



Planning and Zoning Commission  
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**TO:** Members, Zoning Regulation Revision Subcommittee  
**FROM:** Mary Young, Planning and Zoning Director  
**DATE:** December 27, 2021  
**RE:** **DRAFT Explanatory Statement to remove the restriction on Retail uses locating above the 1<sup>st</sup> Floor in §29, Business Center District (BCD) and §29A, Business Center District/Historic (BCD/H) in the Downtown**

### **Proposal**

The draft text amendment proposes to remove the prohibition on Retail uses locating above the 1<sup>st</sup> Floor in the Business Center District and Business Center District/Historic to help strengthen the economic vitality and vibrancy of the Downtown and provide greater diversity for Westport residents and other consumers from surrounding areas.

### **Background**

There were no restrictions limiting where commercial uses could locate in buildings in Downtown Westport until 20 years ago. Text Amendment #489 adopted in 1999 by the Planning and Zoning Commission restricted Retail uses, Restaurants, Groceries Stores, Taverns, and Cafes, from locating above the 1<sup>st</sup> floor and simultaneously exempted parking requirements for all existing Downtown floor area. Existing uses already above the 1<sup>st</sup> floor that would have otherwise been prohibited became grandfathered.

Approximately ten (10) years later, the Planning and Zoning Commission relaxed these restrictions and in 2010 adopted Text Amendment #613 permitting Restaurants, Grocery Stores, Taverns, and Cafes and Retail Food Establishments to locate above the 1<sup>st</sup> floor.

The reason for change was cited as implementing goals from the *2007 Plan of Conservation and Development* to encourage Downtown vitality at night, including:

*“The Plan of Conservation and Development strives to support, even facilitate, a dynamic, attractive, centrally focused yet expansive downtown area with varied points of interest for community life;”*  
Pg. 7-2

*“Enact regulatory changes along parts of Main Street that allow additional uses which promote evening activities and outdoor life.”* Pg. 7-9

*“The Plan also promotes an energetic Westport Center with businesses and other attractions that will draw shoppers and patrons alike to the downtown area.”* Pg. 7-10

Currently Retail use is the only non-residential use prohibited from locating above the 1<sup>st</sup> floor in the Downtown.

## Potential Benefits

The time has come to reconsider the prohibition on Retail uses locating above the 1<sup>st</sup> floor in the Business Center District and Business Center District/Historic. It takes efforts from both the public and private sectors to keep the Downtown economically vital now and in the future as the Downtown is no longer immune from regional and on-line competitive factors. Removing this remaining zoning obstacle by enabling the leasing of retail space may provide the necessary means for Downtown property owners to invest resources in their buildings, and make future contributions to a future Special Services District,<sup>1</sup> intended to provide for a Downtown public/private partnership to maintain and enhance the Downtown. Other benefits may include:

- Maintaining the current scale and appearance of Downtown by improving the function of existing commercial space;
- Counteracting the “supersizing” of Retail spaces by providing more boutique, experiential shopping destinations;
- Providing more flexible utilization of existing space to offset vacancies;
- Encouraging more locally owned retail options of a broader variety in smaller, less expensive 2<sup>nd</sup> and 3<sup>rd</sup> floor space; and
- Offering a more level playing field among Downtown properties seeking to attract tenants between those that are already grandfathered with Retail uses above the 1<sup>st</sup> floor, and those that are not.

## Prior Attempts to Remove the Retail Prohibition and Traffic Congestion Concerns

Prior attempts made by others to remove and/or relax the Retail prohibition above the 1<sup>st</sup> floor were denied by the Planning and Zoning Commission, (see Text Amendment #654 in 2012 submitted by Mel Barr and William Achilles, AIA, and Text Amendment #697 submitted by Attorney John Fallon in 2015). The reasons cited focused on potential traffic congestion that could arise. This rationale is better supported when Retail was among many uses prohibited above the 1<sup>st</sup> floor but does not resonate now with all other non-residential uses (some of which are more intense), currently allowed above the 1<sup>st</sup> floor.

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<sup>1</sup> The Downtown Plan Implementation Committee is in the process of drafting an ordinance to create a Special Services District to provide coordinated enhancement and maintenance of the downtown retail and general business environment through a merchant, Property Owner, lessee, resident and Town directed organization that is funded with special tax revenues from the District as well as Town contributions as may be appropriated by the Board of Finance and the Representative Town Meeting.

