

2023
Commonwealth of Massachusetts
Town of Essex
Warrant for Special Town Meeting

Essex, ss:

To either of the Constables of the Town of Essex;

GREETINGS:

In name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the inhabitants of the Town of Essex, qualified to vote as the laws direct, to meet in said Essex at the Essex Elementary School on Monday, November 13, 2023 at 7:30 p.m. and there and then to act on the following Articles, viz:

ARTICLE 1

To see if the Town will vote to amend Sections 2-1.1 and 2-1.1a of the Town of Essex General Bylaws relative to the start time for the annual and fall town meetings by deleting “7:30 p.m.” in each section and replacing it with “6:45 p.m.” in each section; or take any other action relating thereto.

ARTICLE 2

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money in an amount approximating the amount collected through payment of transfer station sticker fees during fiscal year 2023 and to transfer said sum to the Trash Contract – Disposal, Hauling, and/or Management line items in the fiscal year 2024 Transfer Station/Recycling Department Budget; or take any other action relating thereto.

ARTICLE 3

To see if the Town will vote to amend the fiscal year 2024 Transfer Station/Recycling Department Budget by increasing the Trash Contract – Disposal line item and to raise and appropriate, transfer from available funds, or borrow a sum of money to fund said increase for the purpose of purchasing pay-as-you throw supplies via the Town’s bag vendor and anything incidental or related thereto; or take any other action relating thereto.

ARTICLE 4

To see if the Town will vote to amend the Town of Essex Zoning Map and Bylaw to add a new General Use Zoning District (Section 6-3.3.4) including principal use regulations, regulations pertaining to parking and accessory buildings or structures, dimensional regulations, nonconforming lots and structures; and to amend Section 6.4: Use Regulations by deleting the text of Section 6-4.1, Permitted Uses, and adding a new Section 6-4.1.1: Table of Permitted Principal Uses (reserved for future use) and Section 6-4.1.2: Zoning District Permitted Uses, by adding references to the Use Regulations and Permitted Accessory Structures sections of each district in Section 6-3.3: Base Zoning Districts; and to amend Section 6.5: Dimensional and Density Regulations by deleting Section 6-5.2: Table of Dimensional and Density Regulations and adding references to the Dimensional and Density Regulations of each district in Section 6-3.3: Base Zoning Districts; or take any other action relating thereto. Deletions are shown in ~~striketrough~~ text and additions are shown in **bold** text:

Special Town Meeting known as Fall Town Meeting, November 13, 2023 – page 1 of 23

6-3.3.4: General Use Zoning District (GUD)

6-3.3.4.1: Description and Definitions

The General Use District (GUD) is characterized by single-family and two-family dwellings, including dwellings with home occupations, and small-scale multi-family dwellings, with considerable protected and/or private open spaces and wetlands. The district also includes areas of commercial and agricultural use, occasional institutional, civic, and light industrial uses, and minor utility facilities.

Applicable definitions are listed in Section 6-2.2: Definitions.

6-3.3.4.2: Purpose

The purpose of the General Use District is to provide a flexible base zoning district that allows residential, agricultural, commercial, and light industrial uses and provides other opportunities, through the Special Permit process, for other uses and developments.

6-3.3.4.3: Establishment

This section is applicable to all real property within the General Use District as shown on the Official Zoning Map of the Town of Essex. At the time of establishment of this district, it includes all land within the boundaries of the Town that are not in one of the districts established in Sections 6-3.3.1, 6-3.3.2, or 6-3.3.3.

6-3.3.4.4: Building Types (reserved for future use)

6-3.3.4.5: Use Regulations

The use of real property is subject to the provisions of Section 6-4: Use Regulations in this Bylaw. If the provisions of this section conflict with those of Section 6-4, the provisions of Section 6-4 apply.

