

# Memorandum

**To:** Whom it May Concern

**From:** Mary Young, Planning and Zoning Director

**Date:** August 1, 2024

**Re:** §32-20, Outdoor Eating Areas, Zoning Regulation History

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## Summary of current regulations, their origin and major Changes to Outdoor Eating Area Regulations

- Since adoption of Text Amendment #814 in 2022, Outdoor Eating Areas is a permitted Accessory Use for Restaurants and Retail Food Establishments in those non-residential zones that allow Restaurants and Retail Food Establishments, subject to standards in §32-20, Special Requirements for Outdoor Eating Areas. Compliance must be demonstrated by obtaining a Site Plan Waiver from the P&Z Director and Zoning Permit, and thereafter approvals may be renewed annually by obtaining a Zoning Permit.
- An Outdoor Eating Area is defined in §5-2 as:

*“An outdoor area serving as an Accessory Use to a Restaurant, Café, Tavern or Retail Food Establishment that allows for tables and chairs for outdoor table service or self-service dining. See §32-20, Special Requirements for Outdoor Eating Areas.”*
- Since Adoption of Text Amendment #610 in 2010, an Outdoor Eating Area as defined in §5-2, allows for both table service and self-service dining as an Accessory Use to a Restaurant or Retail Food Establishment in non-residential zones that allow Restaurants and Retail Food Establishments.
- Text Amendment #610 relaxed outdoor eating area requirements with the intent of *“promoting evening activities and outdoor life,”* according to the resolution of approval. The amendment combined and modified into one section of the regulations, §32-20, Special Requirements for Outdoor Eating Areas, the standards applicable to outdoor eating areas allowed for Restaurants and Retail Food Establishments as an Accessory Use in certain non-residential zones. The amendment also created definitions for Outdoor Eating Areas and Retail Food Establishments.
- Prior to the adoption of Text Amend. #610, self-service dining was considered Outdoor Storage and Display, an allowable Accessory use for Restaurants only, subject to the standards in §32-6.
- For a 3-year period commencing in May of 2020 and ending on 4/30/23, requirements for Outdoor Eating Areas state-wide, were established by Executive Orders from the Governor’s Office in response to COVID-19. Establishments were permitted Outdoor Eating Areas pursuant to these EO’s. Some establishments that benefitted would not otherwise qualify if using the local zoning regulations that were temporarily suspended such as Joey’s By the Shore Featuring Elivira Mae’s Coffee Bar, at 222 Hillspoint Rd.
- The Zoning Regulations were amended in 1978 to first include reference to and standards for outdoor eating areas, as an allowable Accessory use associated with Restaurants in certain non-residential zoning districts where restaurants are permitted. Standards included Size (not to exceed 20% of the patron floor area); Duration of Use (seasonal, from May 1 to Oct. 1), Design (may not be roofed or enclosed), and Parking (exempt if eating area does not exceed 20% of patron floor area).

- 4/13/78 The Planning and Zoning Commission adopted Text Amendment #200 that constituted a revised version of entire Zoning Regulations and Subdivision Regulations, effective 5/26/78. Changes included adding language to §24, Business District, in §24-2.3.5 to allow "Outdoor Eating Areas" (an undefined use) for restaurants as a permissible Accessory Use, subject to obtaining a Health Dept. permit and a Zoning Permit, and demonstrating compliance to the following requirements:
- (a) *"The outdoor eating area shall be accessible from the restaurant building only;*
  - (b) *The outdoor eating area shall not exceed 20% of the interior patron floor area;*
  - (c) *The outdoor eating area shall be largely open to the elements, and shall not be permanently enclosed with a roof or walls;*
  - (d) *The outdoor eating area shall be a seasonal operation not to exceed a five month period from May 1 to Oct. 1 of each year; and*
  - (e) *Such outdoor eating areas shall be exempt from off-street parking requirements."*
- 11/4/79 Text Amendment #218-A adopted, effective 11-12-79, establishing a new zone, "§28, Business Preservation District (BPD)." Standards included §28-2.3.4 authorizing, "Outdoor Eating Areas for Restaurants subject to an annual Zoning Permit approval, annual Health Permit and the following conditions:
- (a) *"The outdoor eating area shall be accessible from the restaurant building only;*
  - (b) *The outdoor eating area shall not exceed 20% of the interior patron floor area;*
  - (c) *The outdoor eating area shall be largely open to the elements, and shall not be permanently enclosed with a roof or walls;*
  - (d) *The outdoor eating area shall be a seasonal operation not to exceed a five month period from May 1 to Oct. 1 of each year; and*
  - (e) *Such outdoor eating areas shall be exempt from off-street parking requirements."*
- 1/27/81 Text Amendment #244-C-1 adopted, effective 2/9/81, that changed the existing Business District to Business District #1 and established a new Business District #2 and modified the Accessory Use standards for Business Districts in §24-2.3.5(b) to restrict the size of an outdoor eating area Accessory to a Restaurant to 20% of the interior patron floor area OR 6 tables and 24 chairs, whichever is less.
- 11/5/81 Text Amendment #251A adopted, effective 11/23/81, creating the Restricted Office Retail District (RORD) #1 and #2 zones, and standards, including §22-2.4.3 authorizing "Outdoor Eating Areas for Restaurants in the RORD #2, subject to an annual Zoning Permit approval, annual Health Permit and the following conditions:
- (a) *"The outdoor eating area shall be accessible from within the restaurant building only;*
  - (b) *The outdoor eating area shall not exceed 20% of the interior patron floor area or 6 tables and 24 chairs whichever is less;*
  - (c) *The outdoor eating area shall be largely open to the elements, and shall not be permanently enclosed with a roof and walls;*
  - (d) *The outdoor eating area shall be a seasonal operation not to exceed a five month period from May 1 to Oct. 1 of each year; and*
  - (e) *Such outdoor eating areas shall be exempt from the off-street parking requirements."*

- 6/5/89 The PZC adopted Text Amendment #374, effective 6/23/89, authored by the PZC, that modified §24-2.3.5 to clarify the outdoor eating area, *“shall be largely open to the elements, and shall not be permanently enclosed with a roof and walls.”*
- 5/21/93 Text Amendment #423, effective 5/21/93, modified the Outdoor Eating Area regulations in §22-2.3.3, Accessory Uses in the RORD; and §24-2.3.5, Accessory Uses in the General Business District (GBD), §28-2.3.4, Accessory Uses in the Business Preservation District (BPD), §29-2.3.5, Business Center District (BCD), to authorize use of umbrellas over outdoor tables to protect food, and to clarify parking shall be provided for outdoor eating areas that exceed 20% of the indoor patron area:
- (a) *“The outdoor eating area shall be accessible from within the restaurant building only;*
  - (b) *The outdoor eating area shall not exceed 20% of the interior patron floor area or 6 tables and 24 chairs whichever is less;*
  - (c) *The outdoor eating area shall be largely open to the elements, and shall not be permanently enclosed with a roof and walls be they permanent or temporary. The only exception are the use of umbrella tables and the protection of the food preparation areas required by state and local health regulation. This type of patio will require no parking. If any type of protection from the elements other than table umbrellas is put over or around the patio then parking shall be required in accordance with the parking requirements for a restaurant.*
  - (d) *The outdoor eating area shall be a seasonal operation not to exceed a five month period from May 1 to Oct. 1 of each year; and*
  - (e) *~~Such outdoor eating areas shall be exempt from the off-street parking requirements. If the patio exceeds the requirements in (b) then parking shall be required for the whole patio as stated in (c).~~*
- 5/13/10 Text Amendment #610 adopted as modified, effective 6/14/10, see attached. The amendment modified the Zoning Regulations to:
- Add the following definition for *“Retail Food Establishments”* in §5-2, for purposes of allowing retail businesses to offer indoor seating (up to ten 10 seats) without changing the parking requirements to the more conservative Restaurant standards:
 

*“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. Such establishment shall not be considered Restaurants or Fast Food Restaurants and no additional parking will be required provided that they have indoor seating for 10 patrons or less. See §5-2 and §32-20, Outdoor Eating Areas.”*
  - Add the following definition for *“Outdoor Eating Areas”* in §5-2 identifying the use is permitted subject to a Zoning Permit and compliance with newly adopted standards in §32-20, Special Requirements for Outdoor Eating Areas (see below).
 

*“An Outdoor area located on the same property as a Restaurant, Fast Food Restaurant or Retail Food Establishment that allows for tables and chairs for outdoor table service or self-service dining subject to an annual Zoning Permit and the requirements found in §32-20.”*

- Modified the Outdoor Eating Area standards listed in the non-residential zoning districts where the use is allowed (§22, RORD; §23, RBD; §24, GBD; §25, HSD, §28, BPD; §29, BCD; §29A, BCD/H; §30, HDD), to:
  - Remove the design requirements and instead provide a cross reference to a new section, §32-20, Special Requirements for Outdoor Eating Areas, where the revised design requirements are listed; and
  - Add language identifying the use as an Accessory use, subject to only a Zoning Permit, for Retail Food Establishments and Restaurants located in specified non-residential zones.
- Established standards in §32-20, *Special Requirements for Outdoor Eating Areas*, to:
  - Add a subsection listing required department approvals;
  - Add a subsection on Use & Area design requirements;
  - Add a subsection exempting the use from parking requirements if area doesn't exceed 20% of the interior patron floor area or 500 SF whichever is less;
  - Add a subsection eliminating restriction that use is only allowed seasonally;
  - Add a subsection allowing the use in setback areas except within 30' of any residential zoning district boundary line;
  - Add a subsection on landscaping requiring no existing Front Landscape Area may be removed to accommodate an Outdoor Eating Area.
- Modified §32-6.1, *Outdoor Storage and Display*, to identify tables and chairs provided for self-service outdoor dining are no longer considered Outdoor Storage and Display, but are instead subject to the newly adopted standards in §32-20, *Special Requirements for Outdoor Eating Areas*.

