (1) Toxic Substances Control Act, 15 U.S.C s.2601 et seq.;
- (2) Federal Insecticide Fungicide and Rodenticide Act, 7 U.S.C. s.136 et seq.;
- (3) Resource Conservation and Recovery Act of 1976, 42 U.S.C. s.6901 et seq.;
- (4) Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42U.S.C. 2.9601 et seq.;
and
- (5) Federal Water Pollution Control Act, 33U.S.C. s.1251, et seq."

HOME OCCUPATION

Any commercial activity conducted as an accessory use, in any dwelling unit which is the residence of the practitioner of the commercial activity, or in any accessory building to that residence, regulated under 6-5.11.

IMPERVIOUS SURFACE

Material on the ground that does not allow surface water to penetrate into the soil.

INDUSTRIAL LAND USE - CLASS A

Land on which there is located a building used for manufacturing purposes which is either greater than or equal to 2,500 square feet in are or within which 12 or more people are employed on one eight-hour shift.

INDUSTRIAL LAND USE - CLASS B

Land on which there is located a building used for manufacturing purposes which is less than 2,500 square feet in area and within which 11 or less people are employed on any one eight-hour shift.

JUNK

Waste or discarded material which may be treated or prepared to be used again in another form.

JUNK YARD

An open area used for storage, keeping, sorting, processing, baling or abandonment of junk including but not limited to scrap metals or other materials such as paper, rags, bottles, automobile or other vehicles, machinery or parts thereof.

LEACHABLE WASTES

Waste materials including solid wastes, sewage, and sludge that are capable of releasing water-borne contaminants to the surrounding environment.

LOT

For purposes of this chapter, a lot is a registered or recorded parcel of land of at least sufficient size to meet minimum land-use requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required

Such lot shall have frontage on a way or a street. In computing the area of a lot for the purposes of dimensional requirements set forth in the Table of Dimensional Requirements. Tidal marshlands and wetlands, as defined by Chapter 131, Section 40 of the MGL Wetlands Protection Act as "bogs, coastal wetlands, freshwater wetlands, swamps, wet meadows, and marshes", shall be excluded.

Delineation of wetlands and tidal marshlands is required on all plans submitted for review, and shall be drawn and certified by a professional engineer or land surveyor.

LOT OF RECORD

Land designated as a separate and distinct parcel in a legally recorded deed and plan filed in the records of the county.

LOT FRONTAGE

The front of a lot shall be construed to be the portion nearest the street where reasonable and adequate access to the required parking facilities and principal buildings can be provided.

The minimum property depth required for computing the frontage shall be the minimum front yard requirements as measured perpendicular to the street which frontage is claimed. For the purposes of determining yard requirements on corner lots, all sides of the lot adjacent to the streets shall be considered frontage, and yards shall be provided as indicated under “Yards” in this section.

LOT LINES

- a. FRONT: The line separating any lot from a street
- b. REAR: A lot line which is opposite and most distant from the frontline. In the case of a triangular or irregular lot, a line ten feet long within the lot, parallel to and farthest from the front line
- c. SIDE: Any lot line not a front or rear lot line.

LOT MEASUREMENTS

- a. DEPTH: Depth of a lot shall be considered to be the distance between the midpoint of straight lines connecting the foremost points of the side lot line in front and the rearmost points of a side lot line in the rear
- b. WIDTH: Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard.

MARIJUANA ESTABLISHMENT

An adult use Marijuana Cultivator (Indoor or Outdoor), Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Microbusiness, Independent Testing Laboratory, Marijuana Retailer, Marijuana Transporter, Delivery-only Licensee, Marijuana Research Facility, or any other type of licensed Marijuana-related business, except a Medical Marijuana Treatment Center, as defined in 935 CMR 500.002: Adult Use of Marijuana.

MEDICAL MARIJUANA TREATMENT CENTER OR REGISTERED MARIJUANA DISPENSARY

An entity licensed under 935 CMR 501.101: Application Requirements for Medical Marijuana Treatment Centers, that acquires, cultivates, possesses, processes (including development of related products such as edible marijuana-infused products (“MIPs”), tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use. Unless otherwise specified, Medical Marijuana Treatment Center or Registered Marijuana Dispensary refers to the site(s) of dispensing, cultivation, and preparation of marijuana for medical use.

MINING OF LAND

The removal or relocation of geologic materials such as topsoil, sand, gravel, or metallic ores or bedrock.

NONCONFORMING USE

Any structure or use which does not meet the requirements of this chapter.

NONCONFORMING USE, PREEXISTING

A structure or use lawfully in existence, lawfully begun, or a building permit having been applied for before the first notice of the public hearing on such ordinance or bylaw whose adoption has rendered the structure, use or permit nonconforming.

PARKING SPACE, OFF STREET

For the purposes of this chapter, an off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or way and maneuvering room.

Such space and appropriate maneuvering room shall be provided at approximately 300 square feet of individual space.

PRINCIPLE OFFICERS

The board of selectmen shall be the principle officers.

RECHARGE AREAS

Areas comprised of permeable stratified sand and gravel and certain wetlands that collect precipitation or surface water and carry it to aquifers.

REGISTERED MARIJUANA DISPENSARY

See MEDICAL MARIJUANA TREATMENT CENTER

SIGN

Any two or three dimensional fabrication, or assembly, including its supporting structure, consisting of any letter, figure, character, symbol, emblem, mark, design, pictorial representation, stripe, line, trademark, reading matter or illuminating device, constructed, attached, erected, fastened, or manufactured in any manner whatsoever so that the same shall be used for the attraction of the public to any place, subject, person, firm, corporation, business, public performance, article, machine or merchandise whatsoever, and displayed in any manner for recognized identification or advertising purposes.

SOLID WASTE

Useless, unwanted, or discarded solid material with insufficient liquid content to be free flowing. This includes but is not limited to rubbish, garbage, scrap materials, junk refuse, inert fill material and landscape refuse.

STORY

That portion of a building included between the surface of any floor and the surface of the floor or the roof next above it.

A basement shall be considered as a story for the purpose of height measurement where more than one-half of its height is above the average level of the adjoining ground.

STREET

A public thoroughfare 30 feet or more in width established or maintained under public authority or a recorded way plotted and laid out for public use and which affords principle means of access to abutting property. No new street shall be less than 44 feet in width.

STREET-LINE

The right-of-way line of a street.

STRUCTURE

Anything constructed or erected of more than one member requiring a fixed location on the ground. Structures which are exempted from the requirement of a building permit in the Massachusetts State Building Code shall also be exempt from the requirement of a building permit by this Chapter.

TRAILER

A building or structure designed, made, built, or used as a mobile home or trailer home or like building by whatever name so-called, or having the appearance of such a structure or building, which is used as a dwelling.

USE, ACCESSORY

A subordinate use of land or buildings which is customarily incidental to the main building or to the principle use of the land and which is located on the same lot with the principle building or use.

USE, CHANGE OF

A change of use occurs when the change is from one principal use category to another, as listed in the section titled **Use Regulations (formerly Land Use Regulations)** of this bylaw. Any change affecting currently undefined or not categorized land use will be considered a change of use.

USE, MIXED

Two or more principal uses occupying the same land or building, each of which is independent of and unrelated to the other.

USE, PRINCIPAL

The main or primary purpose for which land or buildings are arranged or intended, or for which it may be used, occupied, or maintained under this bylaw.

VARIANCE

A relaxation of the requirements of this chapter where such variance will not be contrary to the public interest and owing to conditions peculiar to the property and not the result of the actions of the applicant, and where a literal enforcement of this chapter would result in unnecessary and undue hardship.

WECS (WIND ENERGY CONVERSION SYSTEM)

A wind energy system consisting of a wind turbine, a tower, and associated control or conversion electronics.

WECS, BUILDING-MOUNTED

Any WECS unit, mounted on a building intended to generate power.

WECS WIND TOWER

The structure that supports the wind turbine.

WECS TOTAL TOWER HEIGHT

The vertical distance from current grade to the tip of the rotor blade when at its highest point.

YARD

A required opening unoccupied and unobstructed by any structure or portion of a structure from 30 inches above the general ground level of the graded lot upward, provided that fences, walls poles, posts and other customary yard accessories, ornament and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction and visibility.

YARD, FRONT

A required yard adjoining the front lot line, extending unobstructed between the side lot lines across the front of a lot between the principle building and the street.

YARD, REAR

A required yard adjoining the rear lot line, extending across the full width of the lot behind the principle building.

YARD, SIDE

A required yard adjoining a side lot line extending from the front to the rear yard.

ZONING MAP

A map of the town is on file at the selectmen's office.

Section 6-3: Establishment of Districts

(New section and title)

6-3.1: Location of Zoning Districts (reserved for future comprehensive Zoning Map)

(New section and title)

6-3.2: Interpretation of the Zoning Map (reserved for future use)

(New section and title)

6-3.3: Base Zoning Districts

(New section and title)

6-3.3.1: Southern Conomo Point Zoning District

(Formerly 6-11 SOUTHERN CONOMO POINT ZONING DISTRICT)

6-3.3.1.1: Description and Definitions

(Formerly 6-11.3. Definitions)

In addition to the definitions set forth in Section 6-2.2 of the Zoning By-Law, the following definitions shall apply only in the SCPZD:

Seasonal Cottage – A detached residential dwelling unit, other than a mobile home, of 1½ stories or fewer and 1,800 square feet or under, to be used for seasonal occupancy only between April 15 and October 15 of any given year.

Floor Area, Gross – The area of all floors located within the principal structure enclosed within exterior walls, including the thickness of the walls. Unfinished or finished storage areas, attics, or basements more than 50% above the ground, shall be included as floor area.

Floor Area Ratio (FAR) – The ratio of the Gross Floor Area of all principal structures on a lot divided by the lot area. (Example: 3,000 SF Gross Floor Area / 30,000 SF lot area = FAR .1).

Lot Building Coverage – The percentage of the lot area covered by the area of all principal and accessory buildings or structures with roofs. (Example: 2,000 SF roof area / 30,000 SF lot area = 6.67% Lot Building Coverage).

Impervious Surface Coverage – The percentage of the lot area covered by impervious surface. (Example: 1,200 SF impervious surface / 6,000 SF lot area = 20% Impervious Surface Coverage).

6-3.3.1.2: Purpose

(Formerly 6-11.1. Purpose)

The purpose of the Southern Conomo Point Zoning District ("SCPZD") is to facilitate the subdivision of the previously developed area south of Robbins Island Road while minimizing disruption to the existing historical building configuration.

6-3.3.1.3: Establishment

(Formerly 6-11.2. Establishment)

The SCPZD is a zoning district shown on the Town's Zoning Map (see Exhibit 1) and is subject to all provisions of Chapter VI of the Essex bylaws except as specifically defined below. Based on the existing land use patterns within the SCPZD, the SCPZD consists of two sub-districts as follows (see Table of Dimensional Regulations following at Section **6-3.3.1.7 (formerly 6-11.6(E))**):

- A. Single Family Sub-District
- B. Seasonal Cottage Sub-District

6-3.3.1.4: Building Types (reserved for future use)

(New section and title)

6-3.3.1.5: Use Regulations

(Formerly 6-11.4. Permitted Principal Uses)

- A. Single Family Sub-District – Single Family Dwellings are permitted as of right and may be used year-round.
- B. Seasonal Cottage Sub-District – Seasonal Cottages are permitted as of right, but use and occupancy shall be limited to seasonal use only between April 15 and October 15 of any given year.

6-3.3.1.6: Permitted Accessory Structures and Uses

(Formerly 6-11.5. Permitted Accessory Structures and Uses)

- A. Accessory Buildings or Structures – Accessory Buildings or Structures are permitted as of right in both sub-districts, subject to the following limitations:
 - 1. a maximum of two Accessory Buildings and/or Structures per lot;
 - 2. total gross floor area of all Accessory Buildings and/or Structures on each lot shall not be greater than 576 SF;
 - 3. Maximum permitted height of 15 feet.
 - 4. Minimum side or rear yard setback of 5 feet.
- B. Home Occupations – Home Occupations are permitted as of right in both sub-districts, subject to the following additional limitations:
 - 1. No more than one employee who does not reside in the building or structure;
 - 2. No more than one commercial vehicle shall be parked on the property;
 - 3. No external display or sale of goods or services shall be permitted.

6-3.3.1.7: Dimensional and Density Regulations

(Formerly 6-11.6.A, B, & E - Dimensional and Density Regulations)

A General Requirement: Except as provided under Section **6-3.3.1.6.A (formerly 6-11.5.A.)**, all lots, new construction and reconstruction of or additions, alterations or extensions to any principal or accessory buildings or structures shall comply with the dimensional regulations listed in Table 1 at Section **6-3.3.1.7.E (formerly 6-11.6(E))**.

B. Exceptions: This Section contemplates that new lots will be created through a subdivision to accommodate the principal and accessory buildings or structures in the SCPZD existing at the time of adoption of this Section. The following exceptions to the dimensional regulations in Table 1 at Section **6-3.3.1.7.E (formerly 6-11.6(E))** shall apply within the SCPZD:

- 1. East of Conomo Point Road - New lots approximating the currently shown lease areas may be created on the eastern side of Conomo Point Road within the SCPZD (currently identified as Assessor's Map 19, Lots 116, 117 and 118) to accommodate the existing buildings and structures, provided that (a)

such lots shall have a minimum lot area of 3,500 square feet and a minimum frontage of 80 feet, and (b) the existing buildings and structures on such lots shall have minimum front yard and side yard setbacks of 5 feet, and a minimum rear yard setback of 1 foot.

2. West of Conomo Point Road - New lots complying with the lot area and frontage requirements in Table 1 at Section **6-3.3.1.7.E (formerly 6-11.6(E))** may be created within the areas of the SCPZD west of Conomo Point Road to accommodate the existing buildings and structures, even if the new lot lines render the existing buildings or structures nonconforming.

E. Table of Dimensional Regulations:

Table 1 – Dimensional Regulations – Permitted As-of-Right:

	Sub-District	A	B
	Dimensional Controls	Single Family Sub-District	Seasonal Cottage Sub-District
1	Minimum Lot Size in square feet	30,000	6,000
2	Minimum Frontage in feet	100	60
3	Minimum Front Yard Setback in feet	25	15
4	Minimum Side Yard Setback in feet	25	10
5	Minimum Rear Yard Setback in feet	25	25
6	Maximum Height in feet	20	15
7	Maximum Floor Area Ratio	.1	.2
8	Maximum Lot Building Coverage (%)	5%	15%
9	Maximum Impervious Surface Coverage (%)	10%	20%
10	Maximum Number of Stories	2	1.5

**6-3.3.1.8: Nonconforming Lots and Structures
(Formerly 6-11.6.C)**

Regulation of Nonconforming Lots and Structures: All newly-created nonconforming lots created pursuant to this Section and all existing buildings and structures rendered nonconforming as a result of the newly-created lots created pursuant to this Section are hereby deemed to be lawful nonconforming lots and lawfully existing nonconforming buildings or structures. Future reconstruction, alterations, extensions and/or additions to such nonconforming lots and buildings/structures are subject to the following:

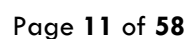
1. As-of-Right Changes: Any reconstruction, alteration, extension or addition to any existing nonconforming building or structure that conforms to the dimensional requirements listed in Table 1 at Section **6-3.3.1.7.E (formerly 6-11.6(E))** and does not increase any existing nonconformity shall be permitted as-of-right, except as provided in subsection 2(b) below concerning nonconforming lots created on the eastern side of Conomo Point Road.
2. Variance Changes:
 - (a) Any reconstruction, alteration, extension or addition to an existing nonconforming building or structure that does not conform to the dimensional requirements listed in Table 1 at Section **6-3.3.1.7.E (formerly 6-11.6(E))** or increases any nonconformity shall require a variance from the Board of Appeals.
 - (b) Any reconstruction, alteration, extension or addition to a building or structure on a nonconforming lot created on the eastern side of Conomo Point Road pursuant to **6-3.3.1.7.B.1 (formerly 6-11.6(B)(1))** shall require a variance from the Board of Appeals.