- a. Use categories are permitted by right as specified on Table 1 – Table of Uses.**
- b. Use categories not identified on Table 1 – Table of Uses are prohibited.**
- c. All land and/or structure uses must comply with any use-specific standards as provided for that use in Section 6-2: Definitions.**
- d. Uses permitted by Special Permit require additional review in accordance with Section 6-4.3: Uses Requiring Special Permit and Section 6-10.6: Special Permit Regulations.**

6-3.3.4.5.1: Principal Uses

P = Allowed by Right L = Allowed Subject to Listed Standards SP = Special Permit by Planning Board Required N = Not Allowed			
Table 1 – Table of Uses			
Use Category	Use Type	GUD	References
RESIDENTIAL			
Household Living	Single Family	P	6-4.2.1
	Two-family	L	6-4.2.2
	Multi-family dwelling and/or apartment land use	SP	6-4.3.11
	Dwelling Units and Apartments (as a part of mixed-use)	N	–
	Three-family conversion	SP	6-4.3.10
COMMERCIAL			
Business		L	6-4.2.3
Lodging	Motel/Hotel	L	6-4.2.4
Marijuana Establishments		SP	6-4.3.13
INDUSTRIAL			
	Class A	L	6-4.2.5
	Class B	L	6-4.2.6
	Scientific Research and/or Development	SP	6-4.3.9
	Airport	SP	6-4.3.1
PUBLIC, INSTITUTIONAL, AND CIVIC			
Utilities & Services	Public utility installations	SP	6-4.3.4
	Radio, Telecommunications, Cellular and Television Facilities	SP	6-4.3.5
	Trucking terminals	SP	6-4.3.6
	Wind Energy Conversion Systems (WECS)	SP	6-4.3.12
Educational Facilities	Private schools	SP	6-4.3.3
Healthcare Facilities	Private Hospital	SP	6-4.3.7
	Nursing home	SP	6-4.3.8
Recreation, Parks, & Open Space	Recreational facilities for other than home use	SP	6-4.3.2
	Municipal: Park and Recreational, including but not limited to, parks, playgrounds, and associated parking areas	SP	6-4.3.2

P = Allowed by Right
L = Allowed Subject to Listed Standards
SP = Special Permit by Planning Board Required
N = Not Allowed

Table 1 – Table of Uses			
Use Category	Use Type	GUD	References
ACCESSORY USES			
	Storage	L	6-3.3.4.6
	Home Occupations	L	6-7.4
	Trailers	L	6-4.2.7

6-3.3.4.5.2: Parking Requirements

See Sections 6-4.2.1(b), 6-4.2.2(c), 6-4.2.5(a), 6-4.2.6(a) and Section 6-6.3: Off-Street Parking and Loading.

6-3.3.4.6: Permitted Accessory Structures and Uses

A. Accessory Buildings or Structures - Accessory structures or buildings are permitted as of right, subject to the following limitations for permitted land uses, per sections noted:

- 1. Single Family Residential Land Use (6-4.2.1(a))** – Accessory buildings may be used for any purpose other than human habitation.
- 2. Two-Family Residential Land Use (6-4.2.2(b))** – Accessory buildings may be used for any purpose other than human habitation, provided that they shall be located in rear and side yards only.
- 3. Business Land Use (6-4.2.3(a))** – All storage shall be in an enclosed building or screened from abutters' views.
- 4. Motel and Hotel Land Use (6-4.2.4(a))** – All storage shall be in an enclosed building or screened from abutters' views.
- 5. Industrial Land Use – Classes A and B (6-4.2.6(b) and 6-4.2.6(a))** – All storage and/or display shall be conducted in an enclosed building or screened from abutters' views and all accessory buildings or storage shall be located in rear and side yards only.

6-3.3.4.7: Dimensional and Density Regulations

Table 2 – Dimensional Requirements – Principal Buildings									
Use	Minimum Lot Area (square feet)	Minimum Lot Frontage (feet) [d]	Minimum Lot Width (feet)	Minimum Lot Depth (feet)	Minimum Yard (feet)			Maximum Building Height	Maximum Lot Coverage
					Front	Side	Rear		
Residential Single & Two Family	40,000 [a]	150	150	100	25	20	30	2½ stories 35 feet	25%
Residential Multi-Family	60,000 (3 units) 90,000 (4+ units) [c]	300	–	–	100	100	100	2½ stories 35 feet	50% [e]
Business	40,000 [a]	150	–	100	25	20	50	2½ stories 35 feet	25%
Motel and Hotel	90,000	200	–	–	100	50	100	2½ stories 35 feet	–
Industrial, Class A	90,000	300	–	–	100 [b]	100 [b]	100	35 feet	33%
Industrial, Class B	40,000 [a]	150	125	100	25 [b]	20 [b]	30	2½ stories 35 feet	25%

NOTES:

[a.] Lot area for land on street in existence on June 7, 1972, minimum 30,000 square feet.

