

Text Amend. #814 to Modify Outdoor Eating Area and Outdoor Storage Regulations

Submitted: 3/1/22

Received: 3/14/22

Public Hearing (*scheduled for*): 3/13/22

Adopted: _____

Effective date: _____

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

FROM §5-2, SPECIFIC TERMS

Food Establishment Retail: *No Changes for Context Only*

A retail food establishment shall mean any business where food or beverages are sold to the public for either on premises or off premises consumption; except that the sale of alcoholic beverages must be for off-premises consumption. A retail food establishment may have no more than 10 indoor patron seats. Such establishments shall not be considered Restaurants and no additional parking will be required provided that they have indoor seating for no more than 10 patrons. For outdoor seating – See §5-2 & §32-20 Outdoor Eating Areas.

Outdoor Eating Area:

~~[An outdoor area located on the same property as a Restaurant, Cafe, Tavern or Retail Food Establishment that allows for tables & chairs for outdoor table service or self-service dining subject to a Zoning Permit renewed each year prior to May 1st and the requirements found in §32-20.]~~

An outdoor area serving as an Accessory Use to a Restaurant, Cafe, Tavern or Retail Food Establishment that allows for tables and chairs for outdoor table service or self-service dining. See §32-20.

Restaurant: *No Changes for Context Only*

A place having an adequate kitchen and dining room, the primary business of which is the service of food or beverages to patrons seated at tables, counters or cafeteria style. A Restaurant is distinguished from a Retail Food Establishment if it has indoor seating for more than 10 patrons. A Restaurant may have a permit to allow the retail sales of alcoholic liquor to be consumed on the premises, as granted by the Department of Liquor Control (See Restaurant and Restaurant, Drive-in).

FROM §22, RESTRICTED RETAIL AND OFFICE DISTRICT (RORD)

22-2.3 Accessory Uses

22-2.3.3

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]~~ **the requirements in §32-20 and initial administrative approval in the form of a Site Plan Waiver from the Planning and Zoning Director pursuant to §43 and a Zoning Permit. Thereafter the use is subject to an annual Zoning Permit from the Planning and Zoning Office renewed by May 1st each year provided there are no changes, or a new Site Plan Waiver must be obtained.**

FROM §23, RESTRICTED BUSINESS DISTRICT (RBD)**23-2.3 Accessory Uses****23-2.3.3**

Outdoor Eating Areas for Restaurants and Retail Food Establishments subject to ~~[an annual Zoning Permit approval pursuant to §5 and §32-20 Outdoor Eating Areas]~~ the requirements in §32-20 and initial administrative approval in the form of a Site Plan Waiver from the Planning and Zoning Director pursuant to §43 and a Zoning Permit. Thereafter the use is subject to an annual Zoning Permit from the Planning and Zoning Office renewed by May 1st each year provided there are no changes, or a new Site Plan Waiver must be obtained.

FROM §24, GENERAL BUSINESS DISTRICT (GBD)**24-2.3 Accessory Uses****24-2.3.5**

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]~~ the requirements in §32-20 and initial administrative approval in the form of a Site Plan Waiver from the Planning and Zoning Director pursuant to §43 and a Zoning Permit. Thereafter the use is subject to an annual Zoning Permit from the Planning and Zoning Office renewed by May 1st each year provided there are no changes, or a new Site Plan Waiver must be obtained.

FROM §24A, GENERAL BUSINESS DISTRICT/SAUGATUCK (GBD/S)**24A-2.2 Accessory Uses**

Uses customarily accessory to be a permitted ~~[principle]~~ Principal use shall be permitted as specified in §24-2.3 (General Business District Accessory Uses).

FROM §25, HIGHWAY SERVICE DISTRICT (HSD)**25-2.3 Accessory Uses****25-2.3.5**

~~[Outdoor Eating Areas for Restaurants and Retail Food Establishments subject to an annual Zoning Permit approval pursuant to §5 and §32-20 Outdoor Eating Areas]~~ Uses customarily accessory to be a permitted Principal use shall be permitted as specified in §24-2.3 (General Business District Accessory Uses).

FROM §28, BUSINESS PRESERVATION DISTRICT (BPD)**28-2.3 Accessory Uses****28-2.3.4**

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]~~ the requirements in §32-20 and initial administrative approval in the form of a Site Plan Waiver from the Planning and Zoning Director pursuant to §43 and a Zoning Permit. Thereafter the use is subject to an annual Zoning Permit from the Planning and Zoning Office renewed by May 1st each year provided there are no changes, or a new Site Plan Waiver must be obtained.