6-3.3.1.9: Merger
(Formerly 6-11.6.D)

Merger: Within the SCPZD, adjoining lots that are held in common ownership shall retain their status as separate lots, and shall not be deemed to have merged into a single lot for purposes of zoning solely on the basis of such common ownership.

6-3.3.1.10: District Map
(New section and title)

SOUTHERN CONOMO POINT – ZONING MAP



6-3.3.2: Central Conomo Point Zoning District
(Formerly 6-12 CENTRAL CONOMO POINT ZONING DISTRICT)

6-3.3.2.1: Description and Definitions
(Formerly 6-12.3. Definitions)

In addition to the definitions set forth in Section 6-2.2 of the Zoning By-Law, the following definitions shall apply only in the CCPZD :

Seasonal Cottage – A detached principal structure with a residential dwelling unit, other than a mobile home, of 1½ stories or fewer, to be used for seasonal occupancy only between April 15 and October 15 of any given year.

Floor Area, Gross – The area of all floors located within the principal structure enclosed within exterior walls, including the thickness of the walls. Unfinished or finished storage areas, attics, or basements more than 50% above the ground within the principal structure, shall be included as floor area.

Floor Area Ratio (FAR) – The ratio of the Gross Floor Area of all principal structures on a lot divided by the lot area.
(Example: 2,500 SF Gross Floor Area / 5,000 SF lot area = FAR .5)

Lot Area – The area(s) of a lot above the mean high water elevation.

Lot Building Coverage – The percentage of the lot area covered by the area of all principal and accessory buildings or structures with roofs. (Example: 1,000 SF roof area / 5,000 SF lot area = 20% Lot Building Coverage)

Impervious Surface Coverage – The percentage of the lot area covered by impervious surface. (Example: 1,000 SF impervious surface / 5,000 SF lot area = 20% Impervious Surface Coverage)

Right-of-Way Width - The minimum right of way width for a new or established street within the CCPZD shall be at least 25 feet.

6-3.3.2.2: Purpose
(Formerly 6-12.1. Purpose)

The purpose of the Central Conomo Point Zoning District (“CCPZD”) is to facilitate the subdivision of the central portion of the previously developed area north of Robbins Island Road while minimizing disruption to the existing historical building configuration.

6-3.3.2.3: Establishment
(Formerly 6-12.2. Establishment)

The CCPZD is a zoning district shown on the Town’s Zoning Map (see Exhibit 1) that includes a portion of land north of Robbins Island Road located along Robbins Island Road and Beach Circle. The CCPZD is subject to all provisions of Chapter VI of the Essex bylaws except as specifically defined below.

6-3.3.2.4: Building Types (reserved for future use)
(New section and title)

6-3.3.2.5: Use Regulations
(Formerly 6-12.4. Permitted Principal Uses)

A. Seasonal Cottages – Seasonal Cottages are permitted as of right, but use and occupancy shall be limited to seasonal use only between April 15 and October 15 of any given year.

B. Storage – Storage buildings or structures are permitted as a principal use provided they: 1) meet the dimensional regulations listed in Table 1 at Section **6-3.3.2.7.E (formerly 6-12.6(E))**; and 2) are restricted to non-commercial storage uses of any type.

C. Municipal Park and Recreational - Municipal uses, including but not limited to, parks, playgrounds, off-street parking facilities and public recreational areas, are permitted as of right as a principal use.

**6-3.3.2.6: Permitted Accessory Structures and Uses
(Formerly 6-12.5. Permitted Accessory Structures and Uses)**

A. Accessory Buildings or Structures – Accessory Buildings or Structures are permitted as of right, subject to the following limitations:

5. a maximum of two Accessory Buildings and/or Structures per lot;
6. total gross floor area of all Accessory Buildings and/or Structures on each lot shall not be greater than 576 SF;
7. maximum permitted height of 15 feet.
8. minimum side or rear yard setback of 5 feet.

B. Home Occupations – Home Occupations are permitted as of right, subject to the following additional limitations:

4. No more than one employee who does not reside in the building or structure;
5. No more than one commercial vehicle shall be parked on the property;
6. No external display or sale of goods or services shall be permitted.

**6-3.3.2.7: Dimensional and Density Regulations
(Formerly 6-12.6.A, B & E - Dimensional and Density Regulations)**

A. General Requirement: Except as provided under Section **6-3.3.2.6.A (formerly 6-12.5.A.)**, all lots, new construction and reconstruction of or additions, alterations or extensions to any principal or accessory buildings or structures shall comply with the dimensional regulations listed in Table 1 at Section **6-3.3.2.7.E (formerly 6-12.6(E))**.

B. Exceptions: This Section contemplates that new lots will be created through a subdivision to accommodate the principal and accessory buildings or structures in the CCPZD existing at the time of adoption of this Section. The following exceptions to the dimensional regulations in Table 1 at Section **6-3.3.2.7.E (formerly 6-12.6(E))** shall apply within the CCPZD:

1. Lots - New lots approximating the currently shown lease areas may be created for the following areas to accommodate the existing buildings, structures and parking areas:
Robbins Island Road:

Assessor's Map 19, Lot 68B, provided that, if it becomes owned in common with Map 19, Lot 68A, such combined lot shall have a minimum lot area of 2,500 square feet and a minimum frontage of 25 feet. Map 19, Lot 68B shall not, by itself, be a buildable lot.

Assessor's Map 19, Lot 77, provided such lot shall have a minimum lot area of 4,000 square feet and a minimum frontage of 40 feet.

Conomo Point Road:

Assessor's Map 19, Lot 97, provided such lot shall have a minimum lot area of 4,500 square feet and

a minimum frontage of 40 feet.

2. Structures and Parking Areas - New lots complying with the lot area and frontage requirements in Table 1 at Section **6-3.3.2.7.E (formerly 6-12.6(E))**, and the lots for which exceptions from such requirements are provided in Section **6-3.3.2.7.B.1 (formerly 6-12.6(B)(1))**, may be created within the areas of the CCPZD to accommodate the existing buildings, structures and parking areas, even if the new lot lines render the existing buildings, structures or parking areas nonconforming.

E. Table of Dimensional Regulations:

Table 1 – Dimensional Regulations – Permitted As-of-Right for all Principal Uses:

	Dimensional Controls	
1	Minimum Lot Area (square feet)	5,000
2	Minimum Frontage (feet)	40
3	Minimum Front Yard Setback (feet)	5
4	Minimum Side Yard Setback (feet)	5
5	Minimum Rear Yard Setback (feet)	10
6	Maximum Height (feet)	15
7	Maximum Floor Area Ratio (%)	30%
8	Maximum Lot Building Coverage (%)	25%
9	Maximum Impervious Surface Coverage (%)	30%
10	Maximum Number of Stories	1.5

**6-3.3.2.8: Nonconforming Lots and Structures
(Formerly 6-12.6.C)**

Regulation of Nonconforming Lots, Structures, and Parking Areas: The lots for which exceptions are made in Section **6-3.3.2.7.B.1 (formerly 6-12.6(B)(1))**, and the existing structures and parking areas that do not comply with the dimensional requirements listed in Section **6-3.3.2.7.E (formerly 6-12.6(E))**, Table 1, are hereby deemed to be lawful nonconforming lots and lawfully existing nonconforming structures and parking areas. Future reconstruction, alterations, extensions and/or additions to such nonconforming lots and structures are subject to the following:

1. As-of-Right Changes:

- (a) Any reconstruction, alteration, extension or addition to an existing residential structure that does not either (i) create a new nonconformity, or (ii) increase or intensify any existing nonconformity, shall be permitted as-of-right.
- (b) On a nonconforming lot (i.e., a lot subject to Section **6-3.3.2.7.B.1 (formerly 6-12.6(B)(1))**), any reconstruction, alteration, extension or addition to an existing residential structure that extends beyond the existing footprint, or that results in an increase in gross floor area or height, even if the Table 1 dimensional requirements are met, shall be deemed to increase or intensify the existing nonconformity of the lot, and shall not be permitted as-of-right.

2. Special Permit Changes:

- (a) Any reconstruction, alteration, extension or addition to an existing residential structure that increases or intensifies an existing nonconformity, but does not create a new nonconformity, may be allowed by the Planning Board by a special permit, provided that the Planning Board finds that such

reconstruction, alteration, extension or addition is not substantially more detrimental to the neighborhood than the existing structure.

(b) For an existing non-residential structure on a conforming lot, any reconstruction, alteration, extension or addition that complies with the dimensional requirements in Table 1 may be allowed by the Planning Board by a special permit, provided that the Planning Board finds that such reconstruction, alteration, extension or addition is not substantially more detrimental to the neighborhood than the existing structure.

3. Variance Changes:

(a) Any reconstruction, alteration, extension or addition to an existing residential structure that creates a new nonconformity shall require a variance from the Board of Appeals.

(b) Any reconstruction, alteration, extension or addition to an existing non-residential structure on a non-conforming lot, and any such reconstruction, alteration, extension or addition to an existing non-residential structure on a conforming lot that does not comply with the dimensional requirements in Table 1, shall require a variance from the Board of Appeals.

6-3.3.2.9: Merger

(Formerly 6-12.6.D)

Merger: Within the CCPZD, adjoining lots that are held in common ownership shall retain their status as separate lots, and shall not be deemed to have merged into a single lot for purposes of zoning solely on the basis of such common ownership.

6-3.3.2.10: District Map

(New section and title)

EXHIBIT 1 – ZONING MAP DISTRICT FOR CENTRAL CONOMO POINT



6-3.3.3: Essex Downtown Zoning District
(Formerly 6-15 ESSEX DOWNTOWN ZONING DISTRICT)

6-3.3.3.1: Description and Definitions
(Formerly 6-15.3. Definitions)

In addition to the definitions set forth in Section 6-2.2 of the Zoning By-Law, the following definitions shall apply only in the Essex Downtown Zoning District:

1. Mixed-Use – a single structure featuring non-residential on the first floor and one or more residential units on any other floor.
2. Impervious Surface Coverage – The percentage of the lot area covered by impervious surface.

6-3.3.3.2: Purpose
(Formerly 6-15.1. Purpose:)

The purpose of the Essex Downtown Zoning District is to facilitate reduced dimensional requirements for the area designated and provide as matter of right the ability to have mixed use, Business and Residential, subject to the requirements below, while minimizing disruption to the existing building configurations.

6-3.3.3.3: Establishment
(Formerly 6-15.2. Establishment:)

Essex Downtown Zoning District is a zoning district shown in Section **6-3.3.3.10 (formerly 6-15.8)**. The Essex Downtown Zoning District is subject to all provisions of Chapter VI of the Essex bylaws except as specifically defined below.

6-3.3.3.4: Building Types (reserved for future use)
(New section and title)

6-3.3.3.5: Use Regulations
(New section and title)

6-3.3.3.5.1: Permitted Principal Uses
(Formerly 6-15.4. Permitted Principal Uses in the Downtown District)

1. Residential – Single and Two Family
2. Residential – Dwelling Units and Apartments (as a part of mixed-use)
3. Business--
4. Mixed-Use: Two or more permitted principal uses occupying the same land or building, each of which is independent of and unrelated to the other. (As of Right with Site Plan Review/Special Permit)
5. Motel and Hotel (with Special Permit)
6. Industrial – Class B
7. Municipal: Park and Recreational - Municipal uses, including but not limited to, parks, playgrounds, off-street parking facilities and public recreational areas, are permitted (As of Right with Site Plan Review/Special Permit).
8. Storage – Storage buildings or structures are permitted and are restricted to non-commercial storage uses of any type.

6-3.3.3.5.2: Parking Requirements

(Formerly 6-15-6 Parking Requirements:)

A. Parking requirements will be subject to the requirements of **6-6.3 (formerly 6-6)**, except for Mixed use residential which will require 1 parking spot for each bedroom and 6-6 required parking for the Business use created.

6-3.3.3.6: Permitted Accessory Structures and Uses

(Formerly 6-15.7 Permitted Accessory Structures:)

A. Accessory Buildings or Structures – Accessory Buildings or Structures are permitted as of right, subject to the following limitations:

- a. a maximum of two Accessory Buildings and/or Structures per lot;
- b. maximum permitted height of 25 feet.
- c. minimum side or rear yard setback of 5 feet.
- d. Allowed on Residential and Mixed-Use lots only
- e. Prohibited from Front Yard

6-3.3.3.7: Dimensional and Density Regulations

(Formerly 6-15.5 Table of Dimensional Requirements for the Downtown District)

Table 1:

Principal Buildings	Residential Single and Two Family	Residential Multi-Family	Business	Motel and Hotel	Industrial, Class A	Industrial, Class B	Mixed- Use
Minimum Lot Area (sq. ft.)	10000 sq ft	10000 sq ft	10000 sq ft	90,000 sq ft	Not permitted	10000 sq ft	10000 sq ft
Minimum Lot Frontage (feet)	75 ft	75 ft	75 ft	200 ft		75 ft	75 ft
Minimum Lot Depth (feet)	100 ft	100 ft	100 ft			100 ft	100 ft
Minimum Front Yard, All Buildings	0-25 ft Note #1	50 ft	0-25 ft Note #1	100 ft		50 ft (>10,000 sq ft)	0-25 ft Note #1
Minimum Lot Width (feet)	75 ft	75 ft	75 ft			75 ft	75 ft
Minimum Side Yard	6 ft Note #2	30 ft	6 ft Note #2	50 ft		30 ft	6 ft Note #2
Minimum Rear Yard	30 ft	30 ft	30 ft	100 ft		30 ft	30 ft
Maximum Building Height feet	35 ft Note #3	35 ft	35 ft Note #3			35 ft Note #3	35 ft Note #3
Maximum Lot Coverage; Structures	50 % Note #4, 5	50 % Note #4,5	50% Note #4,5	50% Note #4,5		50 % Note #4,5	50% Note #4,5

As of Right with Site Plan Review/ Special Permit	As of Right with Site Plan Review	3-4 units As of Right; 5 or more units with Special Permit	As of Right with Site Plan Review	Special Permit		As of Right with Site Plan Review	As of Right with Site Plan Review; 4 or more residential units with Special permit
Accessory Buildings / Structures:							
Residential and Mixed use only							
Prohibited in front yard							
Max number per Lot				2 (Two)			
Max Height				15 feet			
Minimum Side yard				5 feet			
Minimum Rear Yard				5 feet			

Note #1:

If the adjacent buildings are setback at a distance other than the minimum front yard requirement of 0-ft, but not more than 25 feet, infill buildings shall match the setback from the front lot line of the immediately adjacent buildings. If the setbacks do not match, the infill building may match one or the other, or an average of the two adjacent building setbacks, but in no instance shall any building have a front yard setback of more than 25 feet.

Note #2

If a side yard includes a driveway or parking space, the Minimum Side Yard dimension shall be increased from 6 ft. to 14 ft., consistent with **6-6.3 (formerly 6-6)** Off-Street Parking and Loading requirements.

Note #3

Maximum Building Height for new Mixed-Use development 40 ft., Approval of greater than 35 ft. subject to Special Permit.

Note #4

Lots larger than 60,000 sq. ft. will be required to maintain Maximum Lot Coverage of structures at the current standard of 25%.

Note #5

Max. Lot Coverage: Structures and impervious surfaces allowed to 75% of area, lots larger than 60,000 sq. ft. allowed up to 50% of area.

**6-3.3.3.8: Nonconforming Lots and Structures
(Formerly 6-15.8 Regulation of Nonconforming Lots, Structures)**

Alterations, extensions and/or additions to such nonconforming lots and structures are subject to the following:

A. Special Permit Changes:

1. Any alteration, extension or addition to an existing residential structure that increases or intensifies an existing nonconformity, but does not create a new nonconformity, may be allowed by the Planning Board by a Special Permit, provided that the Planning Board finds that such alteration, extension or addition is not substantially more detrimental to the neighborhood than the existing structure.
2. For an existing non-residential structure on a conforming lot, any alteration, extension or addition that complies with the dimensional requirements in Table 1 may be allowed by the Planning Board by a special permit, provided that the Planning Board finds that such alteration, extension or addition is not substantially more detrimental to the neighborhood than the existing structure.