[b.] 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.

[c.] Minimum land area per bedroom, 5,000 square feet. Maximum 8 bedrooms per building.

[d.] Reasonable capability for adequate access to principal building is required over frontage.

[e.] Maximum lot coverage for buildings and paved surfaces.

Table 3 – Dimensional Requirements – Accessory Buildings					
Use	Minimum Yard (feet)			Maximum Building Height	Minimum Distance between Buildings (feet)
	Front	Side	Rear		
Residential Single & Two Family	25	10	10	2½ stories 25 feet	–
Residential Multi-Family	100	–	50	1 story 15 feet	20
Business	25	–	–	–	–
Motel and Hotel	100	–	–	1 story 15 feet	20
Industrial, Class A	25	10	10	2½ stories 25 feet	–
Industrial, Class B	25	–	–	–	–

6-3.3.4.8: Nonconforming Lots and Structures

See Bylaw Section 6-9 – Nonconforming Uses

6-3.3.4.9: Additional Regulations (reserved for future use)

6-3.3.4.10: District Map (reserved for future use)

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.~~

6-4.1.1: Table of Principal Uses (Reserved for future use)

6-4.1.2: Use Regulations for Zoning Districts

For the Southern Conomo Point Zoning District see sections 6-3.3.1.5: Use Regulations and 6-3.3.1.6: Permitted Accessory Structures and Uses.

For the Central Conomo Point Zoning District see sections 6-3.3.2.5: Use Regulations and 6-3.3.2.6: Permitted Accessory Structures and Uses.

For the Essex Downtown Zoning District see sections 6-3.3.3.5: Use Regulations and 6-3.3.3.6: Permitted Accessory Structures and Uses.

For the General Use District see section 6-3.3.4.5: Use Regulations and 6-3.3.4.6: Permitted Accessory Structures.

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 e)	25 (Note e)
Minimum Side Yard	20	100	20	50	100 (Note e)	20 (Note e)
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.

(Reserved for future comprehensive table.)

For the Southern Conomo Point Zoning District see Section 6-3.3.1.7: Dimensional and Density Regulations.

For the Central Conomo Point Zoning District see section 6-3.3.2.7: Dimensional and Density Regulations.

For the Essex Downtown Zoning District see section 6-3.3.3.7: Dimensional and Density Regulations.

For the General Use District see section 6-3.3.4.7: Dimensional and Density Regulations.

; or take any other action relating thereto.

ARTICLE 5

To see if the Town will vote to amend the Town of Essex Zoning Bylaw, Section 6-10.7, Site Plan Review, by deleting references to old Bylaw Sections, and by revising Section: 6-10.7.2: Projects Requiring Site Plan Review by adding sections 6-10.7.2.1: Projects Continuing Established Use of any Building, Structure and/or Site and 6-10.7.2.2: Projects Changing Established Use of any Building, Structure or Site; and by revising Sections 6-10.7.3: Criteria; and by adding Section 6-10.7.4: Exemptions from Site Plan Review; and by adding Section 6-10.7.5: Site Plan Review Procedures; or take any other action relating thereto. Deletions are shown in ~~striketrough~~ text and additions are shown in **bold** text:

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:

Special Town Meeting known as Fall Town Meeting, November 13, 2023 – page 9 of 23

- 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.~~

6-10.7.2.1: Projects Continuing Established Use of any Building, Structure and/or Site:

As part of the required permitting process for new construction, remodeling or reconstruction, or relocation of any building, the Planning Board shall complete a Site Plan Review for the following types of projects, except as provided in 6-10.7.4:

- a. Any building(s) with an aggregate ground floor footprint of equal to or greater than 2500 square feet, including additions and/or alterations,**
- b. Any building to be used for commercial, industrial, office, residential development, municipal, utility and/or recreational purposes,**
- c. Single family and Two-family dwellings with an aggregate ground floor footprint of 4000 square feet or more, including additions and/or alterations,**
- d. Projects covered under Special Permit categories in Section 6-4.3 are required to have a Site Plan Review completed, in addition to any other requirements under 6-4.3.**
- e. Projects where more than 3 parking spots are created or added.**

6-10.7.2.2: Projects Changing Established Use of any Building, Structure and/or Site:

As part of the required permitting process for a Change of Use of any building, structure and/or lot, including any and all types of projects that involve a change of use in a district where multiple uses are permitted as of right, the Planning Board shall complete a Site Plan Review for a Change of Use and shall hold an advertised Public Hearing prior to the completion of the review.