- 7/8/10 Text Amendment #613 adopted as modified, effective 8/9/10, see attached. The amendment modified the Zoning Regulations to remove the 1,500' separating distance between patron bars that was in effect, and simplified standards in §31-9, Liquor Establishments, to describe the selling of alcoholic liquor for on-site consumption was permitted only for Restaurants in Non-Residence Districts. Exceptions permissible in Residence Districts include only Temporary Special Events and confirmed continued use by establishments with a valid liquor permit as of the effective date of the regulation was permitted (such as Birchwood County Club, the Hunt Club, etc.).
- 3/17/11 Text Amendment #628 adopted as modified, effective 4/8/11, see attached. The amendment clarified language adopted pursuant to Text Amendments #610 and #613 including, but not limited to, adding language to the Retail Food Establishment definition in §5-2 to codify the sale of alcoholic beverages is permitted for off-site consumption only.
- 7/14/11 Text Amendment #635 was adopted as modified, effective 8/15/11, see attached. Text Amendment #635 continued the momentum of Text Amendment #613 towards the goal of streamlining the approval process for Restaurants by eliminating the requirement for a Restaurant to obtain Special Permit approval to sell alcohol for on-premise consumption.

- 6/7/12 Text Amendment #649 was adopted, effective 7/9/12, see attached. The amendment modified §32-20(5) to exempt tents, canopies and fixed awnings used over outdoor eating areas from Building Coverage if stormwater runoff is addressed to the satisfaction of the Town Engineer.
- 7/23/20 Text Amendment #783 was adopted as modified, effective 9/8/20, see attached. The amendment added new §32-20A, Continuation of Temporary Outdoor Dining in Response to COVID-19, that extended until March 31, 2021 (or until EO #7MM is repealed) all the same provisions enabling Outdoor Activities for Restaurants pursuant to Executive Order No. 7MM issued by Governor Lamont.
- The resolution of approval identified:
1. *“Adopting local regulations to continue outdoor dining through the holiday season should provide the security desired by many restauranteurs during these uncertain times and allow them to plan ahead.”*
  2. *Adopting local regulations and putting them into effect on September 8, 2020 is appropriate as it precedes the expiration of the Governor’s Public Health and Civil Preparedness Emergency on September 9, 2020.”*
- 3/11/21 Text Amendment #788 was adopted as modified, effective 4/1/21, see attached. The amendment modified §32-20A, Continuation of Temporary Outdoor Dining in Response to COVID-19, to extend "Until Further Notice," until any expiration of the State’s declared state of emergency, the temporary zoning standards for Outdoor Activities for restaurants and §32-20A was expanded to include Retail Establishments.
- The resolution of approval described:
1. *“Adopting local regulations to continue temporary provisions for outdoor dining should provide the security desired by many restauranteurs during these uncertain times and allow them to plan ahead.”*
  2. *Expanding the regulations to include Retail Establishments is consistent with the intent of EO #7MM which permits, “Expedited Municipal Review of Outdoor Dining and Retail,” [emphasis added] to promote social distancing in order to prevent the potential transmission of COVID-19 in commercial establishments.*
  3. *Adopting local regulations and making them effective by April 1, 2021 is appropriate as it immediately subsequent to the expiration of the existing temporary zoning regulations scheduled to expire on March 31, 2021; therefore there will be no interruption in authorization to continue Outdoor Activities.”*
- 3/14/22 Text Amendment #814 adopted as modified, effective 3/14/22, see attached. The amendment modified definitions and standards for Retail Food Establishments, Restaurants, and Outdoor Eating Areas to allow Outdoor Eating Areas (*defined 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*), in all Non-Residential Zones (*except those zones that don’t allow Restaurants, Cafes, and Retail Food Establishments*), subject to administrative approval by P&Z Staff (Site Plan Waiver).

**Attached**

Text Amendment #200, adopted 4/13/78  
Text Amendment #218-A, adopted 11/4/79  
Text Amendment #244-C-1, adopted 1/27/81  
Text Amendment #251A, adopted 11/5/81  
Text Amendment #374, adopted 6/5/89  
Text Amendment #423, adopted 5/21/93  
Text Amendment #610, adopted 5/13/10  
Text Amendment #613, adopted 7/8/10  
Text Amendment #628, adopted 3/17/11  
Text Amendment #635, adopted 7/14/11  
Text Amendment #649, adopted 6/7/12  
Text Amendment #783, adopted 7/23/20  
Text Amendment #788, adopted 3/11/21  
Text Amendment #814, adopted 3/14/22

FROM TEXT AMEND #200

Amend #2

REVISED

ZONING REGULATIONS

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AND

SUBDIVISION REGULATIONS

PLANNING & ZONING COMMISSION

TOWN OF WESTPORT

CONNECTICUT

October 17, 1977

Rev. Feb. 1978

Rev. April 13, 1978

ADOPTED APRIL 13, 1978

EFFECTIVE MAY 26, 1978

- 24-2.2.1 Veterinary hospitals and animal clinics.
- 24-2.2.2 Golf driving ranges, paddle tennis courts, tennis courts, bowling alleys, skating rinks, and other indoor and outdoor commercial recreation uses.
- 24-2.2.3 Commercial marinas , including accessory boat sales.

24-2.3 Accessory Uses

- 24-2.3.1 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 Section 32-7, herein.
- 24-2.3.2 Outdoor storage and display is permitted in accordance with Section 32-6, herein.
- 24-2.3.3 Banks with a drive-up window.
- 24-2.3.4 Wholesaling and warehousing.

24-2.3.5 Outdoor eating areas for restaurants subject to annual Zoning Permit approval, annual Health Permit and the following conditions:

- (a) The outdoor eating area shall be accessible from the restaurant building only.
- (b) The outdoor eating area shall not exceed 20% of the interior patron floor area.
- (c) The outdoor eating area shall be largely open to the elements, and shall not be permanently enclosed with a roof and walls.
- (d) The outdoor eating area shall be a seasonal operation not to exceed a five month period from May 1 to October 1 of each year.
- (e) Such outdoor eating areas shall be exempt from the off-street parking requirements.

8/31/78  
ZBA Disagrees

24-2.4 Prohibited Uses

✓ The following uses in addition to those listed in Section 32-7, herein, shall be prohibited: gasoline filling



24 BUSINESS DISTRICT

24-1 Purpose

The purpose of the Business District is to allow general commercial and office development in designated areas located along arterial streets, limiting the intensity of development and providing adequate off-street parking. Automotive and similar drive-in type establishments shall be prohibited.

24-2 Permitted Uses

In a Business 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:

24-2.1 Principal Uses

24-2.1.1 Any use permitted in the Residence AAA District, subject to the same approvals and conditions specified in Section 11-2, herein.

24-2.1.2 The following additional uses are permitted subject to Site Plan Approval in accordance with Section 43, herein.

- (a) Stores and shops where goods are sold and services are rendered primarily at retail.
- (b) Grocery stores and delicatessens.
- (c) Restaurants and other food service establishments.
- (d) Cafes and taverns.
- (e) Business, professional, medical, banks, financial, insurance, real estate and other offices.
- (f) Indoor theaters and assembly halls.
- (g) Undertakers' establishments.
- (h) Newspaper and job printing establishments.

*Principal  
Pkg. Ltr., desks,  
g. 1/2, etc*  
done 3-13-77

24-2.2 Special Permit Uses

The following additional uses are permitted subject to Special Permit and Site Plan approval in accordance with Section 43, herein.

EXHIBIT A

THE PLANNING AND ZONING COMMISSION

TOWN HALL, 110 MYRTLE AVENUE  
WESTPORT, CT. 06880  
226-8511 Ext. 210

Proposed: 9/13/79  
Hearing: 10/18/79  
Adopted: 11/4/79  
Effective: 11/12/79

TO WHOM IT MAY CONCERN

FROM: Planning & Zoning Commission  
RE: ZONING AMENDMENT #218-A & 218-B  
BUSINESS PRESERVATION DISTRICT

At a meeting of the Westport Planning & Zoning Commission held on November 4, 1979 it was moved by Ann Gill and seconded by Karen Curtis to adopt the following resolution:

BE IT RESOLVED that proposed Zoning Amendment #218-A to amend the Westport Zoning Regulations to establish a new Section 28, Business Preservation District (BPD) regulation dated 9/13/79 as revised 11/4/79 be ADOPTED, as follows:

28 BUSINESS PRESERVATION DISTRICT (BPD)

28-1 Purpose

These provisions are intended to retain the residential character of the existing buildings and are not intended to lead to the wholesale redevelopment of these areas to intensify the commercial use and to eliminate existing architectural scale and features. These BPD provisions are designed to create a zoning classification which would afford a reasonable and desirable linear, visual transition between established commercial areas. Frame residential structures in commercial areas along arterial streets tend to be replaced by larger more modern structures. The historical character of such areas is more residential in architectural design and building scale than more recently developed areas in the Business District. Consequently, a limited business type zone is required to conserve the value of property while preserving the character of such areas from the standpoint of compatible land uses, architectural design, building scale and physical appearance. The BPD provides for such preservation and development.

28-2 Permitted Uses

In a Business Preservation 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:

### 28-2.1 Principal Uses

28-2.1.1 Any use permitted in the Residence AAA District, subject to the same approvals and conditions as specified in Section 11-2, herein.

28-2.1.2 The following uses are permitted only in a principal building existing on the premises at the time the BPD boundary is established and subject to Site Plan approval in accordance with Section 43 herein. This provision shall not be deemed to prevent new construction and use of a principal building on a lot, provided that such new construction or reconstruction shall strictly adhere to the purposes of this district.

- (a) Stores and shops where goods are sold and services are rendered primarily at retail.
- (b) Grocery stores and delicatessens.
- (c) Restaurants and other food service establishments.
- (d) Cafes and Taverns.
- (e) Business, professional, medical, banks, financial, insurance, real estate and other offices.
- (f) Undertakers' establishments.
- (g) Off-street parking lots, decks & garages.

### 28-2.2 Special Permit Uses

The following additional uses are permitted only in a principal building existing on the premises at the time the BPD boundary is established and subject to Special Permit and Site Plan Approval in accordance with Sec. 43, herein. This provision shall not be deemed to prevent new construction and use of a principal building on a lot, provided that such new construction or reconstruction shall strictly adhere to the purposes of this district.