A. Variance Changes:

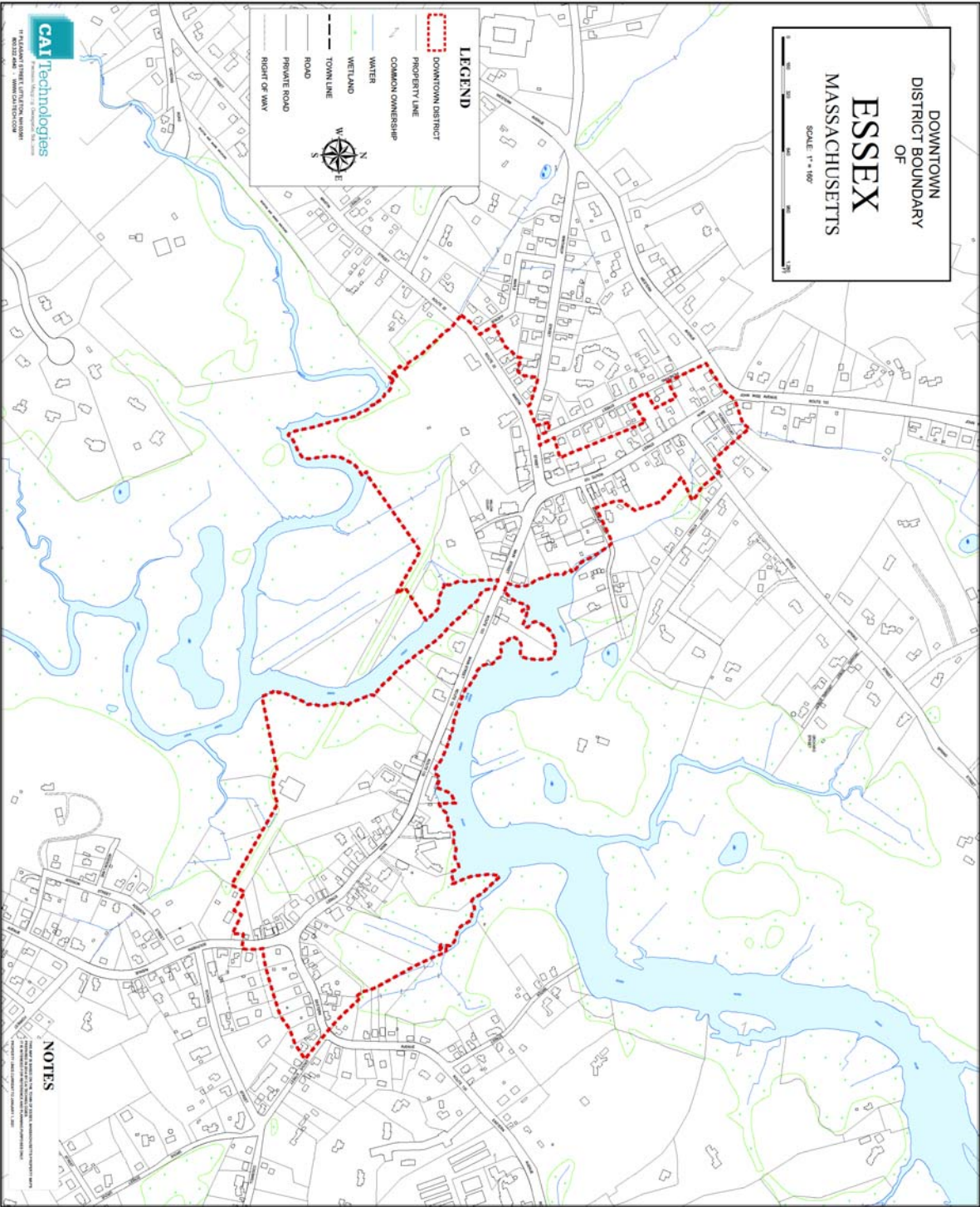
- i. Any reconstruction, alteration, extension or addition to an existing structure that creates a new nonconformity shall require a variance from the Board of Appeals.

6-3.3.3.9: Additional Regulations (reserved for future use)

(New section and title)

6-3.3.3.10: District Map

(Formerly 6-15.9 Map of Essex Downtown Zoning District)



6-3.4: Overlay Districts

(Formerly 6-10 OVERLAY DISTRICTS)

6-3.4.1: Wetlands Overlay District

(Formerly 6-10.1 WETLANDS OVERLAY DISTRICT)

6-3.4.1.1: Purpose

(Formerly 6-10.1.1 Purpose)

The purpose of the wetlands district is to:

- a. Protect the public health and safety of persons and property against the hazards of flood water inundation.
- b. Preserve and maintain the water table and water recharge areas within the town so as to preserve and protect potential water supplies for the public health and safety.
- c. Protect the community from costs which may be incurred when unsuitable development occurs in swamps, marshes, along water courses, or in areas subject to floods.
- d. Conserve natural conditions, wildlife and open spaces for education, recreation and general welfare of the public.

6-3.4.1.2: Wetlands District Delineation

(Formerly 6-10.1.2 Wetlands District Delineation.)

- a. The provisions applicable to the wetland district shall overlay other zoning districts. Any uses permitted in the portions of the district so overlaid shall be permitted, subject to all the provisions of this section.
- b. The boundaries of each wetland district are shown on the set of maps accompanying this bylaw prepared by the Autometrics Division of the Raytheon Corp., Wayland, Massachusetts, dated April, 1974(scale: one inch equals 600 feet) which are on file with the clerk of the town of Essex.
- c. The variance categories of wetlands comprising wetland districts are, lake, pond, river, fresh marsh, deep fresh marsh, shrub swamp, wooded swamp, barrier beach, tidal flat, salt marsh and estuary.

6-3.4.1.3: Wetland Use Regulations

(Formerly 6-10.1.3 Wetland Use Regulations.)

- a. Permitted Uses. The following uses are exempt from provisions of this by-law, and the only ones permitted as a matter of right and only insofar as not otherwise prohibited by other zoning bylaws and only insofar as these uses comply with provisions under Massachusetts General Law, Chapter 131, Section 40, and Title 5 of the Commonwealth of Massachusetts Sanitary Code.
 1. Conservation area for water, water supply, plants and wildlife and dams and management shelters necessary for achieving this purpose.
 2. Outdoor recreation including play and sporting areas, nature study, boating, fishing and hunting (where legally permitted), footpaths and any non-commercial recreational use.
 3. Forestry, raising of livestock, agriculture, aquiculture, nurseries, truck gardening, growing and harvesting of crops, fish and shellfish.
 4. Maintenance and repair of existing structures, roadways and utilities.
 5. Temporary non-residential structures used in connection with fishing or growing, harvesting, storage or sale of crops, fish and shellfish, raised on the premises.
 6. Accessory uses such as flower and vegetable gardens, lawn, fences, flagpoles and non-commercial signs when and as permitted in the underlying district.
 7. Dams, excavations, dredging, filling, or grading consistent with the purposes of this section to create or maintain ponds, pools, or other changes in water courses for swimming, fishing or other recreation uses, agricultural uses, aquiculture uses, scenic feature, or drain improvement, not otherwise prohibited.
 8. Duck blinds, private boathouses and landings.

9. All existing non-commercial uses of land prior to the adoption of this bylaw and within the jurisdiction of this bylaw may remain, be maintained, sold, and operated to its fullest capacity by the owner provided that no action is taken to encroach further on the wetlands.
10. Dredging required to maintain existing marine operations, not otherwise prohibited.
11. Dredging, enlarging or draining for mosquito or flood control authorized by public agency.
- b. Restrictions. Except as provided under this chapter, none of the following shall be permitted in a wetland district:
 1. Land fill or dumping.
 2. Construction of buildings or other structures.
 3. Dredging.
 4. Permanent storage of materials or equipment.

6-3.4.1.4: Coverage
(Formerly 6-10.1.4 Coverage.)

All provisions of the wetland district bylaw shall apply to land within the bank or boundary of any stream, river, water course or any wetland shown on the wetlands map of the Town of Essex.

6-3.4.1.5: Appeals and Special Permits
(Formerly 6-10.1.5 Appeals and Special Permits.)

- a. If there is a question as to the applicability or coverage of the wetland protection district and it is proven to the satisfaction of the Planning Board that the land is not generally wet or not unsuitable because of the hydrological topographic conditions for use which would otherwise be prohibited by this section and the planning board determines that the use of such land for such use will not interfere with the general purposes for which the district has been established and will not be detrimental to the public health, safety and/or welfare, the planning board may grant a special permit for such use which will comply in all respects with all other provisions of the underlying district or districts within which the land is located provided that any and all necessary permits, orders or approvals required by local, state or federal laws are obtained.
- b. Appeals on variances will be handled according to procedures setout in this chapter.
- c. The board of appeals and planning board prior to acting on any appeals or special permits covering the wetland district shall refer each question to the conservation commission, and the board of health and shall not act until these agencies have reported their recommendation or 35 days have elapsed after such referral and no report has been received, whichever shall first occur.
- d. The planning board or board of appeals in determining whether or not land within the boundaries of the wetland district is generally wet should use the following criteria:
 1. LAKES. Lakes are generally separated from ponds on the basis of size and vegetation. They have depth and area sufficient for developing wave action and thereby lack emergent and floating vegetation.
 2. PONDS. Ponds are relatively small shallow bodies of standing water in which relatively quiet water and extensive plant occupancy are common characteristics.
 3. RIVERS. Rivers are categorized in the "lotic" or running waters environment and differ from lakes in many ways, but primarily in terms of width, depth and singular direction of water flow.
 4. DEEP FRESH MARSH. This type has considerable open water interspersed with patches of floating or emergent vegetation. Water depth ranges from six inches to three feet through most of the growing season. It is too wet to support woody vegetation.
 5. FRESH MARSH. A place where the soil is usually waterlogged or covered up to six inches in depth during the growing season and characterized by emergent vegetation such as reeds, rushes, and cattails. There is usually little open water or woody vegetation present.
 6. SHRUB SWAMP. This type has variable water depths up to six inches during the growing season, and is characterized by such woody species as alder, buttonbush, dogwood and willows.
 7. WOODED SWAMP. This type has variable water depths(frequently a foot or more) and a wide variety of herbaceous and mature woody vegetation characterized primarily by red maple, black spruce, larch, hemlock and white cedar.

8. BARRIER BEACH. This is not a rigorous wetland category, but describes a resource area which serves as a natural defense for the marshes behind it. The more recent and smaller barrier beaches are usually devoid of vegetation and pronounced physiographic features while the older and larger beaches have very well developed dunes, grass and shrub vegetation and numerous fresh water lenses.
9. TIDAL FLAT. This type is frequently found in shallow bays and estuaries and offshore from sandy beaches. These areas are generally devoid of vegetation and have either sand, mud or rock bottoms. Of all the types, these are the most influenced by the tidal range and hence time of photography. Shallow depths, wave breakers and symbols on USGS sheets aid in the delineation of these areas.
10. SALT MARSH. The following general classes of marine environment are in this group:
 - a. Salt meadows characterized by a few inches of water at high tide;
 - b. Irregularly flooded salt marsh.
 - c. Those areas covered with a few inches of water during the highest monthly tides and regularly flooded salt marshes; and
 - d. Those areas covered by up to a foot of water at high tide.
11. ESTUARY. A coastal reach, subject to tidal influence, through which a river enters marine waters and in which fresh and saltwater become mixed. Estuaries vary greatly in size, shape and border environment, but may serve as ports or harbors and are, therefore, characterized by and subject to the influence of dense cultural development. Where Estuaries are undisturbed by man, they are often multi-channeled, bordered by abundant vegetation, and richly inhabited by aquatic life. The Boundaries of this wetland category are normally included as part of an open water border, e.g. the shore of a bay or a river bank.

6-3.4.2: Flood Plain Overlay District (Formerly 6-10.2 FLOOD PLAIN OVERLAY DISTRICT)

6-3.4.2.1: Establishment (Formerly 6-10.2.1 Establishment.)

The Flood Plain District is established, effective July 17, 1986, as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permit, must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the following:

- a. Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas.
- b. Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00)
- c. Inland Wetlands Restriction, DEP (currently 310 CMR 13.00)
- d. Coastal Wetlands Restriction, DEP (currently 310 CMR 12.00)
- e. Minimum Requirements for the Subsurface Disposal of Sanitary Sewerage, DEP (currently 310 CMR 15, Title 5)

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

The Flood Plain District includes only the Special Flood Hazard Areas (SFHAs) within the Town of Essex designated as Zone A, AE, and VE on the Essex County Flood Insurance Rate Maps (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Essex County FIRM that are wholly or partially within the Town of Essex are panel numbers 25009C0427F, dated July 3, 2012; 25009C0289G, 25009C0431G, 25009C0432G, and 25009C0451G, dated July 16, 2014; 25009C0291G, 25009C0293G, 25009C0294G, and 25009C0313G dated July 16, 2014 and revised by Letter of Map Revision dated April 10, 2017; and 25009C0292G and 25009C0311G, dated July 16, 2014 and revised by Letters of Map Revision dated April 10, 2017 and December 27, 2017. The exact boundaries of the District are defined by the 100-year base flood elevations shown on the FIRM and further defined by the 100-year (1-percent-annual-chance flood plain boundary) flood elevations contained in the Essex County Flood Insurance Study (FIS) report dated July 16, 2014 and

revised by Letter of Map Revision dated April 10, 2017. The FIRM and FIS report are incorporated herein by reference and are on file with the Board of Selectmen and Building Inspector.

All changes to FEMA panel designations pursuant to Article 30 of the Annual Town Meeting of May 5, 2014 shall not take effect until July 16, 2014.

**6-3.4.2.2: Development Regulations
(Formerly 6-10.2.2 Development Regulations.)**

The following requirements apply in the Flood Plain District:

- a. UN-NUMBERED ZONE A: Within any unnumbered Zone A, since the base flood elevation is not provided on the FIRM, the applicant shall obtain any existing base flood elevation data and it shall be reviewed by the Building Inspector for its reasonable utilization toward meeting the elevation or flood-proofing requirements, as appropriate, of the State Building Code. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is lesser, within unnumbered Zone A.
- b. Within areas designated as coastal high hazard areas (Zone VE), all development shall be located landward of the reach of mean high tide, since these areas are extremely hazardous due to high velocity waters from tidal surges and hurricane wave wash.
- c. Man-made alteration of sand dunes within Zone VE which would increase potential flooding damage are prohibited.
- d. SUBDIVISIONS: All subdivision proposals must be designed 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 to reduce exposure to flood hazards.
- e. In Zone AE, along watercourses that have a regulatory floodway designated on the FIRM, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the Town during the occurrence of the base flood discharge (i.e., one-hundred year flood). In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit such encroachments.

**6-3.4.2.3: Notification of Watercourse Alteration
(Formerly 6-10.2.3 Notification of Watercourse Alteration)**

In a riverine situation, upon submission of the application to the Planning Board, evidence shall be provided that the following entities have been notified in writing, including a copy of the application and plans, of a pending zoning permit to alter or relocate a watercourse:

- a. The adjacent communities of Gloucester, Hamilton, Ipswich and Manchester by the Sea.
- b. National Flood Insurance Program (NFIP) State Coordinator
Massachusetts Dept. of Conservation and Recreation
251 Causeway Street, Suite 600-700
Boston, MA 02114-2104
- c. NFIP Program Specialist
FEMA Region 1
99 High Street, 6th Floor
Boston, MA 02110

6-3.4.2.4: Effective Date
(Formerly 6-10.2.4 Effective Date)

The revisions to Section 6-10.2 made pursuant to Article 1 of the Special Town Meeting of June 11, 2012 shall not take effect until July 3, 2012.