The Planning Board shall consider the following criteria for completing the Site Plan Review, and shall document the Board's decisions in accordance with their Regulations.

- a) **Vehicular and Pedestrian Access and Egress:** ~~Traffic:~~ Convenience and safety of both vehicular and pedestrian movement within the site and in relationship to adjoining ways and properties.
- b) **Parking and Loading:** ~~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 **and any and all regulations established by the Essex Board of Public Works.**
- d) **Landscaping, Screening and Buffers:**
 - i) 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.
 - ii) 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.
 - iii) 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.
- e) **Lighting – Site lighting and exterior building lights shall be in keeping with the proposed project and the surrounding neighborhood, shall be downward-directed and shall minimize effects on adjacent properties, and shall be operational beyond business hours only when essential to safety and/or security.**
- f) **Neighborhood Character** ~~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) **Signage – see Bylaw section 6-6.5.**

h) Hazardous Material: Plans for use, storage, or disposal of any hazardous materials as ~~defined by~~ **MEP required by the Massachusetts Department of Environmental Protection (MassDEP) and any other local bylaws or ordinances.**

i) Water and Wastewater Systems

j) Site and or project-specific criteria may be considered in addition to the items above.

6-10.7.4: Exemptions from Site Plan Review

The following types of projects are not required to have a Site Plan Review completed by the Planning Board:

a. Single family and Two-family dwellings with an aggregate ground floor footprint of less than 4000 square, including additions and/or alterations.

6-10.7.5: Site Plan Review Procedures

6-10.7.5.1: Projects Continuing Established Use(s)

Planning Board Regulations regarding Site Plan Review procedures and submissions are promulgated outside of the Bylaw and are available from the Planning Board Office and/or online, on the Town website.

6-10.7.5.2: Projects Changing Established Use(s)

In addition to the requirements in 6-10.7.5.1, the Planning Board shall hold a public hearing for projects changing an established use(s) in accordance with MGL Chapter 40A, Section 11 regarding notice requirements for public hearings and parties in interest definitions. These responsibilities are also outlined in the Planning Board Regulations.

; or take any other action relating thereto.

ARTICLE 6

To see if the Town will vote to amend the Town of Essex Zoning Bylaw, Section 6-2.2: Definitions by adding the following definitions: ATTIC; BASEMENT; CERTIFICATE OF OCCUPANCY; HOTEL/MOTEL; IMPERVIOUS SURFACE COVERAGE; LOT AREA; LOT BUILDING COVERAGE; MIXED-USE; SPECIAL PERMIT; STORY, HALF; USE, MIXED-USE LOT; and USE, MIXED-USE STRUCTURE; and to see if the Town will vote to amend the Town of Essex Zoning Bylaw, Section 6-2.2, Definitions by amending the following definitions: ACCESSORY BUILDING; BUILDING AREA (and renamed BUILDABLE LOT AREA); FAMILY; HOME OCCUPATION; LOT; VARIANCE; and ZONING MAP; and to see if the Town will vote to amend the Town of Essex Zoning Bylaw, Section 6-2.2, Definitions by deleting the following term: USE, MIXED; or take any other action relating thereto. Deletions are shown in ~~striketrough~~ text and additions are shown in **bold** text:

6-2.2: Definitions

(Formerly 6-2.2 Definitions)

ACCESSORY BUILDING

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

A building with a use that is incidental and subordinate to the use of the principal building, which is physically separate from the principal building, and which is located on the same lot as the principal building or on an adjacent lot under the same ownership.

ATTIC

An unfinished, non-habitable space immediately below the roof of a building, typically used for storage and/or mechanical equipment.

BASEMENT

A portion of a building, partly below grade, which has more than one-half of its height, measured from floor to ceiling, below the exterior grade of the ground adjacent to the building.

~~BUILDING AREA~~ BUILDABLE LOT AREA

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

CERTIFICATE OF OCCUPANCY

A document issued by the Building Inspector at the completion of any construction work that certifies the structure's compliance with applicable codes and regulations and that attests that it is safe for use and/or occupancy.