A review of potential traffic generation among allowable uses in the Downtown was performed by Frederic P. Clarke Associates, Inc. in 2015 in support of Text Amendment #697 that confirmed uses already permitted above the 1<sup>st</sup> floor create more traffic than Retail during certain peak periods. While this study is now dated, it may be worth considering its' conclusions to offset concerns there will be congestion in the streets if the amendment is adopted:

- *“Restaurant use generates the most traffic based upon the comparison of uses during peak weekday mornings, weekday afternoons, and Saturday mid-day combined;*
- *Office use generates the least traffic based upon the comparison of uses during peak weekday mornings, weekday afternoons, and Saturday mid-day combined;*
- *Restaurant use will result in a significant increase in traffic during peak weekday afternoons, and Saturday mid-day (not weekday mornings when a restaurant may be closed) in comparison to office use or medical use;*
- *Retail use will result in an insignificant increase in traffic during peak weekday afternoons, and Saturday mid-day, in comparison to restaurant use, and result in a reduction in traffic during peak weekday mornings in comparison to restaurant use;*
- *Retail use will result in a significant decrease in traffic during peak weekday mornings in comparison to medical use, a significant increase in traffic during peak Saturday mid-day in comparison to medical use, and will be comparable to medical use during peak weekday afternoons, in comparison to medical use; and*
- *Retail use will result in a significant increase in traffic during peak weekday afternoons, and Saturday mid-day, in comparison to office use, and result in a reduction in traffic during peak weekday mornings, in comparison to office use.”*

The Planning and Zoning Commission did not include any analysis of traffic generation when adopting Text Amendment #613 allowing Restaurants, Grocery Stores, Taverns, Cafes, and Retail Food Establishments above the 1<sup>st</sup> floor in Downtown. Instead, the Commission cited goals in the *2007 Plan of Conservation and Development* as the rationale for change. The Commission may again find the benefits associated with implementing goals in the *Plan of Conservation and Development* override other considerations.

### **Consistency with Current Policies**

#### 2015 Downtown Westport Master Plan

The Board of Selectmen adopted the *2015 Downtown Westport Master Plan* on 6/5/15.

The Executive Summary describes:

*“The purpose of the Downtown Westport Master Plan is to serve as a guide for future public and private investments in Downtown, and to ensure that Downtown Westport remains a vibrant and successful place, while reflecting the goals and aspirations of its residents...This Plan builds on the goals and objectives for Downtown in the Town’s 2007 Plan of Conservation and Development (POCD) and subsequent Downtown planning efforts. The final Downtown Westport Master Plan is intended to be adopted as an amendment to the POCD.”*

The draft text amendment may be considered consistent with the 2015 *Downtown Westport Master Plan* that supports and promotes providing a vibrant Downtown.

### 2017 Plan of Conservation and Development

The Text Amendment may be considered consistent with the following goals to maintain and strengthen the Downtown listed in Chapter 8, *Maintain Strong Centers with a Sense of Place*, and the economic growth goals listed in Chapter 9, *Guide Business and Economic Development*, in the 2017 *Plan of Conservation and Development*:

- *“The overall goal of the POCD is to maintain and enhance the “sense of place” and economic strength of Downtown Westport and Saugatuck Center.” Pg. 59*
- *“Maintain and Enhance Downtown.” Pg. 60*
- *“Manage Downtown’s ‘Private Realm.’” Pg. 64*
- *“The retail landscape is changing...Downtown must now also compete with online shopping. When people focus only on the cost of items or want a broader selection of a particular item or do not value the “experiential” aspect of retail offered by an area like Downtown Westport, they may gravitate towards an on-line source. This will pose challenges for “Downtown Westport and other places like it in the future. Westport should continue to enhance the ‘experiential’ retail environment it already has.*

*The key issue for Westport going forward will be to attract and retain a mix of uses (retail, restaurant, entertainment, recreation, etc. with a variety of scopes (national, regional, local) that will distinguish Westport from other areas and continue to make Downtown relevant and attractive. This may involve new types of uses that extend the activated period in the Downtown area.” Pg. 64*