6-3.4.3: Water Resource Protection Overlay District
(Formerly 6-10.3 WATER RESOURCE PROTECTION OVERLAY DISTRICT)

6-3.4.3.1: Purpose
(Formerly 6-10.3.1 Purpose)

The purpose of the Water Resource Protection District is to protect the public health, safety and welfare, by preserving and maintaining the existing and potential groundwater supply, groundwater recharge areas, and municipal wellfields providing water supply for the Town of Essex.

6-3.4.3.2: Establishment and Delineation of Water Resource Protection District
(Formerly 6-10.3.2 Establishment and Delineation of Water Resource Protection District)

For the purpose of this Bylaw there is hereby established a Water Protection District, which comprises all areas within Essex which are within the drainage basins of either Chebacco Lake or Cedar Swamp, as illustrated on the map "Water Resource Protection District" dated December 15, 1990, on file in the Office of the Town Clerk, and hereby made a part of this Bylaw.

Where the bounds delineated are in doubt or in dispute, the burden of proof shall be upon the owner(s) of the land in question to show where they should be properly located. At the request of the owner(s) the town may engage a Registered Land Surveyor or Professional Engineer to determine more accurately the location and extent of the drainage basins, and shall charge the owner(s) for the cost of the investigation.

6-3.4.3.3: Use Regulations
(Formerly 6-10.3.3 Use Regulations)

The Water Resource Protection District shall overlay other zoning districts established in this Bylaw. Land in a Water Resource Protection District may be used for any use otherwise permitted at that location, subject to the following regulations:

- a. The following activities are prohibited within the Water Resource Protection District:
 1. Disposal of solid waste, other than brush and stumps;
 2. The operation of a solid waste transfer station;
 3. Storage of fuel oil, gasoline, or other refined petroleum products, except within buildings in which they are used or above ground, provided the storage and its containment is designed to contain spills and prevent any flow of petroleum product to floor drains or exposed soils;
 4. The disposal of liquid or leachable wastes, except sanitary sewage waste disposal systems;
 5. Commercial or industrial uses which discharge process waste water on site;
 6. Storage of road salt or other deicing chemicals except in confined and covered areas;
 7. Dumping of snow containing salt or other deicing chemicals which is brought in from outside the district;
 8. Mining of land except as necessary and incidental to a permitted use;
 9. The treatment, storage, discharge, or disposal of hazardous materials;
 10. Automobile or motor vehicle service, washing, or repair shops, used parts, and salvage yards;
 11. Junk yards;
 12. Dry cleaning or laundry businesses;
 13. Land use which renders impervious more than 15 percent of a lot, except as allowed by Section 6-10.3.3.b.7.

14. Earth removal to within 4 feet of historical high groundwater unless regarded to a higher level within 45 days, except for excavations for building foundations or utility works;
 15. Storage of animal manure unless covered and contained in accordance with US Soil Conservation Service specifications;
 16. Storage of commercial fertilizers and soil conditioners unless within a structure designed to prevent escape of leachate and runoff.
- b. The following uses are permitted by Special Permit, subject to the approval of the Special Permit Granting Authority under such conditions as they may require and also subject to section a. above, to be approved upon finding that the proposal as planned will not have adverse impact upon ground or surface water quality within the Water Resource Protection District, and that safeguards will be provided to adequately reduce risk of accidental water quality damage:
1. Except for single-family dwellings, onsite sewage disposal systems having an estimated sewage flow exceeding 60 gallons per day per 10,000 square feet lot area;
 2. Regardless of lot size, any on-site sewage disposal having more than 15,000 gallons per day of sewage;
 3. Any use having on-site disposal of industrial waste, as determined under Title 5 of the State Environmental Code: 310 CMR 15.00;
 4. The application of pesticides for non-domestic or non-agricultural uses provided that all necessary precautions shall be taken to prevent hazardous concentrations of pesticides in the water and on the land within the Water Resource Protection District as a result of such application (Such precautions include, but are not limited to, erosion control techniques, the control of runoff water or the use of pesticides having low solubility in water, the prevention of volatilization and re-deposition of pesticides and the lateral displacement, i.e. wind drift, of pesticides);
 5. The application of fertilizers for non-domestic or non-agricultural uses provided that such application shall be made in such a manner as to minimize adverse impacts on surface and groundwater due to nutrient transport and deposition and sedimentation;
 6. Those commercial and industrial activities otherwise permitted, with a documented procedure to prevent compaction and siltation, loss of recharge, exfiltration for sewer pipes and contamination by oil, chemicals, nutrients, or the generation of hazardous waste or storage of sludge and septage, except as allowed under DEP Wellhead Regulations (310 CMR 22.21) etc.;
 7. Rendering impervious more than 2500 square feet or fifteen percent of lot area (whichever is greater) will require a plan for recharging storm water runoff such that it will not degrade ground water quality. For non-residential uses, recharge shall be by storm water infiltration basins or similar system covered with natural vegetation, and dry wells shall be used only where other methods are infeasible. For all non-residential uses, all such basins and wells shall be preceded by oil, grease, and sediment traps to facilitate removal of contamination. Any and all recharge areas shall be permanently maintained in full working order by the owner.
- c. Boundary Lots. For the purpose of this Bylaw, any lot which has one third or more of its total area falling within the Water Resource Protection District must meet all the requirements of the Water Resource Protection District.

Section 6-4: Use Regulations

(Formerly **6-3 Land Use Regulations**)

6-4.1: Permitted Uses

(Formerly 6-3.1 General)

Residential, business, motel and hotel, and industrial land uses shall be permitted provided that they conform to the requirements for the use contemplated as hereafter specified for each use.

6-4.2: Additional Use Requirements

(Formerly 6-3.3 Additional Use Requirement)

6-4.2.1: Residential Land Use – Single Family

(Formerly 6-3.3.1 Residential Land Uses, Single Famil.)

- a. Accessory Building. Accessory buildings may be used for any purpose other than human habitation.
- b. Location of Parking. All parking for the above use shall be a minimum of 30 feet from the street.

6-4.2.2: Residential Land Use – Two-family

(Formerly 6-3.3.2 Residential Land Use, Two-Family)

- a. Maximum dwelling unit size. One of the two dwelling units shall have no more than two bedrooms.
- b. Accessory Buildings. Accessory buildings may be used for any purpose other than human habitation, provided that they conform to the following:
 - 1. Accessory buildings shall be located in rear and side yards only.
- c. Location of Parking. All parking for the above use shall be off the street and other than in the front yard.
- d. Septic System Approval. Drawings of existing septic systems must be submitted for approval by the health inspector.

6-4.2.3: Business Land Use

(Formerly 6-3.3.3 Business Land Use)

- a. Storage. All storage shall be in an enclosed building or screened from abutters view.

6-4.2.4: Motel and Hotel Land Use

(Formerly 6-3.3.4 Motel and Hotel Land Use)

- a. Storage. All storage shall be in an enclosed building or screened from abutter's view.

6-4.2.5: Industrial Land Use, Class A

(Formerly 6-3.3.5 Industrial Land Use, Class A)

- a. Location of Parking and Loading. All parking for the above use shall be off street and other than in the front yard. Loading and unloading facilities shall be located on the side or rear of the building.
- b. Storage. All storage shall be in an enclosed building or screened from abutter's view and be in the rear or side yard.

6-4.2.6: Industrial Land Use, Class B

(Formerly 6-3.3.6 Industrial Land Use, Class B)

- a. Accessory Buildings. Accessory buildings may be used for any purpose other than human habitation, provided that they conform to the following:
 - 1. Accessory buildings shall be located in rear or side yards only.

- b. Location of Parking and Loading. All parking for the above use shall be off street and other than in the front yard. Loading and unloading facilities shall be located on the side or rear of the building.
- c. Storage and Display. All storage and display shall be conducted in an enclosed building or screened from abutters.

6-4.2.7: Trailers

(Formerly 6-5.9 Trailers.)

- a. No trailer shall be placed, moved, erected, or allowed to remain upon a lot for more than three months.
- b. The Board of Selectmen for cause may grant a license for a trailer for more than three months, but not to exceed one year.

6-4.3: Uses Requiring Special Permit

(Formerly 6-3.4 Special Permits)

(Formerly 6-3.4.2 Uses Requiring Special Permit.)

Upon approval of the planning board the following may be allowed:

6-4.3.1: Airport

(Formerly a. Airport.)

6-4.3.2: Recreational facilities for other than home use.

(Formerly b. Recreational facilities for other than home use.)

6-4.3.3: Private schools

(Formerly c. Private schools.)

6-4.3.4: Public utility installations

(Formerly d. Public utility installations.)

6-4.3.5: Radio, Telecommunications, Cellular and Television Facilities

(Formerly e. Radio, Telecommunications, Cellular and Television Facilities, Including Free Standing Tower Type Structures (subject to the requirements as outlined below).

(Formerly 6-3.4.5 Radio, Telecommunications, Cellular and Television Facilities, Including Free Standing Tower Type Structures.)

Installations of radio, telecommunications, cellular and television facilities, including free standing tower type structures, shall be permitted subject to the following requirements, and such other conditions as the special permit granting authority may impose under G.L.c.40A and this By-Law.

- a. Citizen band radio, VHF UHF and short-wave (ham) radio towers for private or municipal use are excluded from the provisions of this section. Any change from such excluded use to a use not excluded by this section shall require a special permit.
- b. Only freestanding monopole towers (hereinafter referred to as “Towers”) shall be allowed. No guyed Towers shall be permitted.
- c. No Tower shall be located closer than two (2) miles from any other Tower.
- d. No Tower shall exceed one hundred fifty (150) feet in height, as measured from the ground level at the base of the Tower, or ten (10) feet below the FAA height which requires permanent lighting, whichever height is lower.

- e. Towers shall be set back from the front, rear and side property lines a distance equal to at least one hundred twenty-five (125) percent of the height of the Tower.
- f. Towers shall be set back at least one hundred fifty (150) feet from the boundary of all wetlands, water bodies or areas designated under “Wetlands District Delineation” of this chapter.
- g. All Towers shall be located a minimum of five hundred (500) feet from the nearest residential structure. This paragraph shall not apply to radio, telecommunications, cellular, PCS and television facilities, located inside an existing structure.
- h. Accessory buildings shall be set back from the front, rear and side property lines a minimum of fifty (50) feet. Accessory buildings shall be of a common design and color. A maximum of ten (10) accessory buildings, each limited to four hundred (400) square feet in area and a maximum of ten (10) feet in height may be permitted per Tower. Multiple buildings shall be connected by a common wall.
- i. Lighting shall be limited to that needed for maintenance and emergencies.
- j. Where feasible, Towers shall be located within established wooded areas, with a minimum radius of at least one hundred fifty (150) feet measured from the base of the Tower to the edge of the woods. This paragraph shall not apply to radio, telecommunications, cellular, PCS and television facilities, located inside an existing structure.
- k. All Towers and accessory buildings shall be removed by the record owner of the real property upon which it is located, within ninety (90) days of the abandonment or discontinuance of the specially permitted use.
- l. Each provision of this section shall be constructed so that if any provision is held invalid for any reason, the remaining sections shall continue in full force and effect.

**6-4.3.6: Trucking terminals
(Formerly f. Trucking terminals.)**

**6-4.3.7: Private hospitals
(Formerly g. Private hospitals.)**

**6-4.3.8: Nursing homes
(Formerly h. Nursing homes.)**

**6-4.3.9: Scientific Research and/or Development
(Formerly i.)**

Accessory activities permitted as a matter of right which are necessary in connection with scientific research or scientific development or related production, whether or not on the same parcel as activities already permitted as a matter of right.

**6-4.3.10: Three-family conversion
(Formerly j.)**

Conversion of an existing dwelling into three-family unit provided that:

- 1. No dwelling shall be altered to accommodate more than one family for each ten thousand square feet of area of the lot.
- 2. The planning board finds that such conversion would not be substantially more detrimental to the neighborhood than the existing use.

3. Except for creation of additional exits if required by law, the structure is not substantially changed or enlarged.
4. Parking as required in the Parking section of this chapter is provided on the lot and behind the setback line.

**6-4.3.11: Multi-family dwelling and/or apartment land use
(Formerly k.)**

Multi-family dwelling and/or apartment land use, subject to at least the following requirements which shall in no way limit the right of the special-permit granting authority to impose stricter requirements and/or other conditions to the full extent permitted by law:

1. Dimensional Requirements (see Table of Dimensional Requirements).
2. Storage. All storage shall be enclosed and in the rear.
3. All proposed multi-family, conversions to three-family, and multi-family, and/or apartment land use be required to provide the board of health with a septic system plan to be approved before permits are given.

**6-4.3.12: Wind Energy Conversion Systems (WECS)
(Formerly l. Wind Energy Conversion Systems (WECS).)**

Installation of Wind Energy Conversion Systems (WECS) except units which are building mounted, but including temporary wind monitoring towers, shall be permitted subject to the following requirements and such other conditions as the Special Permit Granting Authority may impose under MGL Chapter 40A and this bylaw.

1. Only towers not exceeding 150 feet in total tower height shall be allowed.
2. WECS towers shall be set back a distance equal to 1.25 times the Total Tower Height from
 - a. Any public road or private right of way
 - b. Any overhead utility lines, unless written permission is otherwise granted by the affected utility to reduce this requirement.
 - c. All front, side and rear property lines unless written permission is granted by abutters to reduce this requirement.
3. Density of units: When more than one WECS may be installed on a lot there shall be a minimum of one acre allotted for each unit.
4. Color: WECS units shall be painted a non-reflective color that blends with sky and clouds.
5. Noise and electromagnetic interference: The WECS and associated equipment shall conform with the provisions of the Massachusetts Department of Environmental Protection's Division of Air Quality and Noise Regulations (310 CMR 7.10) as measured to the nearest lot line unless said abutter(s) give written permission otherwise. The applicant shall provide certification at his/her expense that the system will not cause electromagnetic interference at the lot line unless said abutter(s) give written permission otherwise. After the installation, if neighbors can demonstrate that there is interference, the Building Inspector may order that the WECS be dismantled or modified to eliminate said interference.
6. Lighting: The WECS shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration (FAA). A temporary light used to inspect a WECS and associated equipment is permissible provided said light is used only for inspection purposes and not in operation for an extended period of time.
7. Access: All ground mounted electrical and control equipment shall be secured to prevent unauthorized access, and the tower shall be designed and installed so as not to provide step bolts or ladders readily accessible to the public for a minimum height of eight (8) feet above the ground.

8. Signs: All signs, other than manufacturers or installers identification, warning signs or owner identification on a WECS tower, or other structure visible from any public road shall be prohibited. All signs shall comply with Section 6-5.10 of Town of Essex bylaws.
9. Equipment shelters: All equipment necessary for monitoring and operation of the WECS should be contained within the turbine tower. If this is not feasible, ancillary equipment may be located outside of the tower, provided it is contained either within an underground vault or enclosed within a separate structure which shall be screened from view by year-round landscape or vegetated buffer.
10. Abandonment: A WECS that is out of service for a continuous 12-month period will be deemed to have been abandoned and the Building Inspector may issue a Notice of Abandonment to the owner. The owner shall have the right to respond to the Notice of Abandonment within 30 days of the receipt of the Notice. The Building Inspector shall withdraw the Notice and notify the owner of same if the owner provides information that demonstrates that the WECS has not been abandoned.
11. Removal: If the WECS is determined to be abandoned, the owner shall remove the WECS equipment at the owner's sole expense within 90 days of the Notice of Abandonment. If the owner fails to remove the WECS the Building Inspector may pursue legal action to have the tower and equipment removed at the owner's expense.
12. Building Mounted Units: Any WECS unit mounted on a building, intended to generate power, is excluded from the provisions of **6-10.3 (formerly 6-6.9(I))** and may be granted a building permit if the following requirements are met:
 - a. The total height of the installed unit must not be more than 20% above the highest point of the building, and must keep in reasonable scale with the size of the building.
 - b. The color of the unit must blend with the building and the surroundings.
 - c. Noise and electromagnetic interference: The WECS and associated equipment shall conform with the provisions of the Massachusetts Department of Environmental Protection's Division of Air Quality and Noise Regulations (310 CMR 7.10) as measured to the nearest lot line unless said abutter(s) give written permission otherwise. The applicant shall provide certification at his/her expense that the system will not cause electromagnetic interference at the lot line unless said abutter(s) give written permission otherwise. After the installation, if neighbors can demonstrate that there is interference, the Building Inspector may order that the WECS be dismantled or modified to eliminate said interference
 - d. The WECS unit must be situated in a manner that minimizes shadow and flickering. The applicant has the burden of proving that this effect does not have an adverse impact on the neighboring or adjacent uses, through either site placement or mitigation.