FAMILY

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

Any number of persons living together as a single economic and/or housekeeping unit and ordinarily using a single cooking facility, including domestic help or medical assistants, but excluding tenants or boarders.

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.~~

Any commercial use of a dwelling unit by a resident thereof, provided that the commercial use is secondary to the use of the dwelling unit for residential purposes and that the commercial use does not change the residential character of the dwelling, and which is regulated under Bylaw section 6-7.4.

HOTEL/MOTEL

A building in which temporary lodging is offered for compensation, with or without associated amenities.

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).

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.~~

A registered or recorded parcel of land in identical ownership throughout, bound by streets, ways, or other lots, and used, or set aside and available for use, as the site of one or more buildings or other definite purpose.

Tidal marshlands and wetland, as defined by Chapter 131, Section 40 of the Massachusetts General Laws Wetlands Protection act as “bogs, coastal wetlands, freshwater wetlands, swamps, wet meadows, and marshes” shall be excluded. Delineation of wetlands and tidal marshes is required on all plans submitted in accordance with this Bylaw and any associated regulations and shall be drawn and certified by a professional engineer or a land surveyor.

LOT AREA

The horizontal area of the lot exclusive of any area in a street or recorded way open to public use. Land under any water body, freshwater or coastal wetland, shall not be included in the “lot area” required for zoning compliance (see “Lot” also).

LOT BUILDING COVERAGE

The percentage of a lot area that is covered by the area of all principal and accessory buildings or structures with roofs. (Example: 2000 square foot total roof area on a 30,000 square foot lot = 6.67% Lot Building Coverage.) (LO comment – added from SCPD & CCPD)

MIXED-USE

See Use, Mixed-Use Structure and Use, Mixed-Use Lot and 6.3.3.3.1 Mixed-Use in the Essex Downtown District.

MULTI-FAMILY DWELLING – See Dwelling, Multi-Family

SINGLE FAMILY DWELING – See Dwelling, Single Family

SPECIAL PERMIT

Special Town Meeting known as Fall Town Meeting, November 13, 2023 – page 14 of 23

Special Permits are required for certain uses not allowed by right, in accordance with Massachusetts General Laws, Chapter 40A, Section 9, and section 6-4.3 of this Bylaw and may be granted by the Planning Board, acting as the Special Permit Granting Authority.

STORY, HALF

A story which is under a sloping roof where not more than one-half of the floor area has a clear height of 7'-0" or more, including areas under dormers. The clear height is measure from the finished floor to the finished ceiling. The floor area is measured relative to the gross floor area of the interior of the story immediately below.

TWO-FAMILY DWELLING - See Dwelling, Two-family

~~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, MIXED-USE LOT

Two or more principal uses occupying the same lot, each of which is independent of the other and each of which meets all Lot Area requirements of this Bylaw for a single use.

USE, MIXED-USE STRUCTURE

Two or more principal uses occupying the same building or structure, each of which is independent of the other and each of which meets any and all applicable building use requirement of 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.~~

A departure from the requirements of this Bylaw, as authorized by the Zoning Board of Appeals in accordance with Massachusetts General Laws, Chapter 40A, Section 10:

Variances, which meet the following conditions:

- (1) the variance will not be contrary to the public interest, and**
- (2) the variance is necessary because of existing conditions unique to the property, which have not been created by the applicant, and**
- (3) where a literal enforcement of this chapter would result in unnecessary and undue hardship for the property owner.**

ZONING MAP

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

A map of the town showing established Zoning Districts is on file in the Selectmen's Office.

; or take any other action relating thereto.

ARTICLE 7

To see if the Town will vote to amend the Town of Essex Zoning Bylaws by revising Section 6-7.6.1.2: Temporary Moratorium on Business and Industrial Conversions, which reads:

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.

by changing the date of its expiration from January 1, 2024 to "January 1, 2025, or until the Planning Board votes to lift the moratorium, whichever occurs sooner. Any vote by the Planning Board to lift the moratorium shall be after a public hearing with notice published in accordance with Massachusetts General Laws, Chapter 40A, Section 5." ; or take any other action relating thereto.