- *“Encourage a comprehensive approach to business zoning to provide a clear picture of what is permitted where.” Pg. 74*
- *“Business and economic development in Westport enhances the community by increasing the grand list, providing jobs, making goods and service available, and enhancing the quality of life in the community.” Pg. 73*
- *“Guide business and economic development in Westport so that it is appropriate for the community, enhances community character, and minimizes any potential negative impacts while striving to increase the Grand List.” Pg. 73*

**DRAFT 12/27/21, Text Amendment #TBD to Remove Retail Prohibition above the 1<sup>st</sup> Floor**

Submitted: \_\_\_\_\_  
Received: \_\_\_\_\_  
Public Hearing: \_\_\_\_\_  
Adopted: \_\_\_\_\_  
Effective date: \_\_\_\_\_

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Deleted language is **[struck out and in brackets and highlighted]**. See Pages 1 and 6

**FROM §29, Business Center District (BCD)**

**29-1 Purpose**

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The purpose of the Business Center District is to allow general commercial and office development in designated areas located along arterial streets, limiting the intensity of development with parking provided by existing private lots, municipal lots, and on-street parking spaces. Automotive and similar drive-in type establishments shall be prohibited.

**29-2 Permitted Uses**

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In a Business Center District, no land, building or structure shall be used and no building shall be hereafter erected, altered, or added to, unless otherwise provided in these regulations, except for one (1) or more of the following uses:

**29-2.1 Principal Uses**

**29-2.1.1**

Any use permitted in the Residence AAA District, subject to the same approvals and conditions specified in §11-2, herein.

**29-2.1.2**

The following additional uses are permitted subject to Site Plan approval in accordance with §43, herein:

- a. Stores and shops where goods are sold and services are rendered primarily at retail, **[not above the first floor]**.
- b. Grocery stores, delicatessens; and Retail Food Establishments.
- c. Restaurants.
- d. Cafes and taverns.
- e. Business, professional, medical, healthcare professional, insurance, real estate and other offices.
- f. Banks
- g. Indoor theaters and assembly halls.
- h. Undertakers' establishments.
- i. Newspaper and job printing establishments.
- j. Off-street parking lots, decks and garages.

## **29-2.2 Special Permit Uses**

### **29-2.2.1**

Veterinary hospitals and animal clinics. There shall be no more than one outside exercise area for animal runs. The use of such area shall be limited to the period from 8:00 a.m. to 8:00 p.m.

### **29-2.2.2**

Golf driving ranges, paddle tennis courts, tennis courts, bowling alleys, skating rinks and other indoor and outdoor commercial recreation and entertainment uses, except game rooms.

### **29-2.2.3**

Commercial marinas, including accessory boat sales. No boat shall be occupied or used as a dwelling or dwelling unit.

### **29-2.2.4**

Inclusionary two-family and multi-family dwelling units, subject to the provisions of §32-12, herein. No existing dwelling unit above the first floor can be changed to a non-residential use.

### **29-2.2.5**

Commercial Wireless telecommunication service facilities, in conformance with §32-16.

### **29-2.2.6**

Bank drive-in within 500 feet of another bank drive-in as permitted by §29-2.3.3.

## **29-2.3 Accessory Uses**

### **29-2.3.1**

Uses customarily accessory to a permitted principal use including the manufacturing, processing or assembly of goods which is incidental to the conduct of a retail business conducted on the premises, subject to the provisions of §32-7, herein.

### **29-2.3.2**

Outdoor storage and display is permitted in accordance with §32-6, herein.

### **29-2.3.3**

Bank drive-in; except that no lot shall be used for a drive-in bank, if such lot is located within a radius of 500 feet from any other lot used for a bank drive-in, provided that the Planning & Zoning Commission may permit, upon a Special Permit Approval in accordance with §43 of the regulations, and so long as the Commission shall find that such use shall maintain or improve the traffic level of service and safety conditions in and around the site. The application must be accompanied by a traffic report supplied by the applicant.

### **29-2.3.4**

Wholesaling and warehousing.

### **29-2.3.5**

Outdoor Eating Areas for Restaurants, Cafes, Taverns and Retail Food Establishments subject to an annual Zoning Permit approval pursuant to §5 and §32-20 Outdoor Eating Areas.