6-4.3.13: Marijuana Establishments

(formerly m. Medical Marijuana Treatment Center/Registered Marijuana Dispensary and Marijuana Establishment, subject to the following requirements:)

1. In addition to the Dimensional Requirements set forth in the Table of Requirements, no portion of a Medical Marijuana Treatment Center/Registered Marijuana Dispensary or Marijuana Establishment shall be located (a) within 2500 feet of any of the following existing uses: school providing education in grades K-12, pre-school, family day care center, child care facility, playground or athletic field or (b) within 400 feet of any property on which the principal existing use is residential. The distances under this Section shall be measured in a straight line from the nearest point of the property line in question to the nearest point of the property line where the Marijuana Establishment or Medical Marijuana Treatment Center/Registered Marijuana Dispensary is or will be located. The buffer requirements stated herein shall not apply to qualifying uses which are proposed after a building permit has issued for the Marijuana Establishment or Medical Marijuana Treatment Center/Registered Marijuana Dispensary.

2. For purposes of this Bylaw, all Marijuana Establishments and Medical Marijuana Treatment Center/Registered Marijuana Dispensaries shall be designated a “Business” use.

6-4.4: Accessory Uses & Structures (reserved for future use)

(New section and title)

Section 6-5: Dimensional and Density Regulations

(New section and title)

6-5.1: General Requirements (reserved for future use)

(New section and title)

6-5.2: Table of Dimensional Requirements

(Formerly 6-3.2 Dimensional Requirements and 6-3.2.1 Table of Dimensional Requirements)

Principal Buildings	Residential, Single and Two Family	Residential, Multi-Family	Business	Motel and Hotel	Industrial, Class A	Industrial, Class B
Minimum Lot Area (sq. ft.)	40,000 (Note a)	60,000 (3 units) 90,000 (4+ units) (Note d)	40,000 (Note a)	90,000	90,000	40,000 (Note a)
Minimum Lot Frontage (feet) (Note e)	150	300	150	200	300	150
Minimum Lot Width (feet)	150	-	-	-	-	125
Minimum Lot Depth (feet)	100	-	100	-	-	100
Minimum Front Yard, All Buildings	25	100	25	100	100 (Note c)	25 (Note c)
Minimum Side Yard	20	100	20	50	100 (Note c)	20 (Note c)
Minimum Rear Yard	30	100	50	100	100	30
Maximum Building Height (stories/feet)	2 ½ stories 35 feet	2 ½ stories 35 feet	2 ½ stories 35 feet	2 ½ stories 35 feet	35 feet	2 ½ stories 35 feet
Maximum Lot Coverage	25%	50% (Note f)	25%	-	33%	25%
Accessory Buildings						
Minimum Front Yard	25				25	
Minimum Side Yard	10				10	
Minimum Rear Yard	10	50			10	
Maximum Building Height	2 ½ stories 25 feet	1 story 15 feet		1 story 15 feet	2 ½ stories 25 feet	
Minimum Distance between Buildings		20		20		

(Formerly 6-3.2.2 Notes for Table of Dimensional Requirements)

- a. Lot area for land on street in existence on June 7, 1972, minimum 30,000 square feet.
- b. Deleted at FTM 2019.
- c. Any non-residential project comprised of buildings which in the aggregate occupy any area greater than 10,000 square feet shall meet the following: Front yard 50 feet, Side Yard 30 feet.
- d. Minimum land area per bedroom, 5,000 square feet. Maximum 8 bedrooms per building.
- e. Reasonable capability for adequate access to principal building is required over frontage.

f. Maximum lot coverage for buildings and paved surfaces.

6-5.3: Modifications and Exceptions

(New section and title)

6-5.3.1: Supplementary Height Provisions

(Formerly 6-5.3 Supplementary Height Provision)

The provisions of this chapter governing the height of buildings shall not apply to chimneys, cooling towers, elevator bulkheads, skylights, ventilators, and other necessary appurtenances carried above the roofs, nor stacks or spires if not used for human occupancy and not more than 25 percent of the ground floor area of the building, nor to observation towers, wind energy conversion systems WECS, television and radio towers and antennae, nor to churches or public or institutional buildings.

Section 6-6: Development Regulations

(New section and title)

6-6.1: Site Configuration

(New section and title)

6-6.1.1: Relationship of Building to Lot

(Formerly 6-5.1 Relationship of Building to Lot.)

Every building erected after June 7, 1972 shall be located on a lot as defined in subsection **6-5.2 (formerly 6-3.23)**, and so located on the lot to provide safe and convenient access for fire protection and required off-street parking.

6-6.1.2: Visibility at Intersection

(Formerly 6-5.4 Visibility at Intersections.)

On a corner lot no obstruction shall be erected, placed, planted or allowed to grow at or near an intersection of two streets or ways in such a manner as to materially impede the vision of those using the ways.

6-6.2: Access and Connectivity (reserved for future use)

(New section and title)

6-6.3: Off-Street Parking and Loading

(Formerly 6-6 Off-Street Parking and Loading)

6-6.3.1: Off-Street Parking Requirements

(Formerly 6-6.1 Off-Street Parking Requirements)

Off-street parking by means of open air spaces each having an area not less than 200 square feet, plus necessary maneuvering space, or by garage space, shall be provided and maintained in accordance with the following table;

6-6.3.2: Table of Parking Requirements
(Formerly 6-6.1.1 Table of Parking Requirements.)

Type of Use	Minimum Parking Requirement
RESIDENTIAL STRUCTURES	Two parking spaces for each dwelling unit.
MULTI-FAMILY DWELLING AND OR APARTMENT USE	One and one half parking spaces for each bedroom.
MOTELS AND HOTELS	One parking space for each sleeping unit.
BOARDING AND LODGING HOUSES	One parking space for each two guestroom.
HOSPITALS, NURSING HOMES	One parking space for each 500 square feet or major fraction thereof of floor area, exclusive of cellar.
AUDITORIUMS, THEATERS, ASSEMBLY HALLS, FUNERAL HOMES, CHURCHES.	One parking space for each 100 square feet of assembly space.
FRATERNITIES, PRIVATE CLUBS AND LODGES	One parking space for each five members.
RETAIL STORE	One parking space for each 150 square feet, or major fraction thereof of first floor retail space; and one parking space for each 400 square feet of retail space or major fraction thereof for each floor above the first floor.
RESTAURANTS	One parking space for each 100 square feet or major fraction thereof of floor area not used for storage or food preparation.
OFFICES, PROFESSIONAL AND PUBLIC BUILDINGS	One parking space for each 300 square feet or major fraction thereof of floor area, exclusive of cellar.
BUSINESS, MANUFACTURING AND INDUSTRIAL BUILDINGS NOT CATERING TO RETAIL TRADE	One parking space for each 500 square feet of floor area or major fraction thereof

6-6.3.3: Parking Lots
(Formerly 6-6.2 Parking Lots)

When a required off-street parking space is in the form of a parking lot or other open air parking space, it shall not be located within five feet of any lot line or, if located within a front yard, within thirty feet of the street line. Any such parking shall be located not more than 200 feet from the building to which it is assigned.

6-6.3.4: Driveways
(Formerly 6-6.3 Driveways.)

- a. No person shall hot top or construct a driveway or entrance from the traveled portion or from the curb of any public street or way for purpose of passing to or from abutting property, nor cut any curbing without applying for and receiving a permit from the Department of Public Works, under conditions and restrictions the D.P.W commissioner deem proper.
- b. Common Driveways. Access driveways may be shared by no more than three lots with approved frontage on a public way. No building permits will be issued unless the following has been complied with:
 1. Curb cut approval has been obtained in accordance with a. above.
 2. A common driveway shall lie entirely within the lots to which it provides access, and shall comply with the minimum standards stated in c. below.
 3. No building permit shall be issued for any lot with access by a common driveway until an easement running with the land in perpetuity providing for maintenance and snow removal is executed by the

owner(s) of the lots sharing the driveway, recorded at the Registry of Deeds, and evidence thereof is submitted to the Building inspector.

4. Common driveways may never be used to satisfy zoning frontage requirements.
 5. Permanent signs shall be installed indicating the assigned street address of all lots. Street signs shall be placed within 10 feet of the intersections with the public way and individual driveways served by the driveway.
- c. Minimum driveway standards for new driveways.
1. Driveway access to the dwelling or other building site shall be indicated on the plans submitted to the building inspector at the time of building permit application.
 2. Such a driveway shall provide access for vehicles including moving vans, ambulance, fire and police vehicles and shall have:
 - A. Width of at least 12 feet, but shall be cleared to a width of at least 14 feet, applicable to the portion used by more than one lot.
 - B. Maximum grade of 10 percent.
 - C. Adequate clearing at the intersection of the public way to provide a minimum of 30 foot sight lines.
 - D. Shall be cleared to maintain 14 feet vertical clearance.

6-6.4: Landscaping, Fencing, Walls, and Screening *(New section and title)*

6-6.4.1: Prohibited Use of Open Space **(Formerly 6-5.2 Prohibited Use of Open Space.)**

No part of a yard or open space required about any building according to this chapter shall be included as a part of the yard or open space required for any other building.

6-6.4.2: Screening of Open Uses **(Formerly 6-5.6 Screening of Open Uses.)**

An area outside of a completely enclosed building which is occupied by the following uses shall be completely screened, except for access, by means of a sightly fence, or densely planted screen of evergreen shrubs or trees at least six feet in height.

- a. Storage yards, where such occupancy is located within 50 feet of any residential property
- b. Vehicle and machinery storage yards.

6-6.4.3: Fencing of Swimming Pools **(Formerly 6-5.7 Fencing of Swimming Pools Required.)**

- a. Any person owning land in the Town on which there is situated a swimming pool, in-ground or above-ground, shall erect and maintain thereon an adequate enclosure either surrounding the property or pool area, sufficient to make the pool inaccessible to small children. Any such enclosure, including gates therein, must be not less than four (4) feet above the underlying ground. All gates must be self-latching

with latches placed at least four (4) feet above the underlying ground or otherwise made inaccessible from the outside to small children. Any such enclosure shall be located at least a distance of five (5) feet away from the pool. Fences located on above-ground pool decks shall not be considered as meeting the requirements of this section unless specifically approved by the inspector of buildings. Above-ground pools with a wall height of five (5) feet or more will be exempt from the fencing requirement, but a gate must be placed around the access to any such pool.

- b. Any and all doors opening directly into the enclosed pool area from the living area of the dwelling shall be equipped with an audible alarm which will sound for at least ten seconds when the door and/or screen door is opened.
- c. This section shall apply retroactively to all in-ground and above-ground pools within the Town. Pre-existing, lawfully installed pools may be exempt from the above requirements if enclosures are provided which offer the same degree of protection as above and are acceptable to the inspector of buildings.

6-6.5: Signs

(Formerly 6-7 Signs)

The purpose of this bylaw is to provide for a wide range of signage by right; to encourage safe, effective, informative signage; to protect property values, and to minimize the visual impact of signage.

6-6.5.1: Application

(Formerly 6-7.1 APPLICATION)

A. For purposes of this bylaw, the term “SIGN” shall mean any two or three dimensional fabrication, or assembly, including its supporting structure, consisting of any letter, figure, character, symbol, emblem, mark, design, pictorial representation, stripe, line, trademark, reading matter or illuminating device, constructed, attached, erected, fastened, or manufactured in any manner whatsoever so that the same shall be used for the attraction of the public to any place, subject, person, firm, corporation, business, public performance, article, machine or merchandise whatsoever, and displayed in any manner for recognized identification or advertising purposes.

B. All permanent signs shall require a building permit and shall comply with the Massachusetts State Building Code, as amended.

C. Any sign, permanent or temporary, to be placed on the property of another, including signs on Town or State-owned property, will require the prior written approval of the property owner or the owner’s representative in control thereof.

D. Signs associated with properties requiring special permit or site plan review approval shall also require approval by the Planning Board.

E. Exemptions:

1. Flags and temporary signs for any non-commercial purpose, including but not limited to political or charitable purposes, for public organizations, for states and political subdivisions thereof, and international and national flags are exempt from all provisions of this bylaw, except sections **6-6.5.4 (formerly 6-7.4)** (Public Safety Provisions) and **6-6.5.5 (formerly 6-7.5)** (Maintenance of Signs).
2. Signs displaying the street number and name or names of the occupants of the premises, not exceeding two (2) square feet in area.
3. Traffic and directional signs owned and installed by a government agency.

6-6.5.2: Regulation of Permanent Signs

(Formerly 6-7.2 REGULATION OF PERMANENT SIGNS:)

A. AREA OF SIGN:

1. The area, including all lettering, wording, and accompanying designs and symbols, together with the background on which they are displayed, the frame around the sign, and any "cut outs" or extensions, but not including any supporting structure or bracing. Calculation of sign areas shall use the following formulae:

- a. For two-dimensional signs affixed to or fabricated from a mounting background or signboard: the area shall consist of the smallest rectangular plane that wholly contains the sign.
- b. For two-dimensional signs consisting of individual letters or symbols affixed directly to the building wall, window, or awning: the area shall consist of the smallest area enclosed by a series of straight lines connected at right angles which encompasses all of the letters and symbols.
- c. For two-dimensional double-faced signs less than four (4) inches thick: use the area of one face.
- d. For three-dimensional signs, double-faced signs greater than four (4) inches thick, objects used as signs, and "V" shaped signs: the area shall be determined by the largest of either the front or side projected view of the sign.

B. ILLUMINATION:

The act of supplying or brightening a sign with light. Lighted signs shall be illuminated only by a steady, stationary light without causing harmful glare for motorists, pedestrians or neighboring premises and/or internal lighting; but all flashing, changing, or intermittent illumination is prohibited, except for time/temperature signs, public safety signs and holiday decorations.

C. LINEAL FRONTAGE:

The length in feet of a building or storefront which abuts a street or public right-of-way at its first floor or entrance level.

D. PERMANENT SIGNS SHALL BE DIVIDED INTO THE FOLLOWING CATEGORIES:

1. Awning Sign: Any sign painted, sewn or attached onto an awning. The area of an awning sign(s) shall not exceed one-half (1 /2) square foot per foot of lineal frontage of the storefront or building upon which the awning is attached. Awnings shall conform to the Massachusetts State Building Code.
2. Banner Sign: Any sign constructed of fabric or flexible material and intended for permanent attachment to a structure. Banner signs may also be used as temporary signs as set forth in section 6-7.7. A permanent banner sign shall not exceed fifteen (15) square feet in area.
3. Directory Sign: Any sign which contains listings of two or more commercial uses or users and/or the name and address of a commercial or residential development. A directory sign shall be designed and constructed with provisions for changes of listing without reconstruction of the entire sign. Maximum area for header area shall not exceed twelve (12) square feet. Listings shall not be larger than eight (8) inches by thirty (30) inches.
4. Free-standing Sign: Any sign structurally separate from the building, being supported on itself, on a standard, or on legs. Free-standing signs shall be non-moveable and permanently anchored.
5. Hanging Sign: Any sign other than a wall sign that is attached to and projects from the wall or face of a building or structure, including an arcade or marquee sign.
6. Wall Sign: Any sign painted on or affixed to a building wall is a wall sign. Wall signs consist of two basic categories:
 - a. Directly applied: painted or three-dimensional letters applied directly to a building surface.
 - b. Independent Wall Sign: painted, incised or three-dimensional letters affixed to a sign board which is then attached to a building surface.
7. Window sign: Any permanent sign affixed to the surface of the glass of any part of any building (See also Poster-type sign). Window sign(s) shall not occupy, in total, more than fifty percent (50%) of the glass area and may not be attached to the exterior surface of the glass. Any interior sign which is within three (3) feet of the window glass and which is visible from the outside of the building shall be considered a window sign even though it may not be affixed directly to the glass. Window displays of actual products or merchandise for sale or rent on the business premises shall not be considered window signs.

