
Task Force on Residential Zoning

Questions & Answers on Proposed Zoning Amendments for the 2023 Annual Town Meeting

What is the Residential Zoning Task Force?

The *Residential Zoning Task Force* was created by Eastham's Select Board in December 2020 and charged with examining zoning issues related to homes and housing

Six Task Force members (*5 full-time and one part-time resident*) were appointed by the Select Board in April 2021. Members include current or past members of the Planning Board and Zoning Board of Appeals, and the Affordable Housing Trust. Task Force members possess a variety of professional experience including real-estate, finance, banking, community development and non-profit management.

The Task Force has met continually since the spring of 2021. Meetings were held both in person and virtually and all were open to the public.

What is Zoning?

"Zoning" refers to the by-laws adopted by cities and towns to regulate the use of land, buildings, and structures

How did the Task Force do its works?

The Task Force goals and objectives are driven by issues raised by the Select Board along with other standing Eastham boards/committees and citizens. We defer to existing Town planning documents, (Eastham's Strategic Plan, and its Housing Production Plan), for policy guidance.

Eastham's Strategic Plan (2020-2024) guided the 2023 Residential Zoning Task Force's work. The goals contained within the Strategic Plan focus on environmental protection and enhancing community character including an increase in the diversity of housing options.

Technical analysis was conducted to determine how the existing zoning regulations support (or don't support) the strategic vision of the community as approved by residents at Town Meeting.

The analysis process involved:

1. Documentation of problem; quantitative analysis of scope and nature of problem,
2. Examination of Eastham Bylaws and model Bylaws of other towns
3. Consultation with Town Counsel to determine legal parameters.

4. Dialog with other subject matter experts, i.e., Cape Cod Commission and other town planners regarding local experiences.
5. Analysis of impact of zoning changes on administration of processes and land use planning principals.

Data from Eastham's 2022 assessing records were used to evaluate current conditions and impact of proposed recommendations.

The Task Force was informed by Bylaws from the Cape Cod towns including, Provincetown, Wellfleet, Orleans, Harwich, Chatham, Brewster, Yarmouth, Barnstable, Bourne, Falmouth and Chilmark (MV). Also reviewed were Bylaws from towns including, Wellesley, Cohasset, Hull, Kingston, Boxborough, Brookline, Medway, Burlington, Concord, Tyngsboro, Lynnfield, Rockland, and Weston.

In addition, numerous reports and data from several public agencies were consulted including those from the Cape Cod Commission and the Massachusetts Historical Commission.

What did the Task Force Learn?

The Task Force found three conditions, which together pose a threat to Eastham's vision as stated in the Town's Strategic Plan: *"to preserve its rural, small-town community character—along with protection of its fragile environment."*

Rapid rising property values are fueling gentrification and displacement of longtime residents. Median sales price grew to \$758K in 2022 vs \$400K in 2013, a 90% increase. Also, 61% of all properties are now occupied by part-time residents and there is a dramatic loss of year-round rentals resulting in a zero-vacancy rate.

Eastham has no fixed limits guiding building mass or overall site coverage. Eastham's existing residential land use is very dense: 97% of lots are less than 30,000 sq. feet and 76% of all lots hold properties that have less than 2,500 sq ft of primary structure net living area. Given the small lot and home size, building mass and total site coverage can have significant impact on the environment and prevailing community character.

Residential development limits are in place in surrounding communities including, Wellfleet, Orleans, Harwich, Chatham, Brewster, Yarmouth, and Chilmark (MV). Limits were also reviewed in additional Massachusetts towns including, Wellesley, Cohasset, and Weston.

Ambiguity in current Bylaw language and lack of specific development limits, creates uncertainty among regulatory boards regarding their legal and policy authority to restrict development. The Task Force found that up until 2021, the Planning and ZBA boards were approving projects that ranged between 11.8% - 14.3% of site coverage. Beginning in 2021, these approvals grew 26% averaging 18% and rising upwards of 30%. The recommendations of the Task Force would return development to pre-2021 site coverage limits and clarify key definitions including neighborhood, prevailing character, buildable upland, among others.

What are the recommendations for zoning amendments to be voted on at Eastham's upcoming Town meeting?