### **29-2.3.6**

Game Rooms, subject to the following conditions:

- a. That a Zoning Permit be obtained from the Zoning Enforcement Officer.
- b. The number of coin operated amusement devices shall be limited to not more than three (3) per lot.
- c. The hours of operation of said game room shall not exceed those of the principle use. In no case shall the hours of operation extend beyond 11:00 p.m., except in establishments with liquor licenses for on premise consumption.

### **29-2.3.7**

One attached dwelling unit, provided the density does not exceed twenty (20) bedrooms per acre.

## **29-2.4 Prohibited Uses**

The following uses in addition to those listed in §32-7, herein, shall be prohibited: gasoline filling stations, automobile services establishments, motor vehicle repair garages, any lot, establishment, agency or dealer for new, rental or used motor vehicles, trailers, campers, boats, farm or other heavy equipment, hotels, motels, motor-inns, and drive-in restaurants.

## **29-3 Lot Area (See Definitions)**

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No minimum requirement, except that no lot shall have less than fifty (50) feet of frontage on at least one street.

## **29-4 Setbacks (See §31-4 through §31-8, also.)**

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No principal building, structure or use or accessory building or structure shall extend closer than thirty (30) feet from the East Post Road front lot lines or twenty (20) feet from any other front lot line. Side and rear setbacks shall be determined by the physical site characteristics and surrounding buildings, structures and uses; provided that any two adjacent buildings shall be setback at least 6 feet from the lot line or shall have a fire wall on the lot line.

### **29-4.1 Setback from the Front Lot Line within the Village District Overlay**

#### **29-4.1.1 New and Substantial Reconstruction within the Village District Overlay.**

Within the Village District Boundary (see §36 Village District Overlay), the main façade of a principle building, structure or use shall be no more than ten (10) feet from the front lot line. This setback requirement applies to all new construction and rehabilitation (as defined in §5-2) that alters the location of the main façade.

### **29-4.1.2 Maintenance and Minor Repairs**

Existing buildings that are within the Village District Boundary and do not conform with the requirement to be set back thirty (30) feet from the front lot line are considered conforming for the purposes of maintenance or minor repairs (as defined in §5-2 Specific Terms) to existing façade elements. No Site Plan review is required.

### **29-5 Height**

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No building or structure shall exceed two (2) stories and a height of either twenty-five (25) feet to the top of a flat roof or thirty (30) feet to the mid-point of a pitched roof.

### **29-6 Coverage (See Definitions)**

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The building coverage shall not exceed seventy-five (75%) of the area of the lot which lies within the BCD.

### **29-7 Building Area**

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No mandatory requirement.

### **29-8 Floor Area**

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#### **29-8.1 Maximum**

No one building or single retail establishment, restaurant, business or other commercial establishment shall exceed ten thousand (10,000) square feet of gross interior floor space.

#### **29-8.2 FAR (see definitions)**

No buildings or structures in any Single or Multiple Use Development, as defined herein, shall exceed a Floor Area Ratio (FAR) of 0.25 on the lot that lies within the BCD zone; except for two-family or multi-family dwellings. No buildings or structures in any Single or Multiple Use Development, which contains two-family or multi-family dwellings, shall exceed an FAR of 0.35, except that a new use or change of use above a first floor (street level) for two-family or multi-family dwellings in a Multiple Use Development shall not exceed an FAR of 1.0. In any Multiple Use Development containing two-family or multi-family dwellings, any incremental increase in floor area above the maximum allowable FAR for the non-residential uses shall be used for dwelling(s) units, only. No dwelling unit approved under these bonus provisions shall thereafter be changed to any non-residential use. Floor area used for parking and loading shall be excluded from the FAR.

### **29-9 Architectural Design**

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The architectural design, scale and mass of buildings and other structures, including, among other elements, the exterior building material, color, roof-line, and building elevations shall be of such character as to harmonize and be compatible with the older buildings in the BCD District so as to preserve and improve the appearance and beauty of the community. New construction or reconstruction shall adhere to the design purposes of this district, in whole or in part.

Roof-top mechanical equipment, other than solar energy panels, shall be concealed from all sides.