28-2.2.1 Veterinary hospitals and animal clinics.

### 28-2.3 Accessory Uses

28-2.3.1 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 Section 32-7, herein.

28-2.3.2 Outdoor storage and display is permitted in accordance with Section 32-6, herein.

28-2.3.3 Wholesaling and warehousing.

28-2.3.4 Outdoor eating areas for restaurants subject to annual Zoning Permit approval, annual Health Permit and the following conditions:

- (a) The outdoor eating area shall be accessible from the restaurant building only.
- (b) The outdoor eating area shall not exceed 20% of the interior patron floor area.
- (c) The outdoor eating area shall be largely open to the elements, and shall not be permanently enclosed with a roof and walls.
- (d) The outdoor eating area shall be a seasonal operation not to exceed a five month period from May 1 to October 1 of each year.
- (e) Such outdoor eating areas shall be exempt from the off-street parking requirements.

28-2.3.5 Attached dwelling units accessory to a principal use provided each unit has a minimum floor area of 400 sq. ft.

#### 28-2.4 Prohibited Uses

The following uses in addition to those listed in Section 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, automobiles, motorcycles, trucks, mobile homes, trailers, campers, boats, farm or other heavy equipment, hotels, motels, motor inns, drive-in establishments (except for bank drive-up windows), indoor theaters and assembly halls, newspaper and job printing establishments, indoor and outdoor commercial recreation uses, commercial marinas and heavy commercial uses such as lumber yards, septic tank sales, construction equipment yards, contractors storage yards, etc.

#### 28-3 Lot Area

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

#### 28-4 Setbacks

No principal building, structure or use, accessory building or structure shall extend closer than thirty (30) feet from the East Post Road or West Post Road street lines or twenty (20) feet from any other street line. Side and rear setbacks shall

be determined by the physical site characteristics and surrounding buildings, structures and uses.

28-5 Height

No building or structure shall exceed a height of two and one-half (2½) stories or thirty-five (35) feet, whichever is less, except to match the existing pitched, gable, or gambrel roof line of an existing building on that lot.

28-6 Coverage

The building coverage shall not exceed twenty-five percent (25%) of the area of the lot which lies within the Business Preservation District.

28-7 Building Area

No mandatory requirements.

28-8 Floor Area

An existing principal building may be expanded provided that such additions are made an integral part of the interior and exterior of the existing structure.

28-9 Architectural Design

The architectural design, scale and mass of buildings and other structures, including, among other elements, the exterior building material, color, roofline, and building elevations shall be of such character as to harmonize and be compatible with the other buildings in the BPD Districts 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.

28-9.1 Buildings designed to achieve a small scale and residential appearance shall be encouraged.

28-9.2 Pitched roofed buildings shall be encouraged.

28-9.3 Roof-top mechanical equipment, other than solar energy panels, shall be concealed from all sides.

28-9.4 Buildings shall be designed and located on the site so as to retain the existing topography and natural features of the land to the greatest extent possible.

28-10 Signs

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

28-11 Parking and Loading

Off-street parking and loading shall be provided in accordance with Section 34 of the Supplementary Regulations.

28-12 Landscaping, Screening and Buffer Areas

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

Effective Date: November 12, 1979

VOTE:           Ayes - 4 (Ann Gill, Karen Curtis, John Jacobsen & Patricia Coplen)  
              Nays - 0  
              Abstentions - 0



# THE PLANNING AND ZONING COMMISSION

TOWN HALL, 110 MYRTLE AVENUE  
WESTPORT, CT. 06880  
226-8511 Ext. 210

Proposed: 10/3/80  
Hearing: 11/6/80  
Adopted: 1/27/81  
Effective: 2/9/81

TO WHOM IT MAY CONCERN  
FROM: Westport Planning & Zoning Commission  
RE: Zoning Amendment #244-C-1 (Text)  
Heights in Bus. Dist. #1 & 2

At a meeting of the Westport Planning & Zoning Commission held on 1/27/81, it was moved by K. Curtis and seconded by M. Fenster to adopt the following resolution:

BE IT RESOLVED that Zoning Amendment #244-C-1 (Text) to amend Section 24, Business District, of the Westport Zoning Regulations to create Business Districts #1 & 2 and to change the building heights in Section 24-5 be ADOPTED as follows:

(1) Amend Sec. 24, Business District Regulations as follows:

## 24 BUSINESS DISTRICTS No. 1 & 2

### 24-1 Purpose

The purpose of the Business Districts is to allow general commercial and office development in designated areas located along arterial streets, limiting the intensity of development and providing adequate off-street parking. Automotive and similar drive-in type establishments shall be prohibited.

### 24-2 Permitted Uses

In a Business District No. 1 or 2, 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:

#### 24-2.1 Principal Uses

24-2.1.1 Any use permitted in the Residence AAA District, subject to the same approvals and conditions specified in Section 11-2, herein.

24-2.1.2 The following additional uses are permitted subject to Site Plan Approval in accordance with Section 43, herein.

- (a) Stores and shops where goods are sold and services are rendered primarily at retail.
- (b) Grocery stores and delicatessens.
- (c) Restaurants and other food service establishments.
- (d) Cafes and taverns.

- (e) Business, professional, medical, banks, financial, insurance, real estate and other offices.
- (f) Indoor theaters and assembly halls.
- (g) Undertakers' establishments.
- (h) Newspaper and job printing establishments.
- (i) Off-street parking lots, docks and garages.

24-2.2 Special Permit Uses

The following additional uses are permitted subject to Special Permit and Site Plan approval in accordance with Section 43, herein.

- 24-2.2.1 Veterinary hospitals and animal clinics.
- 24-2.2.2 Golf driving ranges, paddle tennis courts, tennis courts, bowling alleys, skating rinks, and other indoor and outdoor commercial recreation and entertainment uses.
- 24-2.2.3 Commercial marinas, including accessory boat sales.

24-2.3 Accessory Uses

- 24-2.3.1 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 Section 32-7, herein.
- 24-2.3.2 Outdoor storage and display is permitted in accordance with Section 32-6, herein.
- 24-2.3.3 Banks with a drive-up window.
- 24-2.3.4 Wholesaling and warehousing.
- 24-2.3.5 Outdoor eating areas for restaurants subject to annual Zoning Permit approval, annual Health Permit and the following conditions:
  - (a) The outdoor eating area shall be accessible from the restaurant building only.
  - (b) The outdoor eating area shall not exceed either 20% of the interior patron floor area or 6 tables and 24 chairs, whichever is less.



- (c) The outdoor eating area shall be largely open to the elements, and shall not be permanently enclosed with a roof and walls.
- (d) The outdoor eating area shall be a seasonal operation not to exceed a five month period from May 1 to October 1 of each year.
- (e) Such outdoor eating area shall be exempt from the off-street parking requirements.

24-2.4 Prohibited Uses

The following uses in addition to those listed in Section 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, automobiles, motor-cycles, trucks, mobile homes, trailers, campers, boats, farm or other heavy equipment, hotels, motels, motor inns, and drive-in establishments, except for bank drive-in windows.

24-3 Lot Area

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

24-4 Setbacks

Amended  
#245  
1/6/81

No principal building, structure or use accessory building or structure shall extend closer than thirty (30) feet from the East Post Road or West Post Road street lines or twenty (20) feet from any other street 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 on adjoining lots shall be separated by either a common fire wall on the lot line or by a distance of at least 8 feet from the lot line.

24-5 Height

24-5.1 In a Business District #1

Amended  
#215 11/4/79  
#230 5/6/80

No (No) building or other structure shall exceed a height of three (3) stories or forty (40) feet, whichever is less. (and no building or structure shall exceed a Floor-Area Ratio (FAR) of 0.45 on the area of the lot that lies within the Business District, -- Floor-area used for parking and loading spaces shall be included in the FAR).

See Amend.  
#244-A-2  
for FAR

24-5.2 In a Business District #2

No building or structure shall exceed a height of two (2) stories or thirty (30) feet, whichever is less.

24-6 Coverage

Amended 3/13/79 #204 The building coverage shall not exceed twenty-five percent (25%) of the area of the lot which lies within (the) a Business District.

24-7 Building Area

No mandatory requirement.

24-8 Floor Area

~~(No minimum requirements)~~

Amended #244-A-2 1/27/81 No buildings or structures shall exceed a Floor Area Ratio (FAR) of 0.35 on the area of the lot that lies within a Business District. Floor area used for parking and loading spaces shall be excluded from the FAR.

24-9 Architectural Design

No mandatory requirements.

24-10 Signs

Signs shall be permitted in accordance with Section 53 of the Supplementary Regulations.

24-11 Parking and Loading

Off-street parking and loading shall be provided in accordance with Section 34 of the Supplementary Regulations.

24-12 Landscaping, Screening and Buffer Areas

Landscaping, screening and buffer areas shall be provided in accordance with Section 25 of the Supplementary Regulations.

24-13 Moratorium

Amended 7/15/78 #201 No future applications involving any changes in Zone for business uses, Site Plan Reviews for business development activities affecting property in that portion of the Business District located along the north side of Post Road West between the Norwalk Town Line and Sylvan Road North shall be accepted, considered or acted upon by the Westport Planning and Zoning Commission during the nine month period from the date of adoption to April 30, 1979.

