



**Town of Westport**  
**Planning and Zoning Commission**  
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To be published in the Westport News on Friday January 28, 2022, and Friday February 4, 2022

## LEGAL NOTICE OF HEARING

Notice is hereby given that the Westport Planning and Zoning Commission will hold a remote Public Hearing on **Monday, February 7, 2022**, at 7:00 P.M.

### SPECIAL NOTICE ABOUT PROCEDURES FOR THIS ELECTRONIC MEETING:

*Pursuant to Sections 147-153 of the Governor's Public Act 21-2, there will be no physical location for this meeting. This meeting will be held electronically and live streamed on [www.westportct.gov](http://www.westportct.gov). Meeting materials are available at [www.westportct.gov](http://www.westportct.gov), on the Planning and Zoning Department web page under "P&Z Pending Applications & Recent Approvals". Instructions to attend the ZOOM meeting will be posted on the agenda for this meeting on the Meeting List and Calendar page at [www.westportct.gov](http://www.westportct.gov). The meeting agenda will also include items that do not require a legal notice that can be viewed on [www.westportct.gov](http://www.westportct.gov).*

1. **Text Amendment #808:** Appl. #PZ-21-00927 submitted by Richard Redniss, Redniss and Mead, to expand the "Unified Shopping Center" (USC) definition in §5-2 to include additional non-residential uses to qualify a property as a USC such as Office, Restaurant, Healthcare Professional or Medical, and to modify §33-8 Permanent Signs Permitted in Other Non-Residence Districts (§23 RBD, §24 GBD, §24A GBD/S, §25 HSD, §26 DDD, §28 BPD, §29 BCD, §29A BCD/H) to enable two (2) free-standing signs on a lot that has at least 1,000-feet of street frontage. A copy of the proposed text amendment is available on-line at [www.westportct.gov](http://www.westportct.gov) is on file in the Westport Town Clerk's Office and is on file in the Westport Planning and Zoning Office.
2. **1680 Post Road East:** Site Plan Appl. #PZ-22-00016 submitted by Attorney Eric Bernheim of FLB Law, for property owned by 1480 Post Road East, LLC for a Change of Use from Retail to Restaurant, re-striping of the parking lot, and new landscaping, for property located in the General Business District, PID #H09173000.
3. **Proposal to opt-out of multi-family parking requirements set forth in Public Act 21-29.** This proposal is the Planning and Zoning Commission's official notice of intent to initiate the process by which a municipality may opt out of the provisions of subsection (p) and subdivision (9) of subsection (d) of section 8-2 of the Connecticut General Statutes, regarding limitations on required parking spaces for multi-family dwelling units.
4. **Proposal to opt-out of accessory apartment requirements set forth in Public Act 21-29.** This proposal is the Planning and Zoning Commission's official notice of intent to initiate the process by which a municipality may opt out of the provisions of subsection (o) of section 8-2 of the Connecticut General Statutes, regarding limitations on Accessory Apartments and Accessory Dwelling Units.

5. **Text Amendment #809:** Appl. #PZ-22-00025 submitted by the Westport Planning and Zoning Commission to modify §40, Dedicated Open Space and Recreational District (DOSRD) to permit organized non-team activities such as, but not limited to guided walks, hikes, and yoga classes in the DOSRD #2 and to correct language on permitted uses in the DOSRD #1 and #3. A copy of the proposed text amendment is available on-line at [www.westportct.gov](http://www.westportct.gov) is on file in the Westport Town Clerk's Office and is on file in the Westport Planning and Zoning Office.
6. **Text Amendment #811:** Appl. #PZ-22-00035 submitted by the Westport Planning and Zoning Commission to eliminate prohibition on Retail above the 1st Floor in the BCD and BCD/H. A copy of the proposed text amendment is available on-line at [www.westportct.gov](http://www.westportct.gov) is on file in the Westport Town Clerk's Office and is on file in the Westport Planning and Zoning Office.
7. **Text Amendment #812:** Appl. #PZ-22-00036 submitted by the Westport Planning and Zoning Commission to remove prohibition on limiting tenant size to 10,000 SF in the BCD and BCD/H. A copy of the proposed text amendment is available on-line at [www.westportct.gov](http://www.westportct.gov) is on file in the Westport Town Clerk's Office and is on file in the Westport Planning and Zoning Office.