## **29-9A Village District Overlay Site Plan Review**

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The following actions require Site Plan Review for properties within a Village District Boundary (see §36 Village District Overlay):

### **29-9A.1 Exterior Alterations**

Site Plan Review under §36 Village District Overlay is required for exterior reconstruction, alteration, or addition to any existing structure or new construction that alters the exterior appearance from a building visible from public streets, public spaces, walkways, bikeways or from the Saugatuck River. The basis for Site Plan Review will be §36-2 Design Principles and Design Standards.

### **29-9A.2 New Construction or Substantial Reconstruction and Rehabilitation of Existing Facades within Public View**

Site Plan Review under §36 Village District Overlay is required for new construction or for substantial repairs or reconstruction to existing facades within view either from public streets, public spaces, walkways, bikeways or from the Saugatuck River. The basis for Site Plan Review will be §36-2 Design Principles and Design Standards.

### **29-9 A.3 Documentation of Existing Conditions**

Existing façade elements and setback from the front lot line must be documented to the satisfaction of the Planning and Zoning Commission with photographs, a survey or other relevant methods.

## **29-10 Signs**

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Signs shall be permitted in accordance with §33 of the Supplementary Regulations.

## **29-11 Parking and Loading**

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Parking and Loading shall be provided by existing private lots, municipal lots, and on-street spaces. Existing on-site parking as of 11/1/99 must be retained whether an existing building is destroyed, constructed, reconstructed or expanded. Additional floor area constructed after 11/1/99 will be required to provide additional on-site parking at one space per each one hundred-eighty (180) square feet. Any new construction of 10,000 square feet or more of gross interior floor area will be required to provide concealed parking as noted in §34-12 of the Supplementary Regulations.

## **29-12 Landscaping, Screening and Buffer Areas**

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Landscaping, screening and buffer areas shall be provided in accordance with §35 of the Supplementary Regulations.

## **29-13 First Floor Defined**

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For purposes of this section only, the "first floor" of the building is the building entrance opening to Main Street, Post Road, Bay Street and Taylor Place. There can be only one first floor per building.

## FROM §29A, Business Center District/Historic (BCD/H)

### 29A-1 Purpose

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The purpose of the Business Center District/Historic is to prevent the potential loss of significant exterior historic features and to allow the preservation of buildings with historic interest to the community as determined by the Historic District Commission on the Town of Westport updated Historic Resources Inventory (see “Historic Structures” as defined in §5). In so doing, it fosters community pride, conserves the architecture of historic commercial areas and enables people to learn about local history. This zone will offer the property owners of these historically significant properties zoning regulations that are somewhat more flexible than those that apply to properties in the BCD. Provisions are also included which allow for relocation of Historic Structures. If a historic building or a historic portion of a building, as described in the most recent Westport Historic Resources Inventory, is to be demolished, the property will be subject to the permitted uses, lot area, setbacks, height, coverage, floor area, architectural design, signs, parking and loading, and landscaping provisions in the Business Center District regulations, and §29A-14 shall not apply.

### 29A-2 Permitted Uses

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In a Business Center District/Historic, no land, building or structure shall be used and no building shall be hereafter erected, altered, or added to, unless otherwise provided in these regulations, except for one (1) or more of the following uses:

#### 29A-2.1 Principal Uses

##### 29A-2.1.1

Any use permitted in the Residence AAA District, specified in §11-2, herein subject to a special permit approval.

##### 29A-2.1.2

The following additional uses are permitted subject to Site Plan approval in accordance with §43, herein:

- a. Stores and shops where goods are sold and services are rendered primarily at retail, [not above the first floor].
- b. Grocery stores, delicatessens and Retail Food Establishments.
- c. Restaurants.
- d. Cafes and Taverns.
- e. Business, professional, medical, healthcare professional, insurance, real estate and other offices.
- f. Banks.
- g. Indoor theaters and assembly halls.
- h. Undertakers' establishments.
- i. Newspaper and job printing establishments.
- j. Off-street parking lots, decks and garages.

## **29A-2.2 Special Permit Uses**

### **29A-2.2.1**

Veterinary hospitals and animal clinics. There shall be no more than one outside exercise area for animal runs. The use of such area shall be limited to the period from 8:00 A.M. to 8:00 P.M.

### **29A-2.2.2**

Golf driving ranges, paddle tennis courts, tennis courts, bowling alleys, skating rinks and other indoor and outdoor commercial recreation and entertainment uses, except game rooms.