FROM §29, BUSINESS CENTER DISTRICT (BCD)**29-2.3 Accessory Uses****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] the requirements in §32-20 and initial administrative approval in the form of a Site Plan Waiver from the Planning and Zoning Director pursuant to §43 and a Zoning Permit. Thereafter the use is subject to an annual Zoning Permit from the Planning and Zoning Office renewed by May 1st each year provided there are no changes, or a new Site Plan Waiver must be obtained.

FROM §29A, BUSINESS CENTER DISTRICT/HISTORIC (BCD/H)**29A-2.3 Accessory Uses****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] the requirements in §32-20 and initial administrative approval in the form of a Site Plan Waiver from the Planning and Zoning Director pursuant to §43 and a Zoning Permit. Thereafter the use is subject to an annual Zoning Permit from the Planning and Zoning Office renewed by May 1st each year provided there are no changes, or a new Site Plan Waiver must be obtained.

FROM §29B, BUSINESS CENTER RETAIL RESIDENTIAL (BCRR)**29B-2.2 Accessory Uses****29B-2.2.4**

Outdoor Eating Areas for Restaurants, Cafes, Taverns and Retail Food Establishments subject to the requirements in §32-20 and initial administrative approval in the form of a Site Plan Waiver from the Planning and Zoning Director pursuant to §43 and a Zoning Permit. Thereafter the use is subject to an annual Zoning Permit from the Planning and Zoning Office renewed by May 1st each year provided there are no changes, or a new Site Plan Waiver must be obtained.

FROM §30, HISTORIC DESIGN DISTRICT (HDD)**30-2.4 Accessory Buildings, Structures and Uses****30-2.4.4**

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] the requirements in §32-20 and initial administrative approval in the form of a Site Plan Waiver from the Planning and Zoning Director pursuant to §43 and a Zoning Permit. Thereafter the use is subject to an annual Zoning Permit from the Planning and Zoning Office renewed by May 1st each year provided there are no changes, or a new Site Plan Waiver must be obtained.

FROM §32, SUPPLEMENTARY USE REGULATIONS

32-6 Outdoor Storage and Display

Outdoor storage and display is permitted as an accessory use **to a permitted Principal Use** in all Non-Residential Districts except **RPOD, DDD, CPD,** and HDD, subject to the following conditions:

32-6.1

All outdoor storage and display areas shall: not be visible from any adjoining Residence District, not obstruct or impair vehicular or pedestrian traffic **as evidenced by a site plan showing a minimum four-foot (4') wide clear path that shall be maintained on the sidewalk consistent with the federal Americans with Disabilities Act** [not reduce or an attractive manner, and cannot be located in the front landscape area. Tables and chairs associated with Outdoor Eating Areas shall not be considered as outdoor storage and display but shall be subject ~~§5 and §32-20~~ Outdoor Eating Areas]. A Zoning Permit shall be obtained for this use.

32-20 Special Requirements for Outdoor Eating Areas

Outdoor Eating Areas as defined in §5 shall be permitted in all Non Residential Zones, except RPOD, **GBD/R,** DDD and CPD on privately-owned property subject to the following requirements:

For use of Town-owned property including sidewalks, parking spaces, roads, or road right-of-way, or for Mobile Food Trucks, contact the Selectwoman's Office for their approval process):

1. **Required Planning and Zoning Approvals.** A Site Plan Waiver application shall initially be submitted to the Planning and Zoning Office and is eligible for approval by the Planning and Zoning Director pursuant to §43 and will be subject to obtaining a Zoning Permit. After the initial Site Plan Waiver is granted, the use shall be subject to an annual Zoning Permit from the Planning and Zoning Office renewed by May 1st each year thereafter provided there are no changes, or a new Site Plan Waiver must be obtained.
2. **Required Other Department Approvals.** Prior to submission of a Site Plan Waiver application, an Outdoor Patio approval must be obtained directly from:
 - A. The Aspetuck Health District.
 - B. The Fire Marshal's Office.
 - C. The Building Department if proposing to use sidewalk areas.
 - D. The Police Department for any Outdoor Eating Areas that abut driveways, parking lots and streets or are located within parking areas.
3. **Location.** Outdoor Eating Areas may be located on privately-owned property as follows: On-site, or on an abutting property subject to provision of a sidewalk allowing a four-foot wide clear path between the Principal and Accessory Use pursuant to Federal ADA requirements, and subject to approval from the abutting property owner(s).
 - A. Outdoor Eating Areas may be located on a privately-owned sidewalk in front of the Principal use, provided a four-foot wide clear path shall be maintained consistent with the federal ADA requirements.
 - B. Outdoor Eating Areas may be located within parking areas to support the Principal use provided a Barrier Protection Plan is submitted that is subject to approval by the Westport Police Department.
 - C. Fire Department Appurtenances. No Outdoor Eating Area or related Structure shall impede access to fire hydrants, fire lanes, or fire department connections.