6-6.5.3: Billboards

(Formerly 6-7.3 BILLBOARDS.)

A. A Billboard is any permanent sign which advertises or otherwise directs attention to a product, service, activity, event, institution, or other business which occurs or is generally conducted, sold, manufactured, produced or offered elsewhere than on the premises where such sign is located.

B. Billboards shall not be permitted in the town of Essex.

6-6.5.4: Public Safety Provisions

(Formerly 6-7.4 PUBLIC SAFETY PROVISIONS.)

- A. In the interest of public safety, the following signs and devices are not permitted:
1. Signs with moving parts or flashing lights which suggest motion.
 2. Flashing illuminated signs.
 3. Noisemaking signs.
 4. Signs so located or colored or illuminated in any manner to attract attention from or obscure a traffic light or sign or to reduce in anyway its visibility and effect.
 5. Signs within view of a public street or highway so placed in such manner as to obstruct clear vision in any direction.
 6. Any device illuminating a sign which directs light toward a public way in such a manner as to cast its beams into the eyes of the oncoming motorist or pedestrians.
 7. Signs shall not project above the roof or front parapet of a building.
 8. All signs shall comply with all public safety requirements imposed by the Board of Public Works, public utilities, and/or the police and fire departments.

6-6.5.5: Maintenance of Signs

(Formerly 6-7.5 MAINTENANCE OF SIGNS.)

All signs must be kept clean, neatly painted and free from all hazards, such as, but not limited to, faulty wiring and loose fastenings, and must be maintained at all times in such safe conditions so as not to be detrimental to the public health or safety; or constitute a distraction or obstruction that may contribute to traffic accidents

6-6.5.6: Measurement

(Formerly 6-7.6 MEASUREMENT.)

- A. Area limitations refer to the total sign area associated with each lot.
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- B. In computing area only one side of a double-faced sign is to be included. Signs within a building are not included.
- C. Signs shall comply with the following dimensional requirements for each land use:
- Type of Use Sign Dimensions:
1. Residential (1 to 2 family): One (1) sign not exceeding six (6) square feet in area.
 2. Residential (multi-family/apartment): One (1) sign not exceeding six (6) square feet in area per dwelling unit and one directory sign for the development not to exceed twenty (20) square feet in area.
 3. Non-residential (single use): Maximum permanent sign total area of thirty-two (32) square feet.
 4. Non-residential (multiple uses on a common lot): shall be limited to twenty (20) square feet total area per individual use, not including a directory sign area.
- D. Internally illuminated signs shall not be permitted.
- E. Signs required for public safety shall not be included in the total sign area.

6-6.5.7: Regulation of Temporary Signs

(Formerly 6-7.7 REGULATION OF TEMPORARY SIGNS:)

- A. A sign which is intended for a limited period of display. A temporary sign may be erected for a period not to exceed thirty (30) days in a calendar year, unless a more specific time frame is set forth below.
- B. A temporary sign that does not meet the criteria in Section 6-7-7 shall be subject to the same requirements as for permanent signs.
- C. All temporary signs shall comply with the provisions of Sections 6-7.4 (Public Safety Provisions) and 6-7.5 (Maintenance of Signs) of this bylaw.
- D. Temporary signs shall not be counted toward the maximum sign areas allowed for permanent signs.
- E. Poster-type signs, construction signs, real estate signs and banner signs are considered temporary signs provided they meet the following criteria:

1. Poster-type sign:
 - a. May not occupy more than 50 percent (50%) of the window area and may not be attached to the exterior surface of the window. Any interior sign which is within three (3) feet of the window glass and which is visible from the outside of the building shall be considered a window sign even though it may not be affixed directly to the glass. Window displays of actual or sample products or merchandise offered for sale or rent on the business premises shall not be considered window/ poster signs.
 - b. Shall be related to use conducted or goods available on the premises.
 - c. May not be used for more than twenty-one (21) consecutive calendar days.
2. Construction sign:
 - a. Identifies parties involved in construction on the same premises only
 - b. Shall not be utilized for more than one (1) year, or for the duration of work on the lot, whichever is longer
 - c. Shall be removed promptly by contractor within fourteen (14) calendar days of the completion of work.
3. Real Estate sign:
 - a. Shall be related to sale, rental, or lease of same lot;
 - b. Shall be removed within fourteen (14) calendar days after sale, rental, or lease.
4. Banner sign:
 - a. Shall be considered a temporary sign provided it meets the following criteria:
 - i. A banner sign intended to advertise a business establishment prior to permanent signing.
 - ii. To be erected without a building permit for a maximum of thirty (30) days in a calendar year.
 - iii. Shall comply with the dimensional requirements of **6-6.5.6 (formerly 6-7.6)**.
 - iv. Shall be attached to the building.
 - b. A banner sign intended to advertise a special event:
 - i. Shall be no greater than seventy-five (75) square feet in area.
 - ii. May be erected without a building permit for a maximum of sixty (60) days in a calendar year, and
 - iii. Shall be removed within seven (7) calendar days after the event is over.
5. Sandwich board sign:
 - a. A sign structurally separate from a building and being supported on itself, usually on legs; a sandwich board sign shall be moveable and without permanent anchoring. Said sign shall have no more than six (6) square feet in area on each side of a two-dimensional double-faced sign, shall be constructed of materials intended for outdoor use and shall not impair visibility or ability to use any public way or public area, and must be removed every day.
 - b. Sandwich Board signs may be left in place for a maximum of thirty (30) days in a calendar year without a building permit.
6. Flags:
 - a. An advertising device constructed of fabric or flexible material intended to wave in the wind.
 - b. A total of three (3) flags will be permitted including one (1) "OPEN" flag and up to two (2) additional targeted message flags.
 - c. Total square area shall not exceed thirty (30) square feet and shall comply with the provisions of **6-6.5.4 (formerly 6-7.4)** and **6-6.5.5 (formerly 6-7.5)**.
 - d. All flags shall be removed at the end of each business day.

Section 6-7: Additional Regulations

(Formerly 6-5 Supplementary Provisions)

6.7.1: Erection of More than One Principle Structure on a Lot

(Formerly 6-5.5 Erection of More than One Principle Structure on a Lot)

More than one structure which is housing a permitted or permissible use may be erected on a single lot provided that the yard and lot requirements of this chapter be met. Notwithstanding the preceding, a second structure

which is a single family residential use may be erected on a single residential lot of at least 70,000 square feet in area which lot has had a residential structure in use for at least five years from the time of issuance of a permanent Certificate of Occupancy, and a third residential structure may be erected on a single lot of at least 110,000 square feet in area on a lot which has had two residential structures in use for at least five years from the time of issuance of a permanent Certificate of Occupancy, provided that they house in aggregate no more than three dwelling units, that lot area equal to that required for a single structure could be allotted to each structure, and that the dimensional requirement of Section **6-5.2 (formerly 6-3.2)** of this by-law be met.

Each building must have access either jointly or separately by means of a driveway which is entirely within the lots that it serves. Any driveway must conform to the requirements of Section **6-6.3.4 (formerly 6-6.3)** and shall not be within 10 feet of a side or rear lot line, nor pass within 20 feet of a residential structure that such driveway does not serve.

6.7.2: Unregistered and Inoperative Motor Vehicles, Junk Yards **(Formerly 6-5.8 Unregistered and Inoperative Motor Vehicles, Junk Yards)**

- a. There shall be no unregistered or inoperative motor vehicles permitted in a front yard.
- b. No more than two operative unregistered motor vehicles shall be permitted in a back yard or side yard.
- c. No inoperative cars shall be allowed unless they are in an enclosed building or screened from public view.
- d. Junk yards, as defined in subsection 6-2.2 shall not be permitted in the town.

6-7.3: Influence of Vacant Lots on Adjoining Lots **(Formerly 6-5.10 Influence of Vacant Lots on Adjoining Lots)**

Where dimensional or other requirements for a use of a lot are influenced by the land use on adjoining lots, any adjoining lot not occupied by a use specified in subsection **6-5.2 (formerly 6-3.2)** of this chapter shall assume the character of the lot being influenced for purposes of determining the aforementioned requirements.

6-7.4: Home Occupations **(Formerly 6-5.11 Home Occupations)**

Home occupations shall be allowed only if meeting all of the following:

- a. Not more than two persons who do not reside in the dwelling unit shall be engaged in such occupation.
- b. There shall be no change in the outside appearance of the building or premises, except as provided by paragraph d below, or other visible conduct of such home occupation other than one sign as permitted accessory use.
- c. No traffic shall be generated by such home occupation in greater volumes than would be normally expected in the immediate neighborhood. The determination of such a situation shall be decided by the enforcement officer, and any need for parking generated by conduct of such occupation shall be met off the street and other than in a front yard.
- d. All home businesses and occupations conducted on residential property including storage and display shall be conducted in an enclosed building, except for the display and sale of shellfish, garden or poultry produce, or small homemade handcrafted items.
- e. Not more than two (2) vehicles requiring registration as taxis, buses, or commercial vehicles shall be regularly parked outdoors on the premises.
- f. No commercial vehicle with registered gross weights in excess of 17,000 lbs. shall be regularly parked outdoors on the premises.

- g. No more than three parking spaces, in addition to those required for residential use are allowed for the home occupation.
- h. No equipment or process shall be used which creates offensive light, noise, vibration, smoke, dust, odors, fumes, heat or glare detectable to the normal senses off the premises.
- i. No equipment or process shall be used which creates interference in household devices off the premises.

6-7.5: Scenic Roads (reserved for future use)

(New section and title)

6-7.6: Special Regulations

(New section and title)

6-7.6.1: Temporary Moratoria

(New section and title)

6-7.6.1.1: Temporary Moratorium on Marijuana Establishments

(Formerly 6-14 TEMPORARY MORATORIUM ON RECREATIONAL MARIJUANA ESTABLISHMENTS)

(Formerly 16.4.1) Deleted in entirety at FTM 2019

6-7.6.1.2: Temporary Moratorium on Business and Industrial Conversions

(Formerly 6-16 TEMPORARY MORATORIUM ON BUSINESS AND INDUSTRIAL CONVERSIONS)

No building permit shall be issued for any work and no use shall be made of land that results in a change in use from residential, open space, or vacant lot to Business, Industrial A, or Industrial B use on any land located in the Town of Essex until January 1, 2024; provided, however, that this bylaw shall not apply in the newly-created Essex Downtown Zoning District, to any work in connection with adding a home occupation to a new or existing residential use, or to any change in use from an existing business or industrial use to another type of business or industrial use. During the moratorium period, the Planning Board, Board of Selectmen and other Town officials shall review and address the impacts of current, impending and potential business and industrial developments and they shall develop a plan to mitigate future impacts of such developments on the general health, safety, welfare and quality of life of the residents of the Town of Essex, which may include but not be limited to the presentation of suggested bylaw amendments to a future town meeting.

The purpose of this bylaw is to temporarily slow the rate of business and industrial development in the Town so that there can be an opportunity to study the impacts of such development and determine how to best address it in the future. The Town of Essex is relatively unique insofar as it does not have traditional zoning districts such as residential, business, agricultural, or industrial and it does not have a use table in its zoning bylaws. While the Town has primarily been a rural residential community, in recent years there has been more interest in bringing business and industrial enterprises to the Town. While Town officials are in favor of growing the Town's business and industrial base, new business and industrial enterprises are not always in harmony with existing residential uses. This has led to an increase in complaints concerning noise, traffic and other impacts from such uses in residential neighborhoods. Given the rate at which such new business and industrial development has been occurring, time is needed to study the issue and determine whether there should be amendments to the Town's zoning bylaws to address these and other issues.

Section 6-8: Open Space Residential Development

(Formerly 6-13. OPEN SPACE RESIDENTIAL DEVELOPMENT)

6-8.1: Purpose and Intent

(Formerly 6-13.01. PURPOSE AND INTENT)

1. The primary purposes for Open Space Residential Development (“OSRD”) are the following:
 - a. Allow for greater flexibility and creativity in the design of residential developments;
 - b. Encourage the permanent preservation of open space, agricultural land, woodland, wildlife and rare species habitat, other natural resources and features, including aquifers, water bodies, and wetlands, recreational, historical and archeological resources, in a manner that is consistent with all current plans adopted by the Town of Essex, including such plans as the Town of Essex Community Development Plan; Town of Essex Watershed Protection Plan and Town of Essex Open Space and Recreation Plan;
 - c. Encourage a less sprawling, more efficient and compact form of development that disturbs less open land and natural materials and conforms to existing topography and natural features better than a conventional or grid subdivision;
 - d. Minimize the total amount of disturbance on the site;
 - e. Further the goals and policies of the all current plans adopted by the Town of Essex, including such plans as Town of Essex Community Development Plan, Town of Essex Watershed Protection Plan and Town of Essex Open Space and Recreation Plan; as amended from time to time;
 - f. Facilitate the construction and maintenance of housing, streets, utilities, and public services in a more economic and efficient manner, that are in harmony with the architectural heritage of the Town of Essex; and
 - g. Promote affordable housing and a more diversified housing stock.

6-8.2: Applicability

(Formerly 6-13.02 APPLICABILITY)

1. Land Area: The proponent of any proposed residential development that is on a parcel of five (5) acres or more or on contiguous parcels totaling five (5) acres or more may submit a special permit application to the Planning Board for an OSRD in accordance with the provisions of this Section, which shall include an OSRD Special Permit Plan as described below. The Planning Board shall, in compliance with Massachusetts General Laws c. 40A, s. 9, hold a public hearing on the OSRD application. If a development for which a special permit application is submitted under the provisions of this Subsection involves the subdivision of land, the applicant shall also submit a Preliminary Subdivision Plan at the same time pursuant to the *Rules and Regulations Governing the Subdivision of Land in the Town of Essex*, as amended (hereinafter “the Subdivision Rules and Regulations”).
2. Contiguous Parcels: To be eligible for consideration as an OSRD, the total tract shall consist of one parcel of land or set of contiguous parcels. Parcels located on two sides of an existing road or similar minor separation shall be considered contiguous for this article.
3. Land Division: To be eligible for consideration as an OSRD, the proposed OSRD must involve either (i) a subdivision, or (ii) a division of land pursuant to Massachusetts General Laws c. 41, s. 81P.

6-8.3: Special Permit Required

(Formerly 6-13.03 SPECIAL PERMIT REQUIRED)

The Planning Board may authorize an OSRD pursuant to the grant of a special permit. Special Permit public hearings may be held simultaneous to the conventional preliminary plan discussions and to the conventional definitive plan public hearings.