### **29A-2.2.3**

Commercial marinas, including accessory boat sales. No boat shall be occupied or used as a dwelling or dwelling unit.

### **29A-2.2.4**

Inclusionary two-family and multi-family dwelling units, subject to the provisions of §32-12, herein. No existing dwelling unit above the first floor can be changed to a non-residential use.

### **29A-2.2.5**

Commercial Wireless telecommunication service facilities, in conformance with §32-16.

### **29A-2.2.6**

Exterior reconstruction, alteration, or addition to any existing structure or a new construction requires a special permit with a combined recommendation from a joint meeting of the Historic District Commission and the Architectural Review Board. Ordinary maintenance and repair for which no building permit is required shall be exempted from this requirement provided there is no change to the exterior appearance of the building. This paragraph does not apply to buildings within the Village District Overlay. See §29A-9A Village District Overlay Site Plan Review.

### **29A-2.2.7**

Bank drive-in within 500 ft. of another Drive-in Bank as permitted by §29A-2.3.3.

## **29A-2.3 Accessory Uses**

### **29A-2.3.1**

Uses customarily accessory to a permitted principal use including; manufacturing, processing or assembly of goods which is incidental to the conduct of a retail business conducted on the premises, subject to the provisions of §32-7, herein.

### **29A-2.3.2**

Outdoor storage and display is permitted in accordance with §32-6, herein.

### **29A-2.3.3**

Bank drive-in; except that no lot shall be used for a drive-in bank, if such lot is located within a radius of 500 feet from any other lot used for a drive-in bank, provided that the Planning & Zoning Commission may permit upon a Special Permit Approval in accordance with §43 of the

regulations, and so long as the Commission shall find that such use shall maintain or improve the traffic level of service and safety conditions in and around the site. The application must be accompanied by a traffic report supplied by the applicant.

#### **29A-2.3.4**

Wholesaling and warehousing.

#### **29A-2.3.5**

Outdoor Eating Areas for Restaurants, Cafes, Taverns and Retail Food Establishments subject to an annual Zoning Permit approval pursuant to §5 and §32-20 Outdoor Eating Areas.

#### **29A-2.3.6**

Game Rooms, subject to the following conditions:

- a. That a Zoning Permit be obtained from the Zoning Enforcement Officer.
- b. The number of coin operated amusement devices shall be limited to not more than 3 per lot.
- c. The hours of operation of said game room shall not exceed those of the principle use. In no case shall the hours of operation extend beyond 11 p.m., except in establishments with liquor licenses for on premise consumption.

#### **29A-2.3.7**

One attached dwelling unit, provided the density does not exceed 20 bedrooms per acre.

### **29A-2.4 Prohibited Uses**

The following uses in addition to those listed in §32-7, herein, shall be prohibited: gasoline filling stations, automobile services establishments, motor vehicle repair garages, any lot, establishment, agency or dealer for new, rental or used motor vehicles, trailers, campers, boats, farm or other heavy equipment, hotels, motels, motor-inns, and drive-in restaurants. (Also see §38-2, Prohibited Uses in the Aquifer Protection Overlay Zone).

### **29A-3 Lot Area (See Definitions)**

No minimum requirement, except that no lot shall have less than 50 feet of frontage on at least one street.

### **29A-4 Setbacks (See §31-4 through §31-8, also.)**

Except as set forth in §29A-15, no principal building, structure or use and no accessory building or structure shall extend closer to the front, side and rear lot line than the setbacks existing on the lot on the effective date of the BCD/H, 6/1/04. (Also see §29A-9).

### **29A-5 Height**

No building or structure shall exceed the height of either 25 feet to the top of a flat roof or 30 feet to the midpoint of a pitched roof, whichever is less; except for an addition or alteration that cannot exceed the existing main roof line of an existing building on a lot on the effective date of the BCD/H, 6/1/04. There shall be no restriction on the number of stories allowed within the height limit. The Planning & Zoning Commission may allow incidental architectural features to exceed the height limit by up to three (3) additional feet (Also see §29A-9).

## **29A-6 Coverage (See Definitions)**

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The building coverage shall not exceed the existing building coverage on the lot at the effective date of the BCD/H (6/1/04), or 75% of the area of the lot within the BCD/H, whichever is greater.