4. **Size.** The Outdoor Eating Area shall not exceed 75% of the total Floor Area of the Principal use.
5. **Parking Requirements.** There are no minimum parking requirements for Outdoor Eating Areas.
6. **Setbacks/Coverage.** Outdoor Eating Areas shall not be permitted within 50-feet of a residential zoning district boundary line unless separated from the Residential Zone by a public street or a waterbody. No Front Landscape Area may be removed to accommodate an Outdoor Eating Area. Structures used for an Accessory Outdoor Eating Area are exempt from Coverage requirements.
7. **Lighting.** Any lighting shall be down directed and not shed light beyond the property line.
8. **Covers, Enclosures and Structures.** Use of umbrellas, tents, awnings, igloos, and covers with rigid supports and fabric or non-rigid sides is permitted, with the construction material subject to the flame spread regulations of the Connecticut State Fire Safety Code. Such areas may be heated subject to an inspection by the Fire Marshal's Office before use.
Following the granting of a Site Plan Waiver and issuance of a Zoning Permit, a Building Permit shall be obtained for any Structure:
 - A. Installing temporary or permanent electrical service.
 - B. Installing temporary or permanent heating or air conditioning.
 - C. That is a Tent with side walls in excess of 400 SF.
 - D. That is a Tent open on all four sides in excess of 700 SF.
 - E. That are multiple Tents set side by side without a 12-foot fire break whose aggregate area is in excess of 700 SF.
9. **Hours of Operation.** The hours of operation shall be limited to 6:30 a.m. to 11:00 pm Sundays through Thursdays and 6:30am to 12:00 midnight on Fridays and Saturdays except if approved by Special Permit to operate as late as 2:00am. There shall be no music in any Outdoor Eating Area after 9:00 p.m.
10. **Signage.** No additional signage shall be permitted.

1. ~~**Required Departmental Approvals:** All Outdoor Eating Area applications shall be approved, as applicable, by the Westport Weston Health District, the Police Department and the Fire Marshall's office as applicable prior to the issuance of a zoning permit.~~
2. ~~**Design/Use of Area:** Outdoor Eating Areas may use umbrellas, tents, canopies or fixed awnings and may be located on a patio or deck. On vegetated landscaped surfaces only umbrellas may be used. Such a structure may have rigid supports and fabric or soft (non rigid) sides. Such areas may be heated. These areas may not be considered in the future as permanent building additions. There shall be no music in any Outdoor Eating Area after 9:00 p.m. except if approved by Special Permit. The hours of operation shall be limited to 6:30 a.m. to 11:00 p.m. on Sundays through Thursdays and 6:30 a.m. to 12:00 midnight on Fridays and Saturdays except if approved by Special Permit to operate as late as 2:00 a.m.~~
3. ~~**Size/Parking Requirements:** Outdoor Eating Areas shall not require additional parking if the area does not exceed twenty (20) percent of the interior patron Floor Area of a Restaurant, Cafe or Tavern or twenty (20) percent of the Floor Area of a Retail Food Establishment or 500 square feet whichever is less. Parking shall be required for the portion of an Outdoor Eating Area that is in excess of the above measurements in accordance with the parking requirements for patron area of a Restaurant. The measurement of all Outdoor Eating Areas shall be the area encompassed by the tent, canopy, awning, patio deck or landscaped area used as an Outdoor Eating Area as shown on a site plan, whichever is larger.~~

- ~~4. **Seasonal Use:** The Outdoor Eating Areas may be used all year round, however if such areas are covered by a tent, canopy or fixed awning and will not be used on a continuous basis all elements of the tents, canopies or fixed awnings shall be removed from the area during the period when the Outdoor Eating Area is not in use.~~
- ~~5. **Setback and Coverage Requirements:** Outdoor Eating Areas shall not be permitted within 50 feet of any Residential Zoning District Boundary Line unless separated from the Residential Zone by a public street or a water body or approved by the P&Z Commission by a site plan and Special Permit application. Outdoor Eating Areas and any associated patios are permitted on private property in front, side and rear setback areas and front landscape areas, except for patron bars which must comply with setbacks, and may not block or interfere with sidewalks, walkways or emergency egress as determined by the Fire Marshall. Outdoor Eating Areas that have a tent, canopy or fixed awning shall not be counted in building coverage, if storm water runoff from said tent, canopy or fixed awning is addressed in a drainage plan, approved by the Town Engineer. Required front landscape areas and vegetative buffers that are planted and were approved as part of a Site Plan application shall not have vegetation removed to accommodate this use. If removal of such landscaping is proposed a new Site Plan and Special Permit application will be required.]~~