ARTICLE 8

To see if the Town will vote to authorize the Board of Selectmen to acquire by gift, purchase, eminent domain, or otherwise, for general municipal purposes, which purposes may include public roads, wetland replication, drainage, slopes, grading, erosion control, and other related uses, all associated with the Apple Street Roadbed Elevation and Culvert Replacement Project, the fee simple or other interests, such as easements, in certain real property, located at 128, 129, 131, and 135 Apple Street, 1 Andrews Street, and 0 Southern Avenue being shown as Assessors' Map 149, Lots 20, 17, 16, 15, 14, and 21, respectively, and as described in the deeds recorded in the Southern Essex District Registry of Deeds as follows:

128 Apple Street	Map 149, Lot 20	Deed Book 35366, Page 223 Plan Book 189, Plan 87
129 Apple Street	Map 149, Lot 17	Deed Book 38172, Page 305 Plan Book 307, Plan 58 Lot 2
131 Apple Street	Map 149, Lot 16	Deed Book 35177, Page 434 Plan Book 307, Plan 58 Lot 3
135 Apple Street	Map 149, Lot 15	Deed Book 8636, Page 501 Deed Book 8223, Page 201 Plan Book 92, Plan 65
1 Andrews Street	Map 149, Lot 14	Deed Book 31563, Page 65 Plan Book 335, Plan 42 Parcel G
0 Southern Avenue	Map 149, Lot 21	Deed Book 30190, Page 558 Plan Book 335, Plan 42 Parcel F,

said property interests to be acquired shown more particularly on plans entitled "Essex, MA Apple Street Improvements Property Easement Plan," consisting of 6 sheets, said plans on file with the Town Clerk, as said plans may be amended; and to raise and appropriate, transfer from available funds, or borrow a sum of money for such acquisitions; and further, to authorize the Selectmen to petition the Legislature for special legislation that may be required to comply with the requirements of Article 97 of the Amendments to the Massachusetts Constitution or any other applicable law and/or for any other purpose related to the project, and to execute any and all instruments necessary to effectuate the purposes of this vote; or take any other action relating thereto.

ARTICLE 9

To see if the Town will vote to accept the provisions of Section 3D(a) of Chapter 64G of the General Laws allowing the Town to impose a community impact fee of not more than three percent (3%) of the total amount of rent upon each transfer of occupancy of a professionally managed short-term rental unit, which shall be assessed upon the transfer of 1 of 2 or more short-term rental units that are located in the same city or town, operated by the same operator and are not located within a single-family, two-family or three-family dwelling that includes the operator's primary residence, and which surcharge shall be in addition to other state and local excise taxes assessed upon the transfer of short-term rental units; or take any other action relating thereto.

Explanation: If this article is passed, a 3% community impact fee will automatically be assessed on certain short-term rental transactions in the Town of Essex. A short-term rental occurs when an Special Town Meeting known as Fall Town Meeting, November 13, 2023 – page 17 of 23

apartment, house, cottage or condominium or a portion thereof is rented out to a third-party for occupancy purposes, where the rental is for a period of not more than 31 consecutive calendar days. An example of a short-term rental is a rental arrangement made through Airbnb or similar services and does not include long-term leases or hotels, motels, lodging houses or bed and breakfasts. This 3% fee is collected by the Department of Revenue and is paid to the Town of Essex only on transactions involving professionally managed units, i.e. where a single owner or operator rents out more than one short-term rental in the Town in a building that does not include the operator's residence. The fee is in addition to the 5.7% tax that is retained by the State and the 6% local excise tax paid to the Town. Additional information about the short-term rental fee can be found at <https://www.mass.gov/info-details/room-occupancy-excise-tax>

ARTICLE 10

To see if the Town will vote to accept the provisions of Section 3D(b) of Chapter 64G of the General Laws allowing the Town to impose the community impact fee upon each transfer of occupancy of a short-term rental unit that is located within a two-family or three-family dwelling that includes the operator's primary residence, and which impact fee shall be at that same rate as the rate charged for professionally managed short-term rental units and shall be in addition to other state and local excises taxes upon the transfer of short-term rental units; or take any other action relating thereto.

Explanation: If passed, this article will apply the 3% community impact fee described above to all short-term rental units, even those that are not professionally managed. This article can only be approved if Article 13 is approved first.