Effective Date: 2/9/81

VOTE: Ayes - 5 (K. Curtis, M. Fenster, A. Gill, M. Borden & D. Sivak)  
Nays - 0  
Abstentions - 0



# WESTPORT CONNECTICUT

THE PLANNING & ZONING COMMISSION

TOWN HALL, 110 MYRTLE AVENUE

WESTPORT, CONNECTICUT 06880

(203) 226-8311

Proposed: 6/5/81  
Revised: 6/16/81  
Hearing: 6/30/81  
Re-Proposed: 8/14/81  
Re-Hearing: 9/15/81  
Adopted: 11/5/81  
Effective: 11/23/81

TO WHOM IT MAY CONCERN

FROM: Planning & Zoning Commission

RE: Re-Proposed Zoning Amend. #251 A & B (Text & Map)  
RORD #1 & #2 with Use, Setback, Height & FAR Changes

## RE-PROPOSED ZONING AMEND. #251 A & B (TEXT & MAP)

At a meeting held on 11/5/81 the Westport Planning & Zoning Commission reviewed Zoning Amend. #251 A & B and found that:

1. The area contains mixed uses, predominately residential with some offices.
2. Buildings are predominately small, 2 story, pitched-roof, frame residences.
3. This area is transitional between the Saugatuck R. R. Station/Bridge Square commercial areas and the single-family residences to the north.
4. Residential uses are appropriate along the Saugatuck River.
5. Commercial development will result in the loss of 26 dwelling units.
6. The area contains 21 structures: 7 commercial, 6 mixed-use, 7 residential and 1 vacant.
7. Twelve structures contain 26 dwelling units.
8. Nineteen structures have pitched roofs.
9. Sixteen structures are frame residential buildings.
10. Eighty-one percent of the buildings are less than three stories in height i.e. 4 are three stories.
11. Ninety percent of the buildings comprise a building area of 2,500 sq. ft. or less i.e. two exceed a 2,500 sq. ft. footprint.
12. The 1975 Town Plan Update recommends limited office-retail uses for this area.
13. Sewers are to be improved in this area.
14. Riverside Ave. has the appearance of a residential street.
15. Reduced commercial development will reduce the traffic impact and help to retain existing dwelling units.

After discussion it was moved by A. Gill and seconded by C. Belser to adopt the following resolution on:

### (A) RE-PROPOSED RORD #1 & #2 REGULATIONS (TEXT)

BE IT RESOLVED that Zoning Amendment #251-A (Text) to amend the Sec. 22, Restricted Office Retail District of the Westport Zoning Regulations to create RORD #1 & #2, to add uses in Sec. 22-2, and to change the Setbacks, Heights & FAR in Sec. 22-4, 22-5 & 22-8, respectively, dated 6/5/81 and as revised 6/16/81, 8/14/81 and 11/5/81 be ADOPTED as follows:

22 RESTRICTED OFFICE-RETAIL DISTRICTS #1 & #2 (RORD)

22-1 Purpose

The purpose of the RORD is to allow for the limited use of land and existing buildings for offices, retail stores, multiple-family dwellings and combinations thereof. These provisions are designed to create a zone classification which would afford a reasonable and desirable combination of compatible uses along the Post Road, Riverside Avenue and Saugatuck Avenue adjacent to and in scale with established residential areas. Frame residential structures on small lots with topographic limitations in the proximity of commercial areas tend to become economically depressed as the demand for fire-resistant buildings on larger and more accessible sites increases. The character of such areas is more residential in architectural design, building scale and physical features of the land. These provisions are intended to retain the residential character of the existing buildings and are not intended to lead to the wholesale redevelopment of these areas to new commercial uses. Consequently, a mixed-use type of zone is required to conserve the value of such property and to recognize the intensity of uses while preserving the character of such areas from the standpoint of compatible land uses, architectural design, building scale and physical appearance. The RORD provides for such mixed-uses.

22-2 Permitted Uses

In a Restricted Office-Retail 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:

22-2.1 Principal Uses

Any use permitted in the Residence AAA District, subject to the same approvals and conditions as specified in Section 11-2, herein, except Sections 11-2.3.1 elderly conversions and 11-2.4.6 customary home occupations.

22-2.2 Special Permit Uses

The following uses are permitted in principal buildings subject to Special Permit and Site Plan Approval in accordance with Section 43, herein.

22-2.2.1 Business, professional, financial, insurance, real estate or other offices.

22-2.2.2 Stores and shops where goods are sold and services are rendered primarily at retail.

22-2.2.3 Off-street parking lots and garages.

22-2.2.4 Grocery stores and delicatessens in RORD #2, only.

22-2.2.5 Restaurants and other food service establishments in RORD #2, only.

22-2.2.6 Commercial marinas, docks, landings and  
boathouses in RORD #2, only.

22-2.3 Special Permit Uses Subject to Special Conditions

One-family, two-family (dwellings) and multi-family dwelling units in principal buildings are permitted subject to Site Plan and Special Permit approval in accordance with Section 43, herein, and the following conditions:

22-2.3.1 Density/Lot Area - The minimum lot area shall be at least (~~six-thousand-(6,000)~~ 5,445 sq. ft. for each dwelling unit, i.e., (~~7.3~~) 8.0 dwelling units per acre.

22-2.3.2 Usable Open Space - At least 150 sq. ft. of usable open space shall be provided on the lot for each dwelling unit.

22-2.4 Accessory Uses

22-2.4.1 Uses customarily accessory to a permitted principal use, including the manufacturing, processing or assembling of goods which is incidental to the conduct of a retail business conducted on the premises, subject to the provisions of Section 32-7, herein.

22-2.4.2 Outdoor storage and display is permitted in accordance with Section 32-6, herein.

22-2.4.3 Outdoor eating areas for restaurants only in RORD #2 subject to annual Zoning Permit approval, annual Health Permit and the following conditions:

(a) The outdoor eating area shall be accessible from within the restaurant building only.

(b) The outdoor eating area shall not exceed 20% of the interior patron floor area or 6 tables and 24 chairs whichever is less.

(c) The outdoor eating area shall be largely open to the elements, and shall not be permanently enclosed with a roof and walls.

(d) The outdoor eating area shall be a seasonal operation not to exceed a five month period from May 1 to October 1 of each year.

(e) Such outdoor eating areas shall be exempt from the off-street parking requirements.

22-2.5 Prohibited Uses

The following uses in addition to Section 32-7, herein, shall be prohibited: restaurant in RORD #1 only, cafe, tavern, gasoline filling station, automobile service establishment or repair garage, any lot, establishment or dealer for new or used motor vehicles, automobiles, motorcycles, trucks, mobile homes, trailers, campers, boats, farm or other heavy equipment, hotels, motels, motor inns, drive-in establishments (except for bank drive-up windows), indoor theaters and assembly halls, newspaper and job printing establishments, veterinary hospitals, animal clinics, bowling alleys, skating rinks, and other indoor and outdoor commercial recreation facilities and heavy commercial uses such as lumber yards, septic tank sales, construction equipment yards, contractor's storage.

22-2.6 Mixed Use Requirements in RORD #2

At least one dwelling unit shall be provided within a principal building on each lot.

22-3 Lot Area

The minimum lot area shall be the minimum required lot area of the Zoning District in existence at the time such RORD is established for the area. The lot shall have at least 50 feet of frontage on at least one street.

22-4 Setbacks

22-4.1 In a RORD #1

No principal building, structure or use shall extend closer than thirty (30) feet from any street line, fifteen (15) feet from any side lot line, or twenty-five (25) feet from any rear lot line. No accessory building or structure shall extend closer than thirty (30) feet from any street line and fifteen (15) feet from the side and rear lot lines.

22-4.2 In a RORD #2

No principal building, structure or use, accessory building or structure shall extend closer than thirty (30) feet from any street 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 on adjoining lots shall be separated by either a fire wall on the lot line or by a distance of at least \_\_\_\_\_ feet from the lot line.

22-5 Height

No building or other structure shall exceed a height of two and one-half (2½) stories or thirty (30) feet, whichever is less, except to match the existing pitched, gable or gambrel roof line of an existing building on that lot.

22-6 Coverage

Amended  
3-13-79  
#204

The building coverage shall not exceed twenty percent (20%) of the area of the lot which lies within the RORD.

22-7 Building Area

No building shall have more than two thousand, five hundred (2,500) square feet of building area. (See definition.)  
No one building shall contain more than eight (8) dwelling units.

22-8 Floor Area

22-8.1 Minimum

The principal building shall have a minimum floor area on the ground floor of eight hundred (800) square feet.

22-8.2 Maximum Expansion

An existing principal building may be expanded provided that such additions are made an integral part of the interior and exterior of the existing structure and provided that the maximum area of expansion on the ground shall not exceed twenty-five percent (25%) of the ground floor area of the principal structure existing as of the date of zoning change for any RORD area, and in no case shall any expansion exceed fifty percent (50%) of the gross floor area of the principal structure existing as of the date of zoning change to a RORD area and further provided that no such expansion shall exceed the maximum allowable building area for any one building.

22-8.3 Total Maximum

No one floor shall exceed an area of 2,500 sq. ft.

22-8.4 FAR

Amended  
2-9-81  
#244-A-1

22-8.4.1 In a RORD #1, no buildings or structures shall exceed a Floor Area Ratio (FAR) of 0.5 on the area of the lot that lies within the RORD. Floor area used for parking and loading shall be excluded from the FAR.

22-8.4.2 In a RORD #2, no buildings or structures shall exceed a Floor Area Ratio (FAR) of 0.35 on the area of the lot that lies within the RORD. Floor area used for parking and loading shall be excluded from the FAR.

22-8.5 Unit Types

Residential dwellings and mixed-use buildings shall be limited to efficiency, one-bedroom and two-bedroom dwelling units. Libraries, dens, studios, lofts and other similar spaces shall be deemed to be bedrooms by the Commission.

22-8.6 Unit Sizes

No RORD project shall exceed an average of 1,400 sq. ft. of interior floor area per dwelling unit. Maximum interior floor area shall exclude common parking spaces, common storage areas, common stairs, common halls, common foyers and other spaces used in common.

22-9 Architectural Design

The architectural design, scale and mass of buildings and other structures, including, among other elements, the exterior building material, color, roofline, and building elevations shall be of such character as to harmonize and be compatible with the neighborhood so as to protect property values in the neighborhood, and to preserve and improve the appearance and beauty of the community. New construction shall adhere to the purposes of this district, in whole or in part.

22-9.1 Buildings shall be designed to achieve a small scale and residential appearance.

22-9.2 Pitched roofed buildings shall be required.

22-9.3 Roof-top mechanical equipment shall be prohibited; except for energy conservation systems such as solar energy panels.