~~[32-20A CONTINUATION OF TEMPORARY OUTDOOR DINING, AND RETAIL OUTDOOR ACTIVITIES IN RESPONSE TO COVID-19~~

~~Any restaurant operating with an approved temporary outdoor dining permit or retail establishment operating with an Outdoor Activities Approval issued pursuant to CT Governor Lamont's Executive Order 7MM as of the effective date of this regulation or issued after the effective date but before the expiration of this regulation, may continue to operate and use the area approved and as shown in that permit, until further notice, or until Executive Order No.~~

~~7MM is repealed to contain the spread of COVID-19. The use shall at all times continue to be used in accordance with all Executive Orders currently in place or as revised in the future.~~

~~Notwithstanding anything to the contrary contained herein, any and all Outdoor Activities shall be in strict conformance with all federal, state, and local COVID-19 guidelines and requirements.~~

~~Such extension shall not be interpreted to create any nonconforming rights. It is further provided that the operation of the Temporary Outdoor Dining or retail Outdoor Activities Approval between any expiration of the State's declared state of emergency and the expiration of this regulation shall not be deemed to be a waiver of any obligations by any applicant pursuant to any local, state or federal law.]~~

FROM §34, OFF STREET PARKING AND LOADING

§34-5, Parking Requirements Table

34-5 Parking Requirements Table

USE	MINIMUM REQUIRED PARKING SPACES
Day Care Centers or Nursery Schools as defined in §5-2.	1 space per 10 children, plus 1 space per employee.
Mobile Home Units	2 spaces.
Single-family dwelling unit	2 spaces.
Supportive housing	1 space for each dwelling unit.
Two-family dwelling unit	2 spaces per unit.
Multi-family dwelling units, studio, efficiency, or 1 bedroom unit	1.75 spaces per unit.
2 bedroom unit	2.25 spaces per unit.
3 or more bedroom unit	2.50 spaces per unit.
Public Senior housing	0.75 spaces for each dwelling unit for Senior persons
Senior group home	1 space per bedroom or guest room.
Senior Residential Community: Independent Living Facility	1.0 spaces per unit.
Assisted Living Facility	1.0 spaces per unit.
Full Care Living Facility	0.5 spaces per unit.
Accessory apartment unit	Also 1 parking space per employee for the largest shift.
Managed Residential Community	1 space for the converted unit.
Home Occupation, Level 1	1.0 space for each private residential unit.
Home Occupation, Level 2	Also 1 parking space per employee for the largest shift.
Community residence for the mentally retarded	2 spaces in addition to the requirements for the Dwelling Unit.
Automobile repair shops, garages and gas stations	2 spaces in addition to the requirements for the Dwelling Unit plus additional parking as determined by the P&Z Commission.
Automobile dealers	2 spaces in addition to the requirements for the dwelling unit.
Vehicle Rental	5 spaces per bay or vehicle work station plus 1 space per employee plus 2 additional spaces.
Funeral Homes, except within the BCD and BCD/H.	1 space per employee plus 1 space per vehicle work station plus 20 spaces for customer parking.
Office Business and Professional), Bank Office Area, except within the BCD and BCD/H.	1 space per employee plus 1 customer space for each 5 rental vehicles.
Bank Customer Area with cashier and/or teller, except within the BCD and BCD/H.	One space per 75 square feet of floor area, with a minimum of 25 spaces required for any funeral home.
Bank Customer Area with cashier and/or teller, except within the BCD and BCD/H.	1 space for each 250 square feet of gross floor area.
Medical offices, except psychiatrists, and clinics including other similar uses including chiropractors, physical therapists, optometrists, and dentists, except within the BCD and BCD/H.	1 space for each 220 feet of gross customer area.
Professional Healthcare offices and clinics including psychologists, social workers, counselors, naturopaths, massage therapists, psychiatrists and nutritionists, except within the BCD and BCD/H.	1 space for each 220 feet of gross customer area.
	1 space for each 200 square feet of gross floor area. (764, 02/10/2019; 792, 05/27/2021)
	1 space for each 200 square feet of gross floor area.