Summary of Proposed Bylaw change:

Residential Development Standards

Recommend the Town vote to amend the Eastham Zoning Bylaw Section 7.4 Residential Lot Intensity by adding new language implementing development and site coverage standards. The proposed amendments include the following:

Add a new subsection 7.4.2.1 "Site Coverage Standards" which will create maximum site coverage and building gross floor area limits for residential development based on lot size. The site coverage limits will range between 11% - 20% with corresponding maximum gross floor areas ranging between 1,500 sf. and a maximum of 6,000 sf. The amendment also includes site coverage standards for pre-existing non-conforming structures, which may expand within the site coverage standards to the maximum site coverage percentage of the structure's existing gross floor area.

Planning Board/Zoning Board of Appeals Review Criteria

The proposed amendments include language on Landscaping Requirements, Prevailing Character of the Neighborhood, Height and Scale, Massing, Building Materials, Lighting, Architectural Techniques, Unique Physical Features and Sensitive Habitats, Environmental Impacts, Vehicular and Pedestrian safety.

Clear Cutting/Vegetation Management

The amendment would prohibit clear cutting of undeveloped property without a valid foundation or building permit.

The amendment would also prohibit the removal of "Legacy Trees" defined as a native, introduced, or naturalized tree which is 24 inches in Diameter at Breast Height (DBH) or larger, or multi stemmed trees with a combined DBH equal to or greater than 24 inches without approval by the Eastham Planning Board or its designee.

The amendment would also prohibit clear cutting of existing vegetation and/or legacy trees within a six-foot wide perimeter of a property line without approval by the Eastham Planning Board or its designee. The amendment would also require re-vegetation of clear-cut areas in the event that permitted site work is abandoned.

Definitions, Neighborhood & Neighborhood Character, and Buildable Upland

Several new definitions are proposed related to the proposed clear cutting/vegetation management bylaw these terms include Clear Cutting, Diameter at Breast Height (DBH), Hazardous Tree, Invasive Species, Legacy Tree, Replacement Tree, and Understory Vegetation.

The changes to the definitions will alter how site coverage is defined and how it is calculated, basing the calculation on buildable upland instead of total lot area. This change aligns the definition of site coverage for PB/ZBA consideration with the definition utilized by the Board of Health. The changes will also exempt basements from the site coverage calculation. These terms

include Buildable Upland, Lot Area Requirements, Site Coverage and Site Coverage Ratio and Neighborhood.

Pool & Recreation Court Setback requirements

Recommend the Town vote to amend the Eastham Zoning Bylaw to require a minimum 12-foot setback from side and rear property lines and a 30-foot setback from any street or way for in-ground and above ground pools, including surrounding deck/patio areas and paved courts used for recreational purposes. The amendment would also remove the setback requiring a minimum 8-foot separation between all buildings.

The amendment would include the following language: An area not less than six (6) feet in width measured from and perpendicular to the lot line around the perimeter of the lot shall be landscaped with grass, trees, shrubs, or other plants. Portions of this area may be paved for pedestrian and vehicular access but at no time shall the pedestrian and/or vehicular access be located within 6 feet of the side property lines.

Why should you support these recommended zoning changes?

There is a lack of alignment between Eastham’s strategic vision for the community and the protections provided in its current zoning Bylaws. Rising home prices are fueling gentrification and displacement and this trend is anticipated to grow. At the same time Eastham has no limits on the size and mass of residential property.

Additionally, Planning Board and Zoning Board of Appeals decision criteria is ambiguous and lacks specificity which impedes efforts to manage growth. As a result, market forces and a weak regulatory structure are driving a significant increase in home size.

With 60% of all residential property older than 40 years, redevelopment and upgrades are anticipated. The proposed development limits and associated changes in criteria and definitions offers guardrails for future development that, allow for growth, specific to lot size, that is consistent with size and scale projects allowed prior to 2021.

Eastham is at an inflection point regarding its future. The trends documented by the Task Force regarding larger properties is clear. However, this trend is in its early stage with only 5% of all the lots in town reflected in these larger scale type homes.

Consequently, with 95% of the town’s lots reflecting traditional massing, the limits proposed here can have a significant impact on the future development and preservation of Eastham’s small-town character---action now to manage this growth will have broad base impact.