22-9.4 Buildings shall be designed and located on the site so as to retain the existing topography and natural features of the land to the greatest extent possible.

22-10 Signs

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



22-11 Parking and Loading

Off-street parking and loading shall be provided in accordance with Section 34 of the Supplementary Regulations; however, such parking and loading shall be located on the lot and to the rear of the front leading edge of the principal building.

22-12 Landscaping, Screening and Buffer Areas

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

22-13 Utilities

22-13.1 All utilities and conduits within the site shall be underground.

22-13.2 No Zoning Certificate of Compliance shall be issued for any building or dwelling unit unless and until such building or unit has been connected to a public water supply, suitable power supply and a public sanitary sewer line.

22-13.3 Storm drainage facilities shall be provided and shall be designed to achieve a zero impact run-off based on a minimum 25-yr. storm flow. Street culverts and bridges shall be designed for a 100-yr. storm flow.

22-13.4 All storm drainage facilities and public sanitary sewers shall be designed and constructed in accordance with Town Standards, subject to the approval of the Town Engineer.

22-14 Required Approvals & Documents

22-14.1 The applicant for any Special Permit use shall either obtain and submit with his/her application all required coordinate agency approvals such as Conn. DOT, DEP, CDH, AVHD, F&ECB, Conservation Commission, Town Engineer, etc. or shall otherwise provide sufficient evidence to show, to the satisfaction of the Commission, that the acquisition of all such required coordinate agency approvals appears to have a reasonable probability of success.

22-14.2 The applicant for any Special Permit use shall either obtain and submit with his/her application all necessary legal documents or rights such as easements, rights-of-way, articles of association, etc. or shall otherwise provide sufficient evidence to show, to the satisfaction of the Commission, that the acquisition of all such necessary legal documents or rights appears to have a reasonable probability of success.

Effective Date: 11/23/81

VOTE: Ayes - 6(A.Gill, S. Wolfe, C. Belser, M. Borden,  
K. Curtis & E. Ray)  
Nays - 0  
Abstentions - 0

The following Sections, as indicated by the cross-hatching were not adopted and is excluded from this amendment:

Zoning Amendment 374

Proposed: 3/23/89

Hearing: 5/22/89

Adopted: 6/5/89

Effective: 6/23/89

- a) Section 6-2.1.4 Requiring a special permit for alterations, extensions or expansions of a non-conforming building;
- b) Section 18; and
- c) Section 30-4 through 30-9.2

## GENERAL PROVISIONS

### 1. LEGISLATIVE INTENT

In order to lesson congestion in the streets; to secure safety from fire, panic, flood, and other dangers; to promote health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision for transportation, water, sewerage, schools, parks, and other public requirements; and with reasonable consideration for the protection of historic factors and a view to conserving the value of buildings, the Planning and Zoning Commission of the Town of Westport, County of Fairfield and State of Connecticut hereby adopts and promulgates the following rules and regulations in accordance with authority vested in it, the said Commission, by Chapter 242 of the Public Acts of the State of Connecticut, and Chapter 124 of Title 3 of the Connecticut General Statutes and any and all amendments thereto and by any other public act or statute of the State of Connecticut under which the Commission may properly act or derive authority.

### 2. INTERPRETATION

These regulations shall be intrerpreted and applied to meet at least the minimum requirements for the promotion of the public health, safety, comfort and convenience and general welfare. In considering issues arising under these regulations the applicable ordinance statute law, rule or regulation which imposes the most restrictive obligation upon the use of and/or construction of buildings and structures and upon the useof land shall be applied to the extent consistent with laws.

#### 2.1 Major Fractions

For the purposes of determining density and parking requirements major fractions of 0.5 or more maybe rounded up and under 0.5 mayoe rounded down.

### 3. SCOPE OF REGULATIONS

Except as hereinafter specified, no building, structure, parcel of land or part thereof shall be used, and no building, or other structure or part thereof shall be constructed, reconstructed, extended, enlarged or substantially altered, and no use or part thereof shall be changed to another use for the district in which it is located, except in conformity with the regulations herein prescribed for the zoning district in which it is located.

24-2.2.2 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.

24-2.2.3 Commercial marinas, including accessory boat sales. No boat shall be occupied or used as a dwelling or dwelling unit.

### 24-2.3 Accessory Uses

24-2.3.1 Use 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 provisions of Section 32-7, herein.

24-2.3.2 Outdoor storage and display is permitted in accordance with Section 32-6, herein.

24-2.3.3 Banks with a drive-up window; 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. (#341, 6/9/86)

24-2.3.4 Wholesaling and warehousing.

24-2.3.5 Outdoor eating areas for restaurants subject to annual Zoning Permit approval, annual Health Permit, and the following conditions:

(a) The outdoor eating area shall be accessible from the restaurant building only.

(b) The outdoor eating area shall not exceed either 10% 20% of the interior patron floor area or 6 tables and 24 chairs, whichever ~~and shall not be permanently enclosed with a roof and walls~~ is less.

(c) The outdoor eating area shall be largely open to the elements, and shall not be permanently enclosed with a roof and walls.

(d) The outdoor eating area shall be a seasonal operation not to exceed a five month period from May 1 to October 1 of each year.

(e) Such outdoor eating area shall be exempt from the off-street parking requirements.

24-2.3.6 Games 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, but in no case shall the hours of operation extend beyond 11:00 P.M. except in establishments with liquor licenses for on-premise consumption.



# WESTPORT CONNECTICUT

THE PLANNING & ZONING COMMISSION

TOWN HALL, 110 MYRTLE AVENUE

WESTPORT, CONNECTICUT 06880

(203) 226-8311

Hearing: April 1, 1993

Adopted: April 29, 1993

Effective Date: May 21, 1993

## Memorandum

To: Whom it may concern

From: Westport Planning and Zoning Commission

Date: May 3, 1993

Re: Amendment #423, Appl. #93-019

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on April 29, 1993 it was moved by Dorothy Williams and seconded by Robert Maclachlan to adopt the following resolution.

### RESOLUTION #93-019

BE IT RESOLVED that Application #93-019 by the Planning and Zoning Commission, Town of Westport for text amendments to §5, Definitions, for changes to Attic, Cellar, Crawl Space, Story, Story (half), Building Height and adding definitions for Commercial Use, Headroom. §11-2.2, Addition of the phrase, "non-commercial"; §11-2.4.13; Revision to language defining acceptable evidence; §22-2.3 and other business sections; clarification of required parking for outdoor eating areas; §23-2.2, Adds luncheonette to Special Permit uses; §32-10, narrows the area for which CAM Site Plan approval is required to 200 feet of Mean High Water Line or 100 feet of other coastal resources; §33-7.4, minor language change; §34-4, permits waiving of loading bay radius by special permit; §42-3.1.5; changes language for measurement of 500-foot radius to be consistent with the State statute; §44-1.3, minor language change to clarify regulation be Adopted as modified.



5 DEFINITIONS5-1 General Terms

In the interpretation and use of these regulations, words and phrases shall be construed according to the commonly approved uses of the language; except that technical words and phrases shall be construed and understood in accordance with commonly accepted technical meanings. All words used in the present tense include the future tense; all words used in the plural number include the singular number; and all words in the singular number include the plural number, unless the natural construction of the wording indicates otherwise. The word "uses" shall be deemed to also include "designed, intended or arranged to be used." Unless otherwise specified, all distances shall be measured horizontally. Words not specifically defined herein shall be used as defined in a Webster's New Collegiate Dictionary no more than 5 years old.

5-2 Specific Terms

Except as otherwise stated, or as the context may otherwise require, the following words, for the purpose of these regulations, shall be defined as follows:

Attic: ~~That a part of a building directly under the roof with three-quarters (3/4) or more of the floor space having headroom of less than five and one-half (5 1/2) feet. An attic shall not be deemed a story and shall not be counted in floor area measurements, but shall be counted in height measurements. a headroom of less than 5-1/2 feet over 3/4 of the area. The headroom shall be measured vertically from the top of the floor or floor beams to the bottom or underside of the roof, or roof rafters. The area shall be measured horizontally from the inside of the exterior walls or underside of the roof or roof/rafters at the floor level. The attic generally would not have a full floor, windows, sky lights and/or permanent staircase. Attics as defined herein shall not be included in FAR calculations but will be included in height. (See Floor Area, Headroom, Story)~~

Basement: ~~A story in a building located partly underground, but having less than three-quarters (3/4) of its floor-to-floor height below the average level of finished grade within 10 feet of the exterior walls of the building; i.e. more than one-quarter (1/4) of height is "out of the ground."~~

A part of a building located partly underground, which is not a crawl space, having less than three-quarters (3/4) of its headroom below the average level of the finished grade measured within 10 feet of the exterior walls of the building. A basement shall be deemed a story and shall be counted in floor area and height measurements. (See cellar, headroom)

Building  
Height  
or Height:

The vertical distance measured in feet from the average existing level of the ground surrounding the building or addition thereto and within ten (10) feet thereof up to the midpoint height of a pitched roof or up to the level of the highest main ridge or peak of any other type of structure, or the total number of stories in a building including basements and/or half-stories. The number of points necessary for an "average" computation shall be based on appropriate contour intervals or spot elevations as required by the Planning and Zoning Commission. The existing level shall mean the actual or approved elevations of the property at the time of application. ~~The provisions with respect to height shall not apply to roof parapets and turrets of 3 ft or less in height, but shall apply to solar panels and roof top mechanical equipment. Cupolas, clock towers, bell towers, and roof ventilators, that are not more than 12 feet in length or diameter and extend not more than 10 feet above the highest main ridge or flat roof lines of a structure shall be exempt from the building height. Church spires and belfries on churches or pole type TV antennas, and chimneys are excluded from building height. Attics, cellars and crawl spaces shall not be deemed to be a story but shall be counted in the height measurement.~~ The provisions with respect to height shall apply to solar panels and roof-top mechanical equipment but shall not apply to the following:

- Roof parapets and turrets of less than 3 feet; and
- Cupolas and domes not used for human habitation, clock towers, bell towers and roof ventilators; provided however that the total area covered by such features shall not exceed 15 percent of the roof area, and that such features shall extend not more than 5 feet above the highest main ridge or flat roof lines of a structure; and

- Church spires and belfries, pole type T.V. antennas and chimneys.  
(See Attic, Cellar and Crawl Space)

Cellar:

~~A portion of a building located nearly underground but having 3/4 or more of its floor-to-ceiling height below the average level of the finished grade within 10 feet of the interior walls of the building. A cellar shall not be deemed to be a story but shall be counted in FAR & height.~~

A part of a building located mostly underground which is not a crawl space, having three-quarters (3/4) or more of its headroom below the average level of the finished grade measured within 10 feet of the exterior of the walls of the building. A cellar shall not be deemed a story, but shall be counted in floor area and height measurements. (See crawl space, headroom.)