USE	MINIMUM REQUIRED PARKING SPACES
Retail and service establishments including Retail Food Establishments, spas, beauty salons, opticians, gyms, health clubs, and fitness centers, except within the BCD and BCD/H.	1 space for each 180 square feet of gross floor area.
Restaurants & private clubs, excluding patron bar area, except within the BCD and BCD/H.	1 space for each 50 square feet of gross patron floor area plus 1 space for each additional 500 square feet of gross interior floor area.
Patron bar area of restaurants, private clubs, taverns & cafes – gross patron floor area including Patron bar area includes the barroom area, all areas designated as cocktail lounges and areas devoted mainly to alcohol consumption, except within the BCD and BCD/H. This provision shall only apply when the patron bar area exceeds 50% of the total patron area.	1 space for each 20 square feet of gross patron floor area.
Outdoor Eating Area Accessory to a Retail Food Establishment or Restaurant.	No parking is required.
Hospitals and convalescent homes	1 space for each 3 beds.
Auditoriums, field houses, gym, athletic fields & stadiums	1 space for each 5 spectator seats of design capacity.
Places of Worship and Theaters **	The greater of (a) 1 space for each 35 SF of the Sanctuary or Theater including lobbies and/or vestibules; or; (b) 1 space for each 40 SF of all rooms, other than the Sanctuary or Theater including lobbies and/or vestibules; used for social functions.
Game Room for coin operated amusement devices	1 space per 180 square feet of gross interior floor area.
Laboratory, wholesale, warehouse storage establishment ¹ Boat Repairs and Boat Storage	1 space for each I-1/2 employees during the largest daily work shift or 500 square feet of gross interior floor area, whichever is greater.
Group quarters, guest, boarding, rooming or lodging house.	1 space for each rooming unit or 1 space for each bedroom, whichever is greater.
Marinas, exclusive of boat storage	0.5 spaces per slip or wet mooring.
Unified Shopping Centers in the General Business District, as described in §24-11:	<ul style="list-style-type: none"> 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 (764, 02/10/2019; 792, 05/27/2021)
Other Uses	a. In order to maintain the purpose and intent of these regulations the Commission shall determine by approval of a Site Plan and Special Permit the number of parking spaces to be provided in connection with any use not included in this Section.
¹ In order to be considered as a separate use such areas, excluding laboratories, shall comprise at least 15% of the total	

FROM §43, SPECIAL PERMIT AND/OR SITE PLAN REVIEW PROCEDURES

43-5.2 Site Plan Review and Hearings

Site Plan approval by the Planning & Zoning Commission shall be required for construction, addition or alteration of a non-residential building involving more than five hundred (500) squarefeet of building coverage or containing more than five hundred (500) sq. ft. of gross interior floorspace, or any of the uses or activities listed below:

1. A Change of Use pursuant to §5-2.
2. Shoreline Flood and Erosion Control Structure as defined in CGS §22a-109 located within the Coastal Boundary as described in CGS §22a-94. (779, 03/04/2021; 800, 11/19/2021; 807, 01/07/2022)
3. Truck trailer storage for more than 7 days pursuant to §32-8.1.
4. Excavation and fill activities that are not exempt pursuant to §32-8.1.
5. Outdoor Special Events, pursuant to §32-23, that:
 - a. Exceed ten (10) days in duration and are located in a non-residential district.
 - b. Exceed two (2) days in duration and/or extend beyond 10:00pm on Fridays and Saturdays and are located in a residential district.
 - c. Exceed seven (7) days in duration and/or extend beyond 10:00pm on Fridays and Saturdays and are located on a privately-owned property in a residential district containing a Special Permit Use.
6. **Outdoor Eating Areas pursuant to §32-20.**

The P&Z Commission, at its discretion, may hold a public hearing on an application for Site Plan or Coastal Site Plan review. (779, 03/04/2021; 800, 11/19/2021; 807, 01/07/2022)

The P&Z Director may waive P&Z Commission review of small-scale projects, except those located in the Village District Overlay (VDO) Zone/Westport Center that are not recommended for approval by the Joint Committee of the Historic District Commission and the Architectural Review Board.. Small-scale projects include:(779, 03/04/2021; 800, 11/19/2021; 807, 01/07/2022)

- i. Minor Site Plan modifications such as parking lot alterations or expansions, landscape modifications and utility modifications;
- ii. Exterior façade changes to commercial buildings;
- iii. Small building additions with fewer than five hundred (500) sq. ft. of building coverage or containing fewer than five hundred (500) sq. ft. of gross interior floor space.
- iv. Exterior staircases mandated by the Connecticut State Fire Safety Code.(779,03/04/2021; 800, 11/19/2021; 807, 01/07/2022)
- v. Handicap ramp and elevators mandated by the Building Official for public safety.