**Dated at Westport, Connecticut on this 28<sup>th</sup> day of January and 4<sup>th</sup> day of February 2022, Danielle Dobin, Chairman, P&Z Commission.**

Text Amendment #808: Submitted by Redniss and Mead December 13, 2021  
Received December 16, 2021  
Revised January 10, 2022

**Proposed Text Changes – Section 5 Definitions and Section 33 Signs**

**Note:** Proposed new language is shown **highlighted and underlined**.  
Proposed deletions are shown [~~bracketed and struck through~~]

**To Amend §5 (Definitions) as follows:**

***§5-2 Specific Terms***

**Unified Shopping Center:**

~~[A retail or mixed retail and a shopping area containing six (6) or more retail tenants in one or more buildings, all situated on one lot.]~~

**A shopping area consisting of six (6) or more tenants, with at least one retail tenant combined with other non-residential uses such as Office, Restaurant, Healthcare Professional or Medical, located in one or more buildings, all situated on one lot.**

**To Amend §33-8.4 (Free-Standing Signs) as follows:**

**33-8 Permanent Signs Permitted in Other Non-Residence Districts: (RBD, GBD, GBD/S, HSD, BPD, DDD, BPD, BCD & BCD/H)**

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**33-8.4 Free-Standing Signs**

All free-standing signs shall be subject to ARB review and shall comply with the following requirements:

**33-8.4.1**

Only one (1) free-standing sign, **as described in 33-8.4.5 below**, shall be permitted on a lot provided that it has at least one hundred (100) feet of street frontage on one street, **or two (2) free-standing signs provided the lot has at least a thousand (1,000) feet of total frontage**.

**33-8.4.2**

The free-standing sign shall identify the name of the business (is) occupying the lot and shall include the street address number at least 4 inches in size.

**33-8.4.3**

The sign shall be supported by a free-standing, self-supporting structure that is erected on the ground and is not attached to a building. The width of the support structure cannot be more than 25% of the horizontal dimension of the free-standing sign, and may be divided into one or more support legs, or the support structure will be included in calculating the total surface area of the sign

**33-8.4.4**

No free-standing sign shall exceed a height of twenty (20) feet or extend above the lowest point of the main roof line of any building, whichever is less, as measured from the ground to the top of the sign.

**33-8.4.5**

[All] Each free-standing sign[s] except for a unified shopping center shall not exceed a total surface area of thirty-two (32) square feet. [A] Each unified shopping center sign shall not exceed a total surface area of one hundred (100) square feet. The sign area for free standing signs is not included in the sign area as defined in §33-7.1.

**33-8.4.6**

No sign shall be located within fifty (50) feet of the boundary of a Residence District.

**33-8.4.7**

All signs shall be at least fifteen (15) feet from any property line.

**For Reference:**

**34-5 Parking Requirements Table**

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USE	MINIMUM REQUIRED PARKING SPACES
Unified Shopping Centers in the General Business District, as described in §24-11:	a. First Floor, 1 space per each 200 SF of gross floor area. b. Areas above the First Floor, 1 space per each 300 square feet of gross floor area. c. Warehouse Storage space above the First Floor, 1 space per each 500 square feet of gross floor area. d. Basement and/or Cellar space, 1 space per each 500 square feet of gross floor area. e. Rugs/Furniture/Fabric Stores on any floor, 1 space per each 400 square feet of gross floor area ( <a href="#">764</a> , 02/10/2019; <a href="#">792</a> , 05/27/2021)

Text Amendment #809/#PZ-22-00025

Submitted: 1/14/22

Received: 1/20/22

Public Hearing: 2/28/22

Adopted: \_\_\_\_\_

Effective date: \_\_\_\_\_

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**Deleted language is [~~struck out and in brackets~~]; New language is underlined.**

#### 40-1 Purpose

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The purpose of the Dedicated Open Space and Recreation District Zone is to encourage the acquisition and retention of Town-owned parks and other Town-owned land for public use and the enjoyment of visitors. It is in the public interest to provide areas where the citizens of Westport can have places to enjoy a peaceful and tranquil environment and to pursue recreation and leisure uses. It is intended to permit the reasonable use of open space land. The objective of the Dedicated Open Space and Recreation District is to protect environmentally vulnerable land, permanently preserve certain open spaces and recreational areas within the Town and to maintain the natural appearance, beauty, character and recreational value of these areas in order to contribute to the health, safety and general welfare of the community.