Commercial Use:

An occupation, employment or enterprise that is carried on for profit by the owner, lessee or licensee.

Crawl Space:

~~That portion of a building located below the first floor of a building and which is less than 5 feet in height from floor to underbeam. A crawl space shall not be deemed a story and shall not be included in computation of Floor Area Ratio, but shall be counted in the height measurements.~~

A part of a building, located below the first story, having headroom of less than five (5) feet at all points. A crawl space shall not be deemed a story and shall not be counted in floor area measurements, but shall be counted in height measurements. (See basement, cellar, story)

Floor Space

The area of a floor, measured at floor level from the interior faces of the exterior walls or the bottom of the roof or roof rafters.

Headroom

The vertical distance from the top of the floor or floor beams to the bottom of the next higher floor or floor beams or the bottom of the roof or roof rafters.



Story:

~~That part of a building between the upper surface of a floor or roof next above, having dimensions greater than an attic, crawl space or cellar, as defined herein. A story shall have a floor to ceiling or underbeam height of 7 feet or greater.~~

A part of a building, between the upper surface of a floor and the floor (or roof) next above, which is not an attic, cellar, crawl space, or half story. A story is counted in floor area and height measurements.

Story, Half:

~~Any space partially within the roof framing where the clear height of not more than fifty (50) percent nor less than twenty-five (25) percent of such floor space between the top of the floor or floor beams and the underside of the roof or roof rafters above is five and one half (5 1/2) feet or more in height.~~

A part of a building directly under the roof with between one-half (1/2) and three-quarters (3/4) of the floor space having headroom of less than five and one-half (5-1/2) feet. A half story shall be counted as one-half (1/2) of a story but shall be counted fully in floor area and height measurements.

11-2.2 Special Permit Uses

The following uses are permitted subject to Special Permit and Site Plan Approval in accordance with Section 43, herein:

- 11-2.2.1 Government buildings, facilities and uses including: recreation facilities, municipal office buildings, administrative headquarters, fire stations, police facilities, sewage and refuse disposal facilities, vehicle and material storage depots, parking lots, sanitary landfill operations and other similar buildings, facilities and uses.
- 11-2.2.2 Public and private schools, including nursery schools, day care centers, group day care homes and Sunday schools.
- 11-2.2.3 Non-commercial camps, non-commercial recreational clubs, and other private non-commercial recreational ~~facilities.~~ uses.
- 11-2.2.4 Churches and other places of worship, including an accessory parish house, rectory or parsonage.
- 11-2.2.5 Cemeteries and crematories.
- 11-2.2.6 Golf and country clubs.
- 11-2.2.7 Museums and libraries, and other similar community cultural uses.
- 11-2.2.8 Public utility buildings and facilities necessary for the services of the surrounding residential area.
- 11-2.2.9 Riding academies, boarding stables, communication towers and commercial kennels if located on a lot of at least ten (10) acres.
- 11-2.2.10 Private, non-commercial boathouses, landings, and docks. No boat shall be occupied or used as a dwelling or dwelling unit.
- 11-2.2.11 Commercial nursery, truck garden or farm for the sale of produce from the premises if located on a lot of at least five (5) acres, including greenhouses, sale-rooms and appurtenant uses such as the storage of commercial vehicles associated with the use of the premises.
- 11-2.2.12 Railroad rights-of-way, railroad commuter stations and bus stations.
- 11-2.2.13 Related accessory buildings, structures and uses.

## 11-2.4.13 Apartments

Apartments which have existed on a single family residential lot along with the single family dwelling prior to 10/1/59 may be allowed to continue to be used for separate dwelling purposes subject to site plan approval and the following conditions:

- (a) Qualifications - The property owner or his designee must provide confirmation on the 1959 Tax Assessor's card of the existence of more than 1 dwelling unit on the property as of 10/1/59 or two (2) affidavits and other valid information from Town or utility company records which confirms the existence of the dwelling unit as of 10/01/59 or ~~other anecdotal evidence satisfactory to the Commission.~~ an affidavit acceptable to the Commission by a person other than the property owner stating that such person had direct personal knowledge of the existence of a kitchen in the dwelling unit(s) in question prior to or on 10/1/59.
- (b) If the property has a septic system, the property owner or his designee must obtain the Health Department approval of the septic system.
- (c) If the property is on town sewers, proof of the sewer hook up must be submitted to the Planning and Zoning Office by the property owner or his designee.
- (d) Floor plans of the apartment must be submitted by the property owner or designee to the Planning and Zoning Office.
- (e) Review of the floor plans by the Building Department.
- (f) Proof of adequate parking must be submitted to Planning and Zoning Office by the property owner or his designee.
- (g) The resolution of approval of the apartment must be recorded on the Land Records of the Town of Westport in the Town Clerk's Office.

22-2.3 Accessory Uses

- 22-2.3.1 Uses customarily accessory to a permitted principal use, including the manufacturing, processing or assembling of goods which is incidental to the conduct of a retail business conducted on the premises subject to the provisions of Section 32-7, herein, in RORD #1 & #2, only.
- 22-2.3.2 Outdoor storage and display is permitted in accordance with Section 32-6, herein, in RORD #1 & #2, only.
- 22-2.3.3 Outdoor eating areas for restaurants only in RORD #2 subject to annual Zoning Permit approval, annual Health permit and the following conditions:
- (a) The outdoor eating area shall be accessible from within the restaurant building only.
  - (b) The outdoor eating area shall not exceed 20% of the interior patron floor area or 6 tables and 24 chairs whichever is less.
  - (c) The outdoor eating area shall be largely open to the elements, and shall not be enclosed with a roof and walls ~~be they permanent or temporary.~~ The only exception are the use of umbrella tables and the protection of food preparation areas required by state and local health regulation. This type of patio will require no parking. If any type of protection from the elements other than table umbrellas is put over or around the patio then parking shall be required in accordance with the parking requirements for a restaurant.
  - (d) The outdoor eating area shall be a seasonal operation not to exceed a five month period from May 1 to October 1 of each year.
  - (e) ~~Such outdoor eating area shall be exempt from the off-street parking requirements.~~ If the patio exceeds the requirements in (b) then parking shall be required for the whole patio as stated in (c).

23-1 Purpose

The purpose of the RBD District is to provide retail areas in which can be found limited convenience shopping goods and office services. These business areas will be limited in the number, size and type of permitted uses.

23-2 Permitted Uses

In a Restricted Business 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.

23-2.1 Principal Uses

23-2.1.1 Any use permitted in the Residence AAA District, subject to the same approvals and conditions as specified in Section 11-2, herein.

23-2.1.2 The following additional uses are permitted subject to Site Plan approval in accordance with Section 43: business, professional, medical, financial, insurance, real estate and other offices; prescription pharmacy; beauty parlor or barbershop; photographer's or artist's studios; schools for business, art and languages; community centers and non-profit clubs; public and charitable agencies; auto parking area both commercial or municipal; jewelry store; gift shop; optician; research laboratories; camera shop; tailor's shop; stationery and books; toys; candy; cigars and cigarettes; antiques; new furniture; music, musical instruments, supplies and records; men's, women's and children's clothes and accessories; linen and other yard good; electrical supplies, including radio and television; office supplies; art gallery; sporting goods; corsetiers; florist; orthopedic supplies; gourmet shop; milliner or millinery shop; cabinetmaker; upholstery; weaver or knit and yarn shop; and other similar limited convenience and service uses.

(a) Dry cleaners establishments provided that said use shall not exceed 2,000 square feet of gross floor area and shall be located within a unified shopping center.

[Note: Dry Cleaners will be effective 3/1/93; adopted 2/11/93]

23-2.2

Special Permit Uses

The following uses are permitted in principal buildings subject to Special Permit and Site Plan approval in accordance with Sec. 43, herein.

23-2.2.1 Two family and multi-family dwelling units subject to the provisions of Sec. 32-12, herein.

23-3.2

Luncheonettes, provided that said use shall not exceed 2000 square feet of Gross Floor Area. A luncheonette shall mean a place whose primary business is the service of food and/or non-alcoholic beverages for consumption on the premises by persons seated at a counter or tables.