6-8.4: Pre-Application Conference **(Formerly 6-13.04 PRE-APPLICATION CONFERENCE)**

The applicant for an OSRD shall attend a pre-application conference with the Planning Board at a regular business meeting of the Planning Board. The Planning Board shall invite to the conference a representative of:

- The Conservation Commission
- Open Space Committee
- Board of Health
- Department of Public Works, plus the
- Building Inspector

The purpose of a pre-application conference is to:

- Streamline the formal application process
- Minimize the applicant's costs of engineering and other technical experts
- Commence discussions with the Planning Board at the earliest possible stage in the development

At the pre-application conference the applicant may:

- Outline the proposed OSRD and the yield based on a conventional subdivision buildout
- Seek preliminary feedback from the Planning Board and/or its technical experts
- Set a timetable for submittal of a formal application

6-8.5: Design Process **(Formerly 6-13.05 DESIGN PROCESS)**

1. At the time of the application for a special permit for an OSRD in conformance with ***Subsection 6-8.6 (formerly 6-13.06) PROCEDURES*** below, applicants are required to demonstrate to the Planning Board that the following four-step design process was performed by a qualified design team. Such a team is to include a registered landscape architect, or a professional civil engineer. The team shall consider the layout of proposed streets, house lots, and open space.

a. Step One: Identifying Conservation Areas and the Potentially Developable Area. The qualified design team shall first identify and delineate two categories of conservation areas at the site, as follows:

1. Primary Conservation Areas, consisting of those areas protected by federal, state or local laws, including but not limited to:
 - Wetland resource areas
 - Vernal pools
 - Outstanding Resource Waters
 - Rare species habitat
 - Flood hazard areas
 - Floodplains
2. Secondary Conservation Areas, consisting of those elements of the natural landscape that are not protected fully by law, but the maintenance of which in their natural state would provide environmental, aesthetic or other value to the environment or community, including but not limited to
 - Steep slopes (typically greater than twenty five percent [25%])
 - Mature woodlands
 - Vernal pool species upland habitat
 - Wetland buffer zones

- Existing trails and footpaths
- Farmland
- Large open meadows
- Stone walls
- Unique geological formations
- Critical wildlife habitats and
- Important cultural features such as historic and archeological sites
- Scenic views

3. Potentially Developable Area (hereinafter “PDA”) is land outside identified Primary Conservation Areas. Consideration shall be given to avoiding and/or properly implementing the Secondary Conservation Areas in landscaping plans. The Planning Board retains the right to exclude some or all of the Secondary Conservation Areas from development. The design team shall then delineate the PDA. Development shall be located exclusively within the PDA. However, in cases where rare species habitat designations would preclude the establishment of a PDA anywhere on the lot, or where a very small PDA cannot support the density of development based upon the Conventional Subdivision Sketch Plan, the Planning Board may work with the developer, developers consultants and the towns technical consultants to determine the best possible location for the limited amount of development to be allowed under the Open Space Residential Development.

b. Step Two: Locating House Sites. The landscape architect or design team shall then locate the approximate sites of individual structures within the PDA and delineate the private yards and shared amenities, so as to reflect an integrated neighborhood that conforms with the existing topography and natural features, with emphasis on consistency with the Town's historical development patterns and heritage.

c. Step Three: Aligning the Streets and Trails. The landscape architect or design team shall then align streets to access the house lots or units and lay out sidewalks and walking trails to create internal and external connections to existing and/or potential future streets, sidewalks, and trails.

d. Step Four: Delineate Lot Lines. The landscape architect or qualified design team shall then delineate the lot lines according to *Subsection 6-8.8 (formerly 6-13.08) REDUCTION OF DIMENSIONAL REQUIREMENTS* below.

6-8.6: Procedures (Formerly 6-13.06 PROCEDURES)

1. Application: An application for a special permit for an OSRD, or for an amendment thereto, shall include, among other supporting information, an OSRD Preliminary Plan. The OSRD Preliminary Plan submittal shall consist of an OSRD Sketch Plan and a Conventional Subdivision Sketch Plan, as follows:

- a. OSRD Sketch Plan. The OSRD Sketch Plan shall be prepared by the approved qualified design team, and shall identify the:
 - Primary Conservation Areas,
 - Secondary Conservation Areas,
 - Potentially Developable Area
 - General features of the land,
 - Approximate configurations of the lots,
 - Open space, and
 - Roadways, and shall also include
 - Information listed in the Subdivision Rules and Regulations to the extent applicable.

The proposed development as identified on the Sketch Plan shall reflect and incorporate the Four-Step Design Process set forth in *Subsection 6-8.5 (formerly 6-13.05), DESIGN PROCESS* above.

b. Conventional Subdivision Sketch Plan. The Conventional Subdivision Sketch Plan shall depict the maximum number of lots as allowed in **6-8.7 (formerly 6-13.07)** below and Section 7 of the *Rules and Regulations Relative to Subdivision Control of the Town of Essex*.

2. Distribution for Review: Any application for an OSRD Special Permit or amendment thereto shall include fifteen (15) copies. Within five (5) business days of the filing of the completed application, copies of the application, including the accompanying OSRD Preliminary Plan and other documentation, will be distributed by the Planning Board to the:

- Board of Health
- Conservation Commission
- Open Space Committee
- Building Inspector
- Department of Public Works
- Police Chief
- Fire Chief

for their review.

3. Public Hearing: The Planning Board shall, in compliance with Massachusetts General Laws c. 40A, s. 9, hold a public hearing on the OSRD application for a special permit. Notice and the publication and giving of notice for such public hearing and the procedural requirements for such public hearings shall be those set forth in said M.G.L. c. 40A, s. 9, as amended which is incorporated herein by reference. Similar to all applications to the Planning Board, all fees incurred for said application and notices and postage are the responsibility of the applicant. Also, similar to the application process for a Preliminary Plan and a Definitive Plan, Public Hearings must be held, all expenses will be the responsibility of the applicant and the procedure for the necessary escrow and bond funds shall be completed.

4. Site Visit: Whether or not conducted during the pre-application stage, the Planning Board may conduct a site visit during the public hearing process. At the site visit, the Planning Board and/or its agents shall be accompanied by the applicant and/or his or her agents if requested by the applicant.

- a. The Planning Board may adopt fees for the employment of outside technical experts, at the applicants' expense, as reasonably necessary in connection with its review of the applicant's proposed plan(s) or technical reports in accordance with the provisions of Massachusetts General Laws c. 44, s. 53G.

5. Procedures for Submission and Approval of an OSRD Preliminary Plan. Procedures for Submission and Approval of an OSRD Preliminary Plan shall follow the rules and regulations as set forth by Section 5.01 of the *Rules and Regulations Relative to Subdivision Control*.

6. Procedures for Submission and Approval of an OSRD Definitive Plan. Procedures for Submission and Approval of an OSRD Definitive Plan shall follow the rules and regulations as set forth by Sections 6.01 to 6.06 of the *Rules and Regulations Relative to Subdivision Control*. The procedural and substantive special permit requirements set forth in Section **6-8 (formerly 6-13)** of the Zoning Bylaw shall be in addition to any other requirements of the *Rules and Regulations Relative to Subdivision Control* and any other provisions of the Zoning Bylaw for the Town of Essex.

7. Relationship Between the OSRD Preliminary Plan and OSRD Definitive Plan. All OSRD special permits issued by the Planning Board shall, by virtue of this provision, include a condition that any OSRD Definitive Plan shall substantially comply with the approved OSRD Preliminary Plan and special permit conditions.

- a. An OSRD Definitive Plan shall be considered not to substantially comply with the OSRD Preliminary Plan if the Planning Board determines that any of the following changes exist:

- (1) An increase in the number of building lots or dwelling units;
- (2) A significant decrease in the open space acreage or configuration;

- (3) A significant change in the lot or road layout or unit placement;
 - (4) A significant change in the general development pattern, which is contrary to or inconsistent with the primary purposes of an OSRD, as specified in *Subsection 6-13.01 PURPOSE AND INTENT* above;
 - (5) A significant change to the storm water management facilities; and/or,
 - (6) A significant change in the wastewater management systems.
 - (7) Other significant changes in landscape conservation, or development design specifically identified by reviewing parties, including members of the public.
- b. If the Planning Board determines that the OSRD Definitive Plan does not substantially comply with the OSRD Preliminary Plan special permit conditions, the Board may disapprove the OSRD Definitive Plan.
 - c. The relationship between an OSRD Preliminary Plan and OSRD Definitive Plan shall be subject to the terms and conditions set forth in Section 5.02 of the *Rules and Regulations Relative to Subdivision Control*

6-8.7: Conventional Subdivision Yield Plan - Basic Maximum Number of Lots

(Formerly 6-13.07. CONVENTIONAL SUBDIVISION YIELD PLAN - BASIC MAXIMUM NUMBER OF LOTS)

Determination of Yield: The basic maximum number of lots, as described herein, shall be derived from and delineated on a Conventional Subdivision Sketch Plan (hereinafter referred to as “Basic Maximum Number”). For the determination of yield, the Conventional Subdivision Sketch Plan shall show the maximum number of lots that could be placed upon the site under a conventional subdivision process according to the Subdivision Rules and Regulations and all applicable requirements of the Essex Zoning Bylaw. The proponent shall have the burden of proof with regard to the Basic Maximum Number of lots. The Planning Board may request further information related to the proposed yield, including but not limited to an approved wetland and resource delineation. The determination of yield shall set the amount of lots submitted in the Conventional Subdivision Sketch Plan.

6-8.8: Reduction of Dimensional Requirements

(Formerly 6-13.08. REDUCTION OF DIMENSIONAL REQUIREMENTS)

1. The Planning Board may allow applicants to modify lot size, shape, and other dimensional requirements set forth in Section 6-5.2 (formerly 6-3.2) for lots within an OSRD, subject to the following limitations:

a. Lots having reduced area or frontage shall not have frontage on a street other than a street created by the OSRD. However, the Planning Board may waive this limitation to the extent it determines that such waivers will substantially further the purposes and intent of Open Space Residential Development.

b. At least 50% of the minimum front yard, side yard, and rear yard setbacks shown in Section 6-5.2 (formerly 6-3.2.1), “Table of Dimensional Requirements,” shall be maintained for lots in the OSRD except for lots bordering lands outside the development, in which case each required setback shall be the same as in Section 6-5.2 (formerly 6-3.2.1).

c. Minimum lot size shall be ten thousand (10,000) square feet for lots in the OSRD; provided, however, that the Planning Board may reduce this minimum lot size to the extent it determines that such reduction(s) will substantially further the purposes and intent of Open Space Residential Development.

d. The requirement in Section **6-5.2 (formerly 6-3.2.1)** for maximum lot coverage shall not apply to lots in the OSRD. Instead, the percentage of the lot area covered by impervious surface (“impervious surface coverage”) on each individual lot shall be no greater than 25%; provided, however, that the Planning Board may increase this maximum impervious surface coverage to the extent it determines that the overall design of the development protects an amount of open space and important resources that will substantially further the purposes and intent of Open Space Residential Development.

e. The minimums set forth in Section **6-5.2 (formerly 6-3.2.1)** for lot frontage, lot width, and lot depth may be reduced by up to 20% for a lot in the OSRD. The maximum building height set forth in Section **6-5.2 (formerly 6-3.2.1)** shall apply to lots in the OSRD.

f. Modifications to the dimensional requirements of Section **6-5.2 (formerly 6-3.2.1)** that are allowed by the Planning Board for lots in the OSRD are deemed to be conditions of the OSRD Special Permit. Any subsequent requests by the applicant or by future owners of building lots within the OSRD for further modifications to the dimensional requirements shall be considered amendments to the OSRD Special Permit and must receive approval by the Planning Board.

6-8.9: Open Space Requirements **(Formerly 6-13.09 OPEN SPACE REQUIREMENTS)**

1. A minimum of fifty percent (50%) of the tract shown on the development plan shall be open space delineated as a separate lot or lots, and must be preserved as such in perpetuity in accordance with this Subsection.
2. At least fifty percent (50%) of the total uplands on the site shall be included in the open space set aside. Uplands shall not include wetland zones or Riverfront Area as defined by the Massachusetts Wetlands Protection Act, M.G.L. c. 131, s. 40, and regulations adopted there under, as amended. The Planning Board may allow a reduction of this upland ratio if it furthers the purposes and intent of Open Space Residential Development.
3. The open space shall be connected. At the discretion of the Planning Board, open space may still be considered connected if it is separated by a trail or narrow roadway. Strips and patches of land proposed as open space will not be accepted. Separate open space areas may be considered by the Planning Board to the extent it determines that the proposed open space furthers the purpose of Open Space Residential Development.
4. The open space shall be suitable for and protected and maintained for wildlife habitat, conservation, historic preservation (landscapes and/or structures), outdoor education, passive or active recreation, park purposes, agriculture, horticulture, forestry, and/or a combination of these uses. The Planning Board may permit up to five percent (5%) of the open space to be impervious surface. Parking areas and areas used for vehicular access or egress shall not constitute open space; however a parking area for use by the open space parcel (for trails access or for parking at a farmstand) should be allowed to be counted as part of the open space, as long as it does not exceed the 5% impervious surface limit.
5. At the discretion of the Planning Board, subsurface wastewater and storm water management systems serving the OSRD may be located within the open space. Surface systems, such as retention and detention ponds, shall not qualify towards the minimum open space required unless these systems are determined by the Planning Board to be “soft” (non-structural), natural-like, low-impact storm water management systems that do not create impervious surfaces, that enable infiltration and that are otherwise compatible with the contemplated uses of adjacent open space.
6. The open space shall either be subject to a recorded conservation restriction enforceable by the Town providing that such land shall be perpetually kept in an open state, preserved exclusively for the purposes set forth herein, and maintained in a manner which will ensure its suitability for its intended purposes, or, with the Planning Board's approval, shall be conveyed to one or more of the following:
 - a. A nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above; and/or
 - b. A corporation or trust owned jointly or in common by the owners of lots within the OSRD. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust that shall provide for mandatory assessments for maintenance expenses to each lot. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted

to the Planning Board for approval as part of the OSRD special permit process, and shall thereafter be recorded.

In the case where the open space is not subject to a recorded conservation restriction, a restriction enforceable by the Town shall be recorded providing that such land shall be kept in an open state and preserved exclusively for the purpose set forth herein. No building permits shall be issued until this process is complete.

6-8.10: Decision of The Planning Board
(Formerly 6-13.10. DECISION OF THE PLANNING BOARD)

1. The Planning Board may grant a special permit for an OSRD if it determines that the proposed OSRD has less detrimental impact on the tract and advances further the interests of the community than a conventional development proposed for the tract, after considering the following factors. Not all the following factors have to be met for the Planning Board to approve the proposed OSRD:

- a. Whether the OSRD achieves greater flexibility and creativity in the design of residential developments than a conventional plan;
- b. Whether the OSRD promotes permanent preservation of open space, agricultural land, woodland, wildlife and rare species habitat, other natural resources and features, including aquifers, water bodies, and wetlands, and historical and archeological resources in a manner that is consistent with all current plans adopted by the Town of Essex, including such plans as the Town of Essex Community Development Plan, Town of Essex Watershed Protection Plan and Town of Essex Open Space and Recreation Plan;
- c. Whether the OSRD promotes a less sprawling, less land consumptive and more efficient and compact form of development that disturbs less open land and natural materials and conforms to existing topography and natural features better than a conventional subdivision;
- d. Whether the OSRD reduces the total amount of disturbance on the site as compared to a conventional subdivision;
- e. Whether the OSRD furthers the goals and policies of the Town of Essex Community Development Plan, Town of Essex Watershed Protection Plan, and Town of Essex Open Space and Recreation Plan as amended from time to time;
- f. Whether the OSRD facilitates the construction and maintenance of housing, streets, utilities, and public services in a more economical and efficient manner than a conventional subdivision plan;
- g. Whether the OSRD Special Permit Plan and other supporting documentation complies with all provisions of this Section;
- h. Whether the proposed construction of housing, landscape and streetscape is in harmony with the character of the Town of Essex;
- i. Whether the OSRD promotes affordable housing; and,
- j. Whether the OSRD promotes a more diversified housing stock.