## **29A-7 Building Area**

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No mandatory requirement.

## **29A-8 Floor Area**

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### **29A-8.1 Maximum**

No one building or single retail establishment, restaurant, business or other commercial establishment shall exceed 10,000 square feet of gross interior floor space.

### **29A-8.2 FAR (see definitions)**

Except as set forth in §29A-15, no buildings or structures in any Single or Multiple Use Development, as defined herein, shall exceed a Floor Area Ratio (FAR) of 0.25 on the lot that lies within the BCD/H zone; except for two-family or multi-family dwellings. No buildings or structures in any Single or Multiple Use Development, which contains two-family or multi-family dwellings, shall exceed an FAR of 0.35; except that a new use or change of use above a first floor (street level) for two-family or multi-family dwellings in a Multiple Use Development shall not exceed an FAR of 1.0. In any Multiple Use Development containing two-family or multi-family dwellings, any incremental increase in floor area above the maximum allowable FAR for the non-residential uses shall be used for dwelling(s) units, only. No dwelling unit approved under these bonus provisions shall thereafter be changed to any non-residential use. Floor area used for parking and loading shall be excluded from the FAR. No building or structure shall exceed the FAR existing on a lot on the effective date of the BCD/H (6/1/04), or 0.25 FAR, whichever is greater.

Twenty-five percent (25%) of the FAR existing on a lot on the effective date of the BCD/H (6/1/04) may be relocated on the same lot within the allowable height, coverage and setback standards, provided there is adequate storage space as determined by the Planning and Zoning Commission.

However, the Planning & Zoning Commission may allow the extension of an existing mezzanine, balcony or partial upper floor with related increase in FAR inside a building existing on a lot on the effective date of the BCD/H (6/1/04), provided the expanded floor area is utilized for residential and/or restaurant uses only.

## **29A-9 Architectural Design**

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The architectural design, scale and mass of buildings and other structures, including, among other elements, the exterior building material, color, roof-line, and building elevations shall be of such character as to harmonize and be compatible with the older buildings in the BCD/H District so as to preserve and improve the appearance and beauty of the community. New construction or reconstruction shall adhere to the design purposes of this district, in whole or in part.

Roof-top mechanical equipment, other than solar energy panels, shall be concealed from all sides.

Proposed new buildings on the same lot as the historic building, exterior building additions and alterations and roof top mechanical units shall be submitted to the Historic District Commission and the Architectural Review Board for a combined recommendation from a joint meeting. Their guidelines for review will be the most recent Secretary of the Interior's Standards for the Treatment of Historic Properties, Standards for Rehabilitation.

### **29A-9.1 Removal of historic buildings**

If a historic building or a historic portion of a building, as described in the most recent Westport Historic Resources Inventory, is to be demolished, the property will be subject to the permitted uses, lot area, setbacks, height, coverage, floor area, architectural design, signs, parking and loading, and landscaping provisions in the Business Center District regulations and §29A-14 shall not apply. Also see §6-2.3, Restoration.

### **29A-9.2 Removal of non-historic additions to historic buildings**

If an existing addition to an historic building is not described as historically significant in the most recent Westport Historic Resources Inventory, that addition may be removed and another structure built no greater than the existing footprint, setback and height as the removed addition. The new structure will complement the historic period of the retained portion and will not alter the historic portion as stated in the most recent Secretary of the Interior's Standards for Treatment of Historic Properties, Standards for Rehabilitation. FAR must be adhered to. Also see §29A-8.2.

### **29A-9.3 New additions and infill to historic buildings and additional buildings on the lot**

Except as set forth in §29A-15, additions or infill to historic structures and new buildings on the lot must be no greater than the height and setbacks of the original historic structure. Additions must complement the historic period of the historic structure and will not alter the historic portion as stated in the most recent Secretary of the Interior's Standards for Treatment of Historic Properties, Standards for Rehabilitation. FAR must be adhered to. Also see §29A-8.2.