ARTICLE 11

To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation allowing for the capping of property taxes for certain individuals based on means testing as follows; provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court, and authorizing the Board of Selectmen to approve any amendments which shall be within the scope of the general public objectives of the petition:

AN ACT AUTHORIZING THE TOWN OF ESSEX TO ESTABLISH A MEANS TESTED SENIOR CITIZEN PROPERTY TAX EXEMPTION

*Be it enacted by the Senate and House of Representatives in General Court assembled,
and by the authority of the same, as follows:*

SECTION 1. With respect to each qualifying parcel of real property classified as Class One, residential in the town of Essex as defined in section 2, there shall be an exemption from the property tax in an amount to be set annually by the board of assessors of the town of Essex as provided in section 3. The exemption shall be applied to the domicile of the taxpayer only. For the purposes of this act, "parcel" shall mean a unit of real property as defined by the board of assessors under the deed for the property and shall include a condominium unit. The exemption provided for herein shall be in addition to any other exemption allowed by the General Laws.

SECTION 2. The board of assessors may deny an application if they find the applicant has excessive assets that place the applicant outside the category of intended recipients of the *Special Town Meeting known as Fall Town Meeting, November 13, 2023* – page 18 of 23

exemption created by this act. Real property shall qualify for the exemption under this act if: (i) the qualifying real property is owned and occupied by a person whose prior year's income would make the person eligible for the circuit breaker income tax credit under subsection (k) of section 6 of chapter 62 of the General Laws, as may be amended from time-to-time; (ii) the qualifying real property is owned by a single applicant: age 65 or older at the close of the previous year or jointly by persons either of whom is age 65 or older at the close of the previous year, if the joint applicant is 60 years of age or older; (iii) the qualifying real property is owned and occupied by the applicant or joint applicants as their domicile; (iv) the applicant or at least 1 of the joint applicants has been domiciled and owned a home in the town of Essex for not less than 10 consecutive years before filing an application for the exemption; (v) the assessed value of the domicile is no greater than the prior year's maximum assessed value for qualification for the circuit breaker income tax credit under said subsection (k) of said section 6 of said chapter 62 as adjusted annually by the department of revenue; and (vi) the board of assessors has approved the application.

SECTION 3. The board of assessors shall annually set the exemption amount provided for in this act; provided, however, that the amount of the exemption shall be between 100 per cent and 150 per cent of the amount of the circuit breaker income tax credit under subsection (k) of section 6 of chapter 62 of the General Laws, as may be amended from time-to-time, for which the applicant qualified in the previous year as determined by the board of assessors. The total amount exempted by this act shall be allocated proportionally within the tax levy on all residential taxpayers.

SECTION 4. A person who seeks to qualify for the exemption under this act shall, before the deadline established by the board of assessors, file an application, on a form to be adopted by the board of assessors, with the supporting documentation of the applicant's income and assets as described in the application. The application shall be filed each year for which the applicant seeks the exemption.

SECTION 5. No exemption shall be granted under this act until the department of revenue certifies a residential tax rate for the applicable tax year where the total exemption amount is raised by a burden shift within the residential tax levy.

SECTION 6. This exemption provided for in this act shall expire after 3 years of implementation of the exemption; provided, however, that the expiration date may be extended by vote at an annual or special town meeting.

SECTION 7. This act shall take effect upon its passage.

; or take any other action relating thereto.

ARTICLE 12

To see if the Town will vote to appropriate or reserve from the Community Preservation Fund, including fiscal year 2024 estimated annual revenues, a sum or sums of money for Community

Preservation projects or purposes, including, acquisition, creation and preservation of open space; acquisition, creation, preservation, rehabilitation, and restoration of land for recreational use; acquisition, preservation, rehabilitation, and restoration of historic resources; acquisition, creation, preservation and support of community housing (including a possible appropriation or transfer to the Essex Affordable Housing Trust); and for the rehabilitation and restoration of open space or community housing acquired under the Community Preservation Act; all as may be recommended by the Community Preservation Committee; and/or further, to raise and appropriate, transfer from available funds, or borrow, a sum of money from any other available sum, including but not limited to any stabilization fund, to augment any such Community Preservation Fund appropriations and/or reservations; or take any other action relating thereto.

ARTICLE 13

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money for the Town's apportioned share of two turf field replacement projects that have been completed by the Manchester Essex Regional School District; or take any other action relating thereto.

ARTICLE 14

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money for the Town's share or apportioned share of an operational and/or financial audit of the Manchester Essex Regional School District; or take any other action relating thereto.