24-2.3 Accessory Uses

- 24-2.3.1 Use 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 provisions of Section 32-7, herein.
- 24-2.3.2 Outdoor storage and display is permitted in accordance with Section 32-6, herein.
- 24-2.3.3 Banks with a drive-up window; 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.
- 24-2.3.4 Wholesaling and warehousing.
- 24-2.3.5 Outdoor eating areas for restaurants subject to annual Zoning Permit approval, annual Health Permit and the following conditions:
- (a) The outdoor eating area shall be accessible from within the restaurant building only.
  - (b) The outdoor eating area shall not exceed 20% of the interior patron floor area or 6 tables and 24 chairs whichever is less.
  - (c) The outdoor eating area shall be largely open to the elements, and shall not be enclosed with a roof and walls, be they permanent or temporary. The only exception are the use of umbrella tables and the protection of food preparation areas required by state and local health regulation. This type of patio will require no parking. If any type of protection from the elements other than table umbrellas is put over or around the patio then parking shall be required in accordance with the parking requirements for a restaurant.
  - (d) The outdoor eating area shall be a seasonal operation not to exceed a five month period from May 1 to October 1 of each year.
  - (e) ~~Such outdoor eating area shall be exempt from the off-street parking requirements. If the patio exceeds the requirements in (b) then parking shall be required for the whole patio as stated in (c).~~

## 28-2.3

Accessory Uses

- 28-2.3.1 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 Section 32-7, herein.
- 28-2.3.2 Outdoor storage and display is permitted in accordance with Section 32-6, herein.
- 28-2.3.3 Wholesaling and warehousing
- 28-2.3.4 Outdoor eating areas for restaurants subject to annual Zoning Permit approval, annual Health Permit and the following conditions:
- (a) The outdoor eating area shall be accessible from within the restaurant building only.
  - (b) The outdoor eating area shall not exceed 20% of the interior patron floor area or 6 tables and 24 chairs whichever is less.
  - (c) The outdoor eating area shall be largely open to the elements, and shall not be enclosed with a roof and walls ~~be they permanent or temporary.~~ The only exception are the use of umbrella tables and the protection of food preparation areas required by state and local health regulation. This type of patio will require no parking. If any type of protection from the elements other than table umbrellas is put over or around the patio then parking shall be required in accordance with the parking requirements for a restaurant.
  - (d) The outdoor eating area shall be a seasonal operation not to exceed a five month period from May 1 to October 1 of each year.
  - (e) ~~Such outdoor eating area shall be exempt from the off-street parking requirements. If the patio exceeds the requirements in (b) then parking shall be required for the whole patio as stated in (c).~~



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 Section 32-7, herein.
- 29-2.3.2 Outdoor storage and display is permitted in accordance with Section 32-6, herein.
- 29-2.3.3 Banks with drive-up window; 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.
- 29-2.3.4 Wholesaling and warehousing.
- 29-2.3.5 Outdoor eating areas for restaurants subject to annual Zoning Permit approval, annual Health Permit and the following conditions:
- (a) The outdoor eating area shall be accessible from within the restaurant building only.
  - (b) The outdoor eating area shall not exceed 20% of the interior patron floor area or 6 tables and 24 chairs whichever is less.
  - (c) The outdoor eating area shall be largely open to the elements, and shall not be enclosed with a roof and walls ~~be they permanent or temporary.~~ The only exception are the use of umbrella tables and the protection of food preparation areas required by state and local health regulation. This type of patio will require no parking. If any type of protection from the elements other than table umbrellas is put over or around the patio then parking shall be required in accordance with the parking requirements for a restaurant.
  - (d) The outdoor eating area shall be a seasonal operation not to exceed a five month period from May 1 to October 1 of each year.
  - (e) ~~Such outdoor eating area shall be exempt from the off-street parking requirements. If the patio exceeds the requirements in (b) then parking shall be required for the whole patio as stated in (c).~~

31-10.5 Coastal Site Plan Requirements

No use, activity or project for which a Coastal Site Plan is required by Sec. 22a-105 (b) of CAM Act shall commence until a Coastal Site Plan has been approved by the Planning and Zoning Commission in accordance with the requirements of Sec. 22a-105 through 22a-109 of the CAM Act.

31-10.5.1 Exemptions

A Coastal Site Plan shall be required for any use, activity or project as defined in Section 22a-105(b) of the CAM Act, which is proposed to be located either wholly or partially within the Coastal Boundary, with the exception of gardening, grazing, and the harvesting of crops which shall be exempt from all coastal site plan review requirements. The following uses, activities and project shall be exempt from the coastal site plan review requirements of Sections 22a-105 through 22a-109 of the Conn. General Statutes.

~~31-10.5.1.1 Minor additions and/or exterior modifications to any existing residential building or structure, that do not expand, extend or enlarge either the building area (footprint) or the floor area by more than twenty-five (25) percent.~~

31-10.5.1.1 Construction of an individual single family residential structure, except when such structure is (a) located on an island not connected to the mainland by an existing road, bridge or causeway, or (b) is in or within two hundred (200) feet of MHWL, or (c) is in or within one hundred feet of the following coastal resource areas; tidal wetlands, coastal bluffs and escarpments and beaches and dunes.

31-10.5.1.2 Additions and or exterior modifications to any existing residential building or structure, except for additions within two hundred (200) feet of MHWL that expand extend or enlarge either the building area or floor area by more than 25%.

31-10.5.1.3

~~31-10.5.1.1~~ Construction of detached single-family residential dwellings except in or within one hundred (100) ft. of tidal wetlands, coastal bluffs, escarpments, beaches, dunes, islands, near shore waters and fresh water wetlands which are identified as "Environmentally Sensitive Areas" are shown on the maps entitled "Coastal Resources" prepared by CAM Program, Conn. DEP at 1"=24,000' and dated 1979, a copy of which is on file with the Town Clerk, and which are on lots which are part of subdivisions previously

approved under provisions of the Coastal Area Management Act. For such dwellings a Conservation pre-application shall be filed and a site plan application shall be submitted to the Planning Director, who shall consult with the Conservation Director as to whether or not the proposed dwelling is likely to have a significant adverse impact. If none is found, an Exemption Recommendation shall be issued. If adverse impact is likely, the applicant shall be required to comply with the Coastal Site Plan Requirements as set forth in Section 31-10.6.2.

- 31-10.5.1.4            ~~31-10.5.1.3~~ Construction of new or modification of existing on-premise fences, driveways, swimming pools, tennis courts, utility sheds, cabanas, garages, decks, docks, pedestrian walks, patios and terraces, underground utility connections, essential electric, gas, telephone, water and sewer lines, signs and other similar detached accessory buildings and structures, that are incidental to the enjoyment of a residence, that will not substantially alter the natural character of coastal resources and that will not restrict access along the public beach, shorefront or near shore waters.
- 31-10.5.1.5            ~~31-10.5.1.4~~ Minor excavating, regrading, filling or stockpiling of materials, not to exceed 5,000 square feet in area, 1,000 cubic yards in quantity, and ten (10) feet in height except in or within one hundred (100) feet of tidal wetlands, coastal bluffs, escarpments, beaches, dunes, islands, near shore waters, fresh water wetlands and embayments or extreme high tide line which are identified as "Environmentally Sensitive Areas" and are shown on the maps entitled "Coastal Resources" prepared by CAM Program, Conn. DEP at 1"=24,000' and dated 1979, a copy of which is on file with the Town Clerk.
- 31-10.5.1.6            ~~31-10.5.1.5~~ Interior modifications to buildings.
- 31-10.5.1.7            ~~31-10.5.1.6~~ Minor additions to and minor changes of use in a non-residential building, structure, or property except those changes occurring on property abutting tidal wetlands and/or coastal waters including the Saugatuck River. Minor shall be defined as less than 500 square feet of building coverage, or less than 500 square feet of floor area or fewer than four (4) parking spaces and shall include exterior staircases or elevator mandated by the fire marshall for public safety and awnings.
- 31-10-5.1.8            ~~31-10.5.1.7~~ Other activities conducted for the specific purpose of conserving or preserving soil,

vegetation, water, fish, shellfish, wildlife and other coastal land, water and other related resources that will not substantially alter the natural character of coastal resources and that will not restrict access along the beach, shorefront or near shore waters.

31-10-5.1.9

~~31-10.5.1.8~~ The above exemptions from coastal site plan review requirements shall apply to all applications to the Planning and Zoning Commission for Special Permit and Site Plan Review pursuant to Section 43 herein, and requests to the Zoning Board of Appeals for a Variance.

33-7.4 Free-Standing Signs

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

- 33-7.4.1 Only one (1) free-standing sign shall be permitted on a lot provided that it has at least one hundred (100) feet of street frontage on one street.
- 33-7.4.2 The free-standing sign shall identify the name of the business(es) occupying the lot and shall include the street address number at least 4 inches in size.
- 33-7.4.3 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.
- 33-7.4.4 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.
- 33-7.4.5 All free-standing signs except for a unified shopping center shall not exceed a total surface area of thirty-two (32) square feet. A 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 Section 33-7.1.
- 33-7.4.6 No sign shall be located within fifty (50) feet of the boundary of a Residence District.
- 33-7.4.7 All signs shall be at least fifteen (15) feet from any property line.
- ~~33-7.4.8 Free-standing signs previously approved by the Planning and Zoning Commission shall not require Site Plan approval for change in name only, but shall be required to comply with Section 33-2, and ARB review.~~

34 OFF-STREET PARKING AND LOADING34-1 Intent

Off-street parking and loading shall be provided in accordance with this Section and shall comply with the provisions for the physically handicapped in the State Building Code for any building or use hereafter erected, established, enlarged, expanded or changed. The number of parking and loading spaces required shall be based on construction or development activity after the effective date of these regulations. The number of parking and loading spaces shall be retained and the parking lot or paved areas shall not be increased or encroached upon as long as said principal building or use remains, unless the Commission determines that public parking spaces are available to be allocated as provided elsewhere in these regulations.

34-2 Obligation

The requirement for off-street parking space and off-street loading space shall be a continuing obligation of the owner of the property on which any such building or use is located, as long as the building or use is in existence and its use requiring vehicle parking facilities continues, unless a change in use also increases the parking requirements. No owner of any building or use affected by this Section, shall discontinue, change or dispense with, or cause the discontinuance of any required parking or loading space. No person, firm or corporation shall occupy a building without providing off-street parking and loading spaces which meet with the requirements of and are in compliance with these regulations.

34-3 Parking Requirements of Developed Sites

When a proposed change of use or extension or expansion of a building or structure causes an increase in the number of parking spaces required, the incremental parking, and only the incremental parking, shall be required to be additionally provided. Such incremental parking shall conform to all regulations, including, without limitation, Section 34, Off-Street Parking and Loading, and Section 35, Landscaping, Screening and Buffer Areas.

34-4 Reduction of Parking Requirements by Special Permit

When a proposed change of use or extension or expansion of a building or structure causes an increase in the number of parking spaces required, the Planning and Zoning Commission may, by Special Permit waive the minimum forty-five (45) foot turning radius for a loading bay and authorize a reduction in the number of parking spaces that would otherwise be required by these regulations; provided that:

- (a) The site is non-conforming with respect to parking and/or landscaping, and
- (b) Such a reduction shall not be more than the greater of:
  - (i) three parking spaces, or

- (ii) Five percent (5%) of the total number of parking spaces shown on the proposed comparison map (if applicable, otherwise on the existing comparison map).