## **29A-9A Village District Overlay Site Plan Review**

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The following actions require Site Plan Review for properties within a Village District Boundary (see §36 Village District Overlay):

### **29A-9A.1 Exterior Alterations**

Site Plan Review under §36 Village District Overlay is required for exterior reconstruction, alteration, or addition to any existing structure or new construction that alters the exterior appearance from a building visible from public streets, public spaces, walkways, bikeways or from the Saugatuck River. The basis for Site Plan Review will be §36-2 Design Principles and Design Standards.

### **29A-9A.2 New Construction or Substantial Reconstruction and Rehabilitation of Existing Facades within Public View**

Site Plan Review under §36 Village District Overlay is required for new construction or for substantial repairs or reconstruction to existing facades within view either from public streets, public spaces, walkways, bikeways or from the Saugatuck River. The basis for Site Plan Review will be §36-2 Design Principles and Design Standards.

### **29A-9.3 Documentation of Existing Conditions**

Existing façade elements and setback from the front lot line must be documented to the satisfaction of the Planning and Zoning Commission with photographs, a survey or other relevant methods.

### **29A-10 Signs**

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Signs shall be permitted in accordance with §33 of the Supplementary Regulations.

### **29A-11 Parking and Loading**

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Except as set forth in §29A-15, parking and Loading shall be provided by existing private lots, municipal lots, and on-street spaces. Existing on-site parking as of 11/1/99 must be retained whether an existing building is destroyed, constructed, reconstructed or expanded. Additional floor area constructed after February 9, 2015 must provide additional on-site parking as required pursuant to §34-5, Parking Requirements Table.

### **29A-12 Landscaping, Screening and Buffer Areas**

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Except as set forth in §29A-15, landscaping, screening and buffer areas shall be provided in accordance with §35 of the Supplementary Regulations.

### **29A-13 First Floor Defined**

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For purposes of this section only, the "first floor" of the building is the building entrance opening to Main Street, East Post Road, Bay Street and Taylor Place. There can be only one first floor per building.

### **29A-14 Exemption of Floodplain Regulations**

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The rehabilitation or restoration of structures in the BCD/H shall be exempt from the provisions of §31-9, Flood Plain Regulations, provided that:

1. A determination is made by the Planning and Zoning Commission that the proposed rehabilitation or restoration will not destroy the historic character and design of the building;
2. A determination that the rehabilitation or restoration will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with other existing local laws or ordinances.

#### **29A-14.1 Written Notice Required**

Upon approval of any such rehabilitation or restoration, the Planning and Zoning Commission shall give written notice to the applicant specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation up to amounts as high as \$25 for \$100 of insurance coverage and shall maintain the records of all such actions and any appeals there from for the benefit of FEMA.

## **29A-15 Relocation of Historic Structures**

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A Historic Structure may be relocated within the BCD/H in the event it is not possible to preserve the Historic Structure in its original location. The provision of §29A shall apply however the following exceptions to certain requirements are listed below to facilitate the preservation of Historic Structures when relocation is a viable option.

### **29A-15.1 Setbacks for Relocated Historic Structures**

A relocated Historic Structure shall comply with the minimum setbacks established in §29-4 Setback in the Business Center District (BCD) except the front yard setback may be reduced to 6 feet for local roads (as listed on the Vehicular Circulation Plan of the Westport Plan of Conservation & Development) to encourage pedestrian oriented frontages and maintain existing street walls.

### **29A-15.2 Floor Area for Relocated Historic Structures**

The floor area for a relocated Historic Structure shall be the same as the floor area of said structure on the effective date of the application for relocation of said structure. Any additions or extensions necessary to comply with building code requirements for egress or accessibility requirements consistent with the Americans with Disabilities Act may be allowed. There shall be no maximum FAR requirement for a relocated Historic Structure that meets the setback requirements on the relocated lot as described in §29A-15.1 above.

### **29A-15.3 Additions to Relocated Historic Structures**

Additions to relocated Historic Structures may be allowed if in compliance with the FAR provisions of §29A-8.2 and the Architectural Design requirements of §29A-9.

### **29A-15.4 Parking and Loading for Relocated Historic Structures**

Parking & loading shall be provided by existing private lots, municipal lots and on-street spaces.

### **29A-15.5 Landscaping, Screening and Buffer Area for Relocated Historic Structures**

The Front Landscaping Areas pursuant to §35-2.2 may be reduced to six (6) feet for relocated Historic Structures in order to coincide with the front yard setback.