ARTICLE 15

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum or sums of money to purchase or to lease-purchase, which may be for a period of more than three years, a fully-equipped new ladder truck for the Fire Department to replace the Fire Department's existing ladder truck; and further, to authorize the Board of Selectmen to enter into any necessary agreements to effectuate the purposes of this vote and to dispose of the old ladder truck by sale or trade; or take any other action relating thereto.

ARTICLE 16

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money for the construction of a fiber optic municipal area network extension between the Water Filtration Plant and the Centennial Grove and for the installation of wireless devices at the Centennial Grove to facilitate electronic communication and security monitoring at the Centennial Grove, including design, installation, purchase of equipment and supplies and anything incidental or related thereto; or take any other action relating thereto.

ARTICLE 17

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to improve, maintain, and beautify certain areas under the Town's ownership or control, including any necessary design services, or anything incidental thereto; or take any other action relating thereto.

ARTICLE 18

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to be used as a match to a State grant and/or State Legislative earmark, and/or private gift funds, and/or existing Town appropriations for the design and construction of decorative street lighting

along Main Street in downtown Essex, including the purchase and installation of new street lights and anything incidental or related thereto; or take any other action relating thereto.

ARTICLE 19

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to install or construct new cabinets, shelves, storage areas, or workstations within the Essex Senior Center; and anything incidental or related thereto; or take any other action relating thereto.

ARTICLE 20

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum or sums of money to be added to the Town's building capital improvements fund; and/or recreational capital improvements fund; and/or purchase of vehicles and major equipment that qualify as capital purchases fund; and/or Town Hall/Library repair and maintenance fund; and/or Conomo Point Repair, Maintenance, and Improvement fund; and/or municipal street lighting repair and maintenance fund; and/or Public Safety Building repair and maintenance fund; and/or dredging match fund; and/or Town celebrations fund; and/or school apportionment fund; and/or climate change fund; and/or downtown beautification fund; or take any other action relating thereto.

ARTICLE 21

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to replenish the Sewer Maintenance line item in the Sewer Enterprise fund budget for fiscal year 2024; or take any other action relating thereto.

ARTICLE 22

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to replenish the Water Maintenance line item in the Water Enterprise fund budget for fiscal year 2024; or take any other action relating thereto.

ARTICLE 23

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to design, engineer and construct repairs, upgrades, improvements and/or replacements to any aspect of the municipal sewer system, including but not limited to replacement of grinder pumps and related equipment, and anything incidental or related thereto; or take any other action relating thereto.

ARTICLE 24

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to replenish the Finance Committee's Reserve Fund for fiscal year 2024; or take any other action relating thereto.

ARTICLE 25

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to fund the Town's Other Post-Employment Benefits (OPEB) Trust Fund; or take any other action relating thereto.

ARTICLE 26

To see if the Town will vote to amend the fiscal year 2024 Wage & Salary Scale approved at the Annual Town Meeting of May 1, 2023 by adding two position titles, each with its own pay range, as follows:

Council on Aging Volunteer and Activity Coordinator	\$18 - \$20/hr.
Assistant Town Accountant	\$40 - \$45/hr.

; or take any other action relating thereto.

ARTICLE 27

To see if the Town will vote to amend any aspect of the fiscal year 2024 operating budgets (General Fund, Water Enterprise Fund, Sewer Enterprise Fund), and to raise and appropriate, transfer from available funds, or borrow a sum of money to effectuate any amendments that are made; or take any other action relating thereto.

ARTICLE 28

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money to be added to the Town's Stabilization Fund; or take any other action relating thereto.

ARTICLE 29

To see if the Town will vote to raise and appropriate, transfer from available funds, or borrow a sum of money for unpaid bills from past fiscal years; or take any other action relating thereto.

And you are hereby directed to serve this Warrant by posting attested copies; one at the Post Office, one at the Town Hall, and one at the Essex Elementary School, in said Essex, fourteen days at least before the time for holding said meeting.

Given under our hand this 23rd day of October, two thousand twenty-three.

Ruth R. Pereen, Chairman

Peter D. Phippen

Alva Ingaharro

BOARD OF SELECTMEN
TOWN OF ESSEX

Return of the Warrant:

Date: _____

I have served this warrant by posting attested copies thereof – one at the Post Office; one at the Town Hall; and, one at the Essex Elementary School in said Essex; at least fourteen days before the time for holding said meeting.

Constable