The purpose of a Dedicated Open Space and Recreation District #1 designation is to allow certain Town-owned open space park areas to be maintained for passive or non-organized recreation. This includes undeveloped parkland, beaches, wooded areas, meadows and riverside areas.

The purpose of a Dedicated Open Space and Recreation District #2 designation is to allow certain Town-owned open space areas to be maintained for generally passive or non-organized recreation in a natural and undeveloped setting with no new buildings or structures being erected and to allow certain uses and structures, which are legally existing as of the date of such designation, that would be otherwise Non-Conforming Uses of Non-Conforming Structures (each, as defined in §5-2) to be conforming, thereby legalizing such previously Non-Conforming Uses of Non-Conforming Structures (which legalizations shall be hereinafter defined respectively as a "Legalized Use" or a "Legalized Structure" as applicable) and further thereby allowing certain Legalized Uses or Legalized Structures to grow and expand in a manner consistent with the objective of the Dedicated Open Space and Recreation District, while limiting the introduction of new uses and controlling more intense development

The purpose of a Dedicated Open Space and Recreation District #3 designation is to allow certain Town-owned open space park areas to be maintained for passive or non-organized recreation in a completely natural and undeveloped setting. No buildings or structures shall be erected.

40-2 Permitted Improvements and Facilities in a DOSRD #1, DOSRD#2 and DOSRD #3.

40-2.1 Principal Improvements and Facilities permitted in DOSRD#1 ~~and DOSRD#2~~

The following specific improvements and facilities are permitted in a DOSRD#1 ~~and DOSRD #2.~~

- a. Walks, paths, gardens and ~~pond~~ natural water features, picnic tables and benches;
- b. Temporary free-standing restrooms and water fountains.

**40-2.2 Principal Improvements and Facilities permitted in DOSRD#2**

The following specific improvements and uses are permitted in a DOSRD#2.

- a. Walks, paths, gardens, meadows, picnic tables and benches;
- b. Grassed lawns;
- c. Organized non-team activities, including but not limited to guided nature walks, hikes, and yoga classes, including those organized by the Parks and Recreation Department, the Westport Center for Senior Activities, or as otherwise authorized by the Parks and Recreation Department or Town of Westport. Team sports such as soccer, basketball, volleyball and the like are not permitted.

40-2.3 ~~2~~-Principal Improvements and Facilities allowed in DOSRD#3

The following non-commercial passive or non-organized recreational Improvements and Facilities are permitted in a DOSRD #3:

- a. Walks, paths, gardens ~~and natural water features~~, ~~picnic tables~~, and benches;
- b. Nature preserves;
- c. Arboretums as defined in (§5-2).

40-3 Special Permit Uses Improvements and Facilities in a DOSRD #2.

The following non-commercial recreational, improvements and facilities may be permitted in DOSRD #2, subject to a special permit and site plan approval in accordance with [§43](#) herein.

40-3.1

Renovation and/or expansion of Legalized Structures that existed on the subject parcel prior to 2003. Renovation and/or expansion of such Legalized Structures may be permitted within the same building footprint, and may occupy up to an additional 10% of the original building footprint. Building features necessary to provide handicap access shall be excluded from the calculation of building footprint. Any renovation or expansion of such Legalized Structures shall maintain and be consistent with the architectural character of the original Legalized Structure.

#### 40-3.2

Renovation and expansion of Legalized Structures first built on the subject parcel after 2003 and prior to 06-12-16. Renovation and/or expansion of such Legalized Structures may be permitted with the same floor area or footprint of the original building and may occupy up to an additional 50% of the original floor area or footprint of such Legalized Structure, whichever is greater. Such Legalized Structures may be used for the Legalized Use or any other use permitted by this Section.

#### 40-3.3 Municipal Uses.

Permitted uses for the purpose of this section shall be limited to recreation facilities, municipal offices, administrative headquarters, the leasing of Legalized Structures, and parking necessary for approved uses and other municipal uses the Commission finds to be consistent with the purpose of the DOSRD #2 and low intensity of uses contemplated by these regulations.

#### 40-4 Special Events

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Nothing in this regulation shall prevent special events from taking place in an area designated as a Dedicated Open Space and Recreation District #1 or #2. Permission for a special event requires prior approval from the Parks and Recreation Department and/or the Board of Selectman. Special events shall not be permitted in a Dedicated Open Space and Recreation District #3.