6-8.11: Increases in Permissible Density
(Formerly 6-13.11 INCREASES IN PERMISSIBLE DENSITY)

1. The Planning Board may award a density bonus for an OSRD to increase the number of lots beyond the Basic Maximum Number as determined by the Conventional Subdivision Yield Plan. The density bonus for the OSRD shall not, in the aggregate, exceed twenty percent (20%) of the Basic Maximum Number. Computations shall be

rounded down. Any additional lot allowed as a density bonus shall conform to all dimensional requirements of this Section, and the OSRD shall remain subject to the open space requirements set forth in Section **6-8.9 (formerly 6-13.09)**. Such a density bonus may be awarded in the following circumstances and only if the Planning Board determines that the proposed development is in substantial conformance with the purposes and intents of this by-law:

- a. For every lot on which each dwelling unit thereon is restricted in perpetuity or for the longest period allowed by law to sale for low and moderate income housing as defined by General Laws chapter 40B Section 20, such that the unit(s) shall qualify as low or moderate income housing under the Department of Housing and Community Development Subsidized Housing Inventory (“affordable lot”), the Planning Board may award a one lot density bonus; provided, however, that the number of units to be constructed on the additional lot shall not exceed the number of units on the affordable lot .
- b. For each set aside of an increased ten percent (10%) of open space over the minimum fifty percent (50%) open space set aside, the Planning Board may award a bonus of ten percent (10%) of the Basic Maximum Number of lots.

6-8.12: Adoption of Rules and Regulations

(Formerly 6-13.12. ADOPTION OF RULES AND REGULATIONS)

The Planning Board may after notice and hearing adopt rules and regulations to implement the provisions of this Section, including but not limited to specifying the content and number of required plans, application procedures, filing and review fees, design criteria, development standards, and other general requirements consistent with this Section.

Section 6-9: Nonconforming Uses and Structures

(Formerly 6-4 Non-Conforming Uses.)

6-9.1: Continuation of Existing Uses and Structures (reserved for future use)

(New section and title)

6-9.2: Conforming Use

(Formerly 6-4.1 Conforming Use.)

No building or structure shall be erected, altered, enlarged, moved or used, and no land shall be used except in conformity to the provisions of this chapter. The provisions of this chapter shall apply equally to all uses of land and to all buildings and structures.

6-9.3: Existing Non-Conforming Uses

(Formerly 6-4.2 Existing Non-Conforming Uses.)

Any building or structure or use of a building, structure, a building with its adjuncts, or premises existing on or immediately previous to June 7, 1972, even if not in conformity with its provisions, may be continued, maintained, and rebuilt if damaged or destroyed, provided that such rebuilding takes place within two years of such damage or destruction. If authorized by the planning board said structure or uses may be extended or altered, provided that no such extension or alteration shall be permitted unless there is a finding by the planning board that the proposed extension or alteration shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. Extension of the time limit for rebuilding as herein provided may be granted upon proper application to the planning board where in the opinion of the board a delay in the reconstruction is caused by circumstances beyond the control of the owner.

A nonconforming use shall be deemed to be extended throughout any part of a building which were manifestly arranged or designed for such use on June 7, 1972, but no such use shall be extended to occupy any land outside such building without a permit from the planning board.

6-9.4: Preexisting Non-Conforming Uses

(Formerly 6-4.3 Preexisting Non-Conforming Uses.)

Any preexisting nonconforming use may be continued, maintained, and rebuilt if damaged or destroyed provided that such rebuilding takes place within two years of such damage or destruction. If authorized by the Planning Board said structure or uses may be extended or altered, provided that no such extension or alteration shall be permitted unless there is a finding by the Planning Board that the proposed extension or alteration shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. Alteration, reconstruction, extension or structural change to a single family or two-family residential structure which doesn't increase the nonconforming nature of said structure shall be permitted as a matter of right and not subject to said finding by the Planning Board. A preexisting nonconforming use shall be deemed to be extended throughout any part of a building which was manifestly arranged or designed for such use at the time said use was rendered nonconforming by changes in ordinances or bylaws. Extension of the time limit for rebuilding as herein provided may be granted upon prior application to the Planning Board where in the opinion of the board a delay in the reconstruction is caused by circumstances beyond the control of the owner.

6-9.5: Abandonment

(Formerly 6-4.4 Abandonment.)

A nonconforming use which has been abandoned or discontinued for a period of two consecutive years shall not be re-established, and any future use shall conform with all applicable provisions of this zoning bylaw, except in the case of land used for agriculture.

Section 6-10: Administration and Regulations

(Formerly 6-8 Administration)

6-10.1: Enforcement, Violations & Penalties

(New section and title)

6-10.1.1: Enforcement

(Formerly 6-8.1 Enforcement)

The zoning bylaws shall be enforced by the Building Inspector.

6-10.1.2: Violations

(Formerly 6-8.6 Violations)

If the Building Inspector is of the opinion that this chapter is being violated, he shall take immediate action to enforce its provisions by such means as he deems appropriate.

6-10.1.3: Penalties

(Formerly 6-8.7 Penalty)

Any person who shall violate any provision of this chapter shall be subject to a fine not to exceed \$20.00 for each day such violation exists.

6-10.2: Planning Board (reserved for future use)

(New section and title)

6-10.3: Board of Appeals
(Formerly 6-9 Board of Appeals)

6-10.3.1: Membership
(Formerly 6-9.1 Membership)

The Board of Appeals shall consist of three members and two alternates who shall be appointed by the board of selectmen as provided in Chapter 40A of Mass. General Laws. Each member and each alternate shall have been a resident of the town for at least five consecutive years prior to his/her appointment.

Appeals Board members and alternates shall be appointed prior to February 1 of each year.

The term of office for members shall be three years. A member may be appointed to succeed himself, but may serve no more than two consecutive terms. A partial term shall not be counted as a term.

The term of office for alternates shall be two years. Alternates may be appointed to succeed himself without limit. An alternate term shall not be counted as a member term.

6-10.3.2: Organization
(Formerly 6-9.2 Organization)

The board shall annually elect a chairman and vice-chairman from its membership. The chairman shall preside at all meetings. The board shall appoint a secretary and shall adopt rules to govern its proceedings in accordance with this chapter and the provisions of Chapter 40A of the General Laws.

6-10.3.3: Powers and Duties
(Formerly 6-9.3 Powers and Duties)

The board of appeals shall have the following powers and duties;

6-10.3.3.1: Administrative Review
(Formerly 6-9.3.1 Administrative Review)

To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the planning board or the building inspector or other administrative official in violation of the provisions of this chapter or of the provisions of Chapter 40A of the Massachusetts General Laws.

6-10.3.3.2: Variances
(Formerly 6-9.3.2 Variances)

To authorize upon appeal in specific cases a variance from the provisions of this chapter. Such variance may be granted only in accordance with the provisions of Chapter 40A, Section 15, Massachusetts General Laws, after application, notice and hearing as required by state statute. In granting a variance the board shall make findings that the reasons set forth in the application therefore comply with the statute permitting variance.

In granting by unanimous vote any variance, the board of appeals may prescribe appropriate conditions and safeguards in conformity with the provisions of this chapter regarding the location, character, fencing, screening, landscaping or other features as it may deem advisable in furtherance of the intent and purpose of this chapter and may require posting of bonds to insure performance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

6-10.3.4: Authority of the Board of Appeals
(Formerly 6-9.4 Authority of the Board of Appeals)

The board of appeals may in conformity with the provisions of Chapter 40A of the General Laws, reverse or affirm, in whole or in part, or may modify any orders or decisions of any town officer and may make sure order

or decision as ought to be made, and to that end, shall have all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit.

6-10.3.5: Appeal Procedure

(Formerly 6-9.5 Appeal Procedure)

In all cases, a person aggrieved by any decision of the planning board or the building inspector shall commence his appeal within 30 days after receipt of a written decision of the planning board or building inspector. He shall file his appeal on the forms prescribed therefore by the board of appeal, and shall specifically set forth his grounds for appeal in the application.

6-10.3.6: Public Hearing and Fees

(Formerly 6-9.6 Public Hearing and Fees)

6-10.3.6.1: Hearing

(Formerly 6-9.6.1 Hearing)

Before taking action on an appeal, the board of appeals shall hold a public hearing, after publication of notice of such hearing once in each of the two successive weeks, the last publication to be at least 14 days prior to the date of hearing in a newspaper of local circulation.

6-10.3.6.2: Fees

(Formerly 6-9.6.2 Costs)

All costs incurred by the board of appeals shall be paid by the applicant prior to issuing a decision; the board of appeals shall notify by mail the owners of all abutting property and of other property considered by the board to be reasonably affected, of the nature of the appeal and of the time and place of the hearing thereon.

6-10.3.7: Failure to Notify shall not Invalidate Action

(Formerly 6-9.7 Failure to Notify shall not Invalidate Action)

Failure of any property owners to receive a notice of public hearing shall not necessitate another hearing or invalidate any action of the board of appeals, except in cases of manifest error, negligence or fraud. For the purposes of this section, the owners of property shall be considered to be parties listed by the assessors of taxes for the town as those against whom taxes are assessed.

6-10.3.8: Notification of Enforcing Officer and Planning Board

(Formerly 6-9.8 Notification of Enforcing Officer and Planning Board.)

Following the filing of an appeal, the board of appeals shall forthwith notify the building inspector and the planning board, and the appeal shall be in order for hearing at the next meeting of the board of appeals following by at least 21 days the mailing of notices. The planning board, if it deems necessary, may be represented at the hearing.

6-10.3.9: Repeated Applications for Variance

(Formerly 6-9.9 Repeated Applications for Variance.)

If the board of appeals shall deny an application for variance, reconsideration thereof may be had in accordance with the provisions of Chapter 40A, Section 16, Massachusetts General Laws.

6-10.3.10: Notification of Variance

(Formerly 6-9.10 Notification of Variance.)

The board of appeals shall give the planning board, the board of selectmen and the building inspector written notice of its action with respect to all application for variance.

6-10.4: Building Permits
(Formerly 6-8.2 Building Permit)

6-10.4.1: Requirements
(Formerly 6-8.2.1. Requirements)

No building or structure shall be erected, added to, moved, or structurally altered without a permit in writing from the building inspector. No building permit shall be issued until the planning board shall have approved the site plans showing the buildings to be placed thereon and the proposed use there for, except in the case of a variance from the terms of this chapter by the board of appeals in accordance with the provisions of Chapter 40A, Massachusetts General Laws.

6-10.4.2: Applications for Building Permit
(Formerly 6-8.2.2. Application for Building Permit)

All applications for building permits shall be accompanied by two copies of a site plan drawn to a suitable scale and containing the following information:

1. Names and address of owner and applicant.
2. Date.
3. Graphic scale and north arrow.
4. The actual shape, size, height, and location of the lot to be built upon and its relation to abutting streets.
5. The actual shape, size, height, and location of any buildings to be erected, altered or removed.
6. The exact size and location of yard and buildings already existing.
7. Required off street parking and loading space, existing or proposed.
8. Location of any screening required by this chapter.
9. Every application shall be signed by the owner or lessee of the land.
10. Any other information which may be required by the planning board or the building inspector in order that they may determine whether the provisions of this chapter are being complied with.

6-10.4.3: Time Period
(Formerly 6-8.5 Time Period)

Construction or operation must commence within six months after a building permit is issued. If construction or operations has not begun within the time period required or if construction is not continuing towards completion in as continuous and expeditious a manner as is reasonable, after the required time period the construction or operations must conform to any amendment to the ordinances or bylaws.

6-10.5: Certificate of Occupancy
(Formerly 6-8.3 Certificate of Occupancy)

6-10.5.1: Requirements

(Formerly 6-8.3.1 Requirements)

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof created, erected, enlarged, converted, or wholly or partly altered or enlarged in its use or structure after June 7, 1972 until a certificate of occupancy shall have been issued by the Building Inspector and endorsed to the effect that the proposed use of the building or land conforms with the requirements of this chapter.

6-10.5.2: Temporary Certificate of Occupancy

(Formerly 6-8.3.2 Temporary Certificate of Occupancy)

Proper endorsement by the building inspector upon the original building permit may constitute a temporary certificate of occupancy for a period of six months during construction or alterations for partial occupancy of a building pending its completion provided that such endorsement may require such conditions and safeguards as will protect the safety of the occupants and the public.

6-10.6: Special Permit Regulations

(New section and title)

6-10.6.1: Special Permit Granting Authority

(Formerly 6-3.4.1 Special Permit Granting Authority)

The Planning Board shall act as the Special Permit Granting Authority.

6-10.6.2: Application Requirements

(Formerly 6-3.4.3 Application Requirements.)

Applications for special permits shall be filed with the planning board, and a copy of such application shall be filed by the applicant with the town clerk.

6-10.6.3: Time Limits

(Formerly 6-3.4.4 Time Limits.)

Construction or operations must commence within two years from the date that a special permit is issued. Included within the specified time period is the time required to pursue or await the determination of an appeal.

6-10.7: Site Plan Review

(Formerly 6-3.5 Site Plan Review)

6-10.7.1: Purpose

(Formerly 6-3.5.1 Purpose.)

The site plan review bylaw regulates the development of structures and sites permissible under present zoning. The review process considers the following site specific concerns and where necessary requires modification of development proposals to eliminate or minimize potential problems and nuisances. The principal areas of concern are:

- a. The convenience and safety of vehicular and pedestrian movement within the site adjacent areas and roads.
- b. The protection of historic and natural environmental features on the site under review, and in the adjacent areas.

- c. To ensure the placement and aesthetics of the proposed development is safe, healthy, and in keeping with the community and neighborhood character so as to avoid substantial detriment to the community and neighborhood.

6-10.7.2: Projects Requiring Site Plan Review

(Formerly 6-3.5.2 Projects Requiring Site Plan Review.)

No building permit for the new construction, reconstruction, or relocation of any building with a ground floor footprint of greater than or equal to 2,500 square feet, or any change of use for any building or site, shall be given except in conformity with a site plan approval by the Planning Board. Required approval includes proposals for commercial, industrial, office, multifamily dwelling, residential development, municipal, utility, and recreational purposes. Single Family Residential use is excluded from this requirement.

6-10.7.3: Criteria

(Formerly 6-3.5.3 Criteria.)

- a. Traffic: Convenience and safety of both vehicular and pedestrian movement within the site and in relationship to adjoining ways and properties.
- b. Parking: Provisions for the off-street loading and unloading of vehicles incidental to the normal operation of the establishment, adequate parking, adequate lighting, and internal traffic control, including any provisions for delivery, pick-up, and location of trash receptacle.
- c. Drainage Control: Adequacy of methods for surface waters and ground water control. This includes minimizing soil erosion both during and after construction. The applicant shall prove that the proposed project meets the minimum standards for state storm water management as specified in the most current edition of the Storm water Management Policy Handbook.
- d. Existing Vegetation: Minimizing the area over which existing vegetation is to be removed. Where tree removal is required, special attention shall be given to planting of replacement trees and undergrowth.
- e. Amenities: The applicant's efforts to integrate the proposed development into the existing landscape through design features such as vegetative buffers, roadside plantings, and the retention of open space and agricultural land.
- f. Town Character: The (building setbacks) area and location of parking, architectural compatibility, signage, and landscaping of the development, and how these features harmonize with the surrounding townscape, neighborhood, and the natural landscape, as far as practicable by minimizing any grade changes and vegetation and soil removal.
- g. Screening: Screening consisting of a solid fence, wall or evergreen planting, in all cases not less than six (6) feet in height or as specified by the Planning Board, shall be provided, erected and maintained wherever feasible to shield the business and light and industrial uses for any residential property.
- h. Hazardous Material: Plans for use, storage, or disposal of any hazardous materials as defined by MEP.
- i. Site and or project-specific criteria may be considered in addition to the items above.

6-10.8: Records

(Formerly 6-8.4 Records)

The Building Inspector shall maintain a public record of all such plans, permits and certificates of occupancy, and shall furnish copies of such permits and certificates to any person having a proprietary or tenancy interest in any building or premises affected. The planning board shall maintain and keep an up-to-date map and other records indicating the location in which plans have been approved in accordance with the provisions of this chapter and variances granted by the board of appeals in accordance with the provisions of this chapter.