#### 40-5 Lot Area, Location and Shape

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No mandatory requirement.

#### 40-6 Setbacks

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Except for buildings or structures that have become Legalized Structures as a result of a DOSRD designation made pursuant to the [§40](#), no buildings or structure shall extend closer than thirty (30) feet from any street line or twenty five (25) feet from any side or rear lot line unless the property occupied by such buildings or structures abuts a Res AAA zoned property and in such case, such buildings or structures shall not extend closer than 50 feet from any street line or other property line. (Also see [§31-7](#), Setbacks from Waterbodies, Watercourses and Wetlands).

#### 40-7 Height

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Except for buildings or structures that have become Legalized Structure as a result of a DOSRD designation made pursuant to this [§40](#), no principal buildings or structure shall exceed a height of twenty-six (26) feet. No accessory structure shall exceed a height of sixteen (16) feet. In DOSRD#2 no Legalized Structure shall exceed a height of the existing structure of thirty five (35) feet, whichever is greater.

#### 40-8 Coverage

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The total coverage shall not exceed twenty-five percent (25%) of the lot area.

#### 40-9 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 neighborhood, so as to protect the property values in the neighborhood, and to preserve and improve the appearance and beauty of the community. Architectural Review Board review is required for all Special Permit uses. There shall be no buildings or structures located within the DOSRD #3. Bridges may be constructed.

#### 40-10 Signs

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Signs shall be permitted in accordance with §33-4, §33-5 and §33-6 of the Supplementary Regulations.

#### 40-11 Parking and Loading

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The required number of parking spaces will be determined in consultation with the Parks and Recreation Director. A parking lot will require a Special Permit in the DOSRD #1, DOSRD #2 and DOSRD #3. Parking lots are allowed within the 30-foot front landscape area but must meet a 25 feet side and rear setback from residentially zoned properties. (Also see §31-7, Setbacks from Waterbodies, Watercourses and Wetlands). In the DOSRD #3 there shall be no more than 0.33 parking spaces per acre and no less than 3 parking spaces.

#### 40-12 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.

#### 40-13 Final Approval

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An application for a Dedicated Open Space and Recreation District shall adhere to all of the approval and compliance requirements of the Zoning Regulations. The Commission may approve a Dedicated Open Space and Recreation District if it finds that the purposes, application procedure, standards and conditions meet the Zoning Regulations and that the proposed Dedicated Open Space and Recreation District will not be detrimental to the public health, safety, and general welfare and property values of the neighborhood. The Planning and Zoning Commission may attach such conditions to a Special Permit in a Dedicated Open Space and Recreation District #2 that it deems necessary to preserve the purpose, objective and intent of the Zoning Regulations of the Dedicated Open Space and Recreation District.



**Text Amendment #811 to Remove Retail Prohibition above the 1<sup>st</sup> Floor in the BCD & BCD/H**

Submitted: 1/18/22

Received: 1/20/22

Public Hearing: \_\_\_\_\_

Adopted: \_\_\_\_\_

Effective date: \_\_\_\_\_

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Deleted language is **[struck out and in brackets and highlighted]**.

**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 parkingspaces. 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)**

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.)**

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

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)

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

#### 29-7 Building Area

No mandatory requirement.

#### 29-8 Floor Area

### 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**

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**

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**

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

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

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**

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

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

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**

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 principal 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)

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

No mandatory requirement.

## 29A-8 Floor Area

### 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

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

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**

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

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

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**

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**

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**

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**

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.

**Text Amend #812 to Remove 10,000SF Limit on Single-Tenant Occupancies in BCD & BCD/H**

Submitted: 1/19/22 Received: 1/20/22

Public Hearing:

Adopted:

Effective date:

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Deleted language is **[struck out and in brackets and highlighted]**.  
**FROM §29, Business Center District (BCD)**

1. **Purpose**

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.

2. **Permitted Uses**

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)**

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.)**

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**

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)**

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

## **29-7 Building Area**

No mandatory requirement.

## **29-8 Floor Area**

### **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**

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**

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**

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

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

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**

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

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

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**

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**

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)**

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**

No mandatory requirement.

**29A-8 Floor Area****29A-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.

**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**

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**

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**

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

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

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**

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**

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**

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**

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.