Such waiver and a reduction ~~is~~ are solely for the purposes of such change of use, extension, or expansion, and is not to be interpreted as making an otherwise non-conforming site conforming.

[The following §42-3.1.5 is from §42, Amendment of Zoning Regulations]

42-3.1.5 Notice Mailing

A list of names and addresses of all property owners located in and within 500 feet of ~~any property line of the lot or lots for which the zoning changes are proposed~~ the proposed zone change line shall be submitted along with stamped business envelopes addressed to the applicant and each such property owner as shown on the tax assessment records as of the date of application submission.

[The following §44-1.3 is from §44, Special Permit and/or Site Plan Documents, Standards and Objectives.]

44-1.3 Existing Conditions Map

Three (3) copies of an accurate scaled survey map of the property prepared by a registered Land Surveyor at a scale not to exceed one (1) inch equals forty (40) feet on sheets not to exceed 24" x 36." Said survey map shall be drawn to an A-2 accuracy as defined by the Connecticut Technical Council, shall be certified "substantially correct" by a registered Land Surveyor and shall include all existing property lines, easements, rights-of-way, contours at intervals of two feet referred to USGS MSL datum, wooded areas, watercourses, wetlands, aquifers, rock outcrops, stone walls, location of existing trees with a trunk caliper of more than eight (8) inches, except in wooded areas, with a trunk caliper of more than eight (8) inches, buildings, structures, signs, fences, walls, paved areas, curbs, curbcuts, edges-of-pavement, sidewalks, light poles, utility poles, catch basins, manholes, hydrants and other similar physical features.



46 ZONING BOARD OF APPEALS46-1 Purpose of the Board

The Zoning Board of Appeals is an agency, separate from the Planning and Zoning Commission, engaged in, and necessary to the proper administration of the zoning regulations. The Zoning Board of Appeals is an administrative agency which exercises quasi-judicial functions to provide relief in cases where literal application of the Zoning Regulations acts peculiarly on a particular piece of property to produce an undue hardship on that property under special circumstances and to provide a local review for questions arising from zoning enforcement. The exercise of the Board's power to vary the zoning regulations is guided by statute and by general rule of law as well as local zoning conditions.

46-2 Establishment of the Board

On the basis of the foregoing, the Zoning Board of Appeals in Westport, established pursuant to the Connecticut General Statutes and the Westport Town Charter, shall have all the powers and duties prescribed by law and these regulations.

46-3 Powers and Duties46-3.1 Appeals

The Zoning Board of Appeals shall hear and decide appeals where it is alleged that there is any error in any order, requirement, or decision regarding the enforcement of these regulations made by the official charged with zoning enforcement. Such appeals shall be made within thirty (30) days of the decision appealed from. Nothing in this paragraph shall be interpreted to permit any person, otherwise entitled to appeal to the Superior Court an order, requirement or decision of the Planning and Zoning Commission or of the Administrative Review Committee to appeal such order, requirement or decision to the Zoning Board of Appeals.



# WESTPORT CONNECTICUT

PLANNING & ZONING  
TOWN HALL, 110 MYRTLE AVENUE  
WESTPORT, CONNECTICUT 06880  
(203) 341-1030 • (203) 341-1079  
(203) 454-6145 - fax

Hearing: April 29, 2010  
Decision: May 13, 2010

May 14, 2010

To Whom It May Concern:

**RE: Text Amendment 610:** Appl. #10-009 by the Planning and Zoning Commission for an amendment to the Westport Zoning Regulations to modify §5-2, Definitions to add Outdoor Eating Area and Food Establishment, Retail, to modify §22-2.3.3, RORD Zone, to add §23-2.3.3, RBD Zone, to modify §24-2.3.5 GBD Zone, to add §25-2.3.5, HSD Zone, to modify §28-2.3.4, BPD Zone, to modify §29-2.3.5, BCD Zone, to modify §29A-2.3.5, BCD/H Zone, to modify §30-2.4.4 HDD Zone, to modify §32-6.1, Outdoor Storage & Display, to add §32-20, Outdoor Eating Areas, to modify §43-14.2, Eligible Applications

This is to certify that at a meeting of the Westport Planning and Zoning Commission held May 13, 2010 it was moved by Mr. Press and seconded by Mr. Lathrop to adopt the following resolution.

## RESOLUTION #10-009

WHEREAS, THE PLANNING AND ZONING COMMISSION met on May 13, 2010 and made the following findings:

1. Text Amendment #610 is proposed by the Planning and Zoning Commission and is intended to allow both restaurants and retail food establishments to simply obtain zoning permits for Outdoor Eating Areas by simplifying the review process. In Chapter 7 of the 2007 Plan of Conservation and Development there are numerous references that address the need to create more opportunities for dining opportunities and the use of outdoor space.
2. Text Amendment #610 proposes replacing the existing Outdoor Dining regulations and some aspects of the Outdoor Storage and Display Regulations and consolidates them into one new amendment called Outdoor Eating Areas which has a new set of standards proposed to be in a new §32-20.
3. The Amendment proposes the following new definitions:
  - Outdoor Eating Area - An outdoor area located on the same property as a Restaurant, Fast Food Restaurant or Retail Food Establishment that allows for tables & chairs for outdoor table service or self-service dining subject to a zoning permit and the requirements found in §32-20.
  - Retail Food Establishment - 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. Such establishments shall not be considered Restaurants or Fast Food Restaurants no additional parking will be required provided that they have indoor seating for 10 patrons or less. For outdoor seating – See §5-2 & §32-20 Outdoor Eating Areas.

4. The Amendment allows Outdoor Eating Areas as an accessory use for Restaurants, Fast Food Restaurants and Retail Food Establishment in the RORD, RBD, GBD, GBD/S, HSD, BPD, BCD, BCD/H and HDD Zones.
5. The Amendment modifies the existing Outdoor Storage & Display Regulations in §32-6.1 to recognize that Outdoor Eating Areas as not being considered as Outdoor Storage and Display.
6. The Amendment creates a new set of standards proposed to be in §32-20 which are summarized below:
  - Required Departmental Approvals – Health, Police & Fire Dept approvals are required.
  - Design/Use of Area – This section specifies the nature of a enclosures and days & hours of operations and no outdoor music
  - Size/Parking Requirements – This section sets limits on the size of the area and establishes parking requirements.
  - Seasonal Use – This section specifies the duration of time during the year that the area may be used.
  - Setback Requirements – This section specifies how certain setback requirements may be waived.
  - Landscaping – This section specifies that existing required landscaping areas may not be removed.
7. The Amendment modifies the list of applications eligible to be heard by the Administrative Review Committee (ARC).
8. The Commission notes that the amendment inadvertently omitted Sundays but that subject will be addressed in an upcoming Amendment.
9. The Commission received comments from a number of Town Agencies and the Regional Planning Association.
10. The Commission received extensive comments from the Architecture Review Board about their concerns about the approval process and the appearance of these accessory structures.
11. A hearing was held to allow members of the public the opportunity to offer testimony on the amendment.

NOW THEREFORE, BE IT RESOLVED that **Text Amendment 610: Appl. #10-009** by the Planning and Zoning Commission for an amendment to the Westport Zoning Regulations to modify §5-2, Definitions to add Outdoor Eating Area and Food Establishment, Retail, to modify §22-2.3.3, RORD Zone, to add §23-2.3.3, RBD Zone, to modify §24-2.3.5 GBD Zone, to add §25-2.3.5, HSD Zone, to modify §28-2.3.4, BPD Zone, to modify §29-2.3.5, BCD Zone, to modify §29A-2.3.5, BCD/H Zone, to modify §30-2.4.4 HDD Zone, to modify §32-6.1, Outdoor Storage & Display, to add §32-20, Outdoor Eating Areas, to modify §43-14.2, Eligible Applications be **ADOPTED** as **MODIFIED** for the following reasons:

1. The Planning & Zoning Commission during its work session discussions agreed to the following modifications:
  - i. Outdoor Dining Permit shall be subject to an annual Zoning Permit
  - ii. On Fridays & Saturdays the maximum hours of operation shall be not later than 12 midnight unless authorized by the ARC or by Special Permit.
  - iii. If the Outdoor Eating Area has tent, canopy or fixed awning and such cover is not used for 3 continuous months, the cover and frame must be moved from the Outdoor Dining Area when not in use.
  - iv. Patron Bars for Outdoor Eating Areas can not be located within the any setback areas.
  - v. Outdoor Eating Areas that are located between a Residential Zoning District Boundary Line and the building shall be subject to Special Permit approval.

The Commission made these changes for the following reasons:

- i. This change was made insure compliance with the Zoning Regulations on an annual basis
  - ii. This change was made to impose controls over the hours of operation of Outdoor Eating Areas
  - iii. This change was made to address concerns regarding the storage of Outdoor Eating Area equipment when it is not in continuous use.
  - iv. This change was made to restrict the location of Patron Bars located in Outdoor Eating Areas
  - v. This change was made to require Special Permit when the Outdoor Eating Area abuts a residential zone so that Special Permit standards and conditions can be applied.
2. The Planning and Zoning Commission finds the remainder of the proposed text shall be adopted as submitted except for minor wording changes inserted for clarification.
3. The Planning and Zoning Commission finds the amendment is consistent with the Comprehensive Plan.

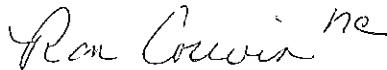
4. The Planning and Zoning Commission finds the amendment is consistent with the 2007 Town Plan of Conservation and Development as it addresses many of the issues raised in Chapter 7 regarding community activities and the use of outdoor spaces.
5. The Planning and Zoning Commission finds the amendment is consistent with the 2007 Town Plan of Conservation and Development that includes specific recommendations to:
  - A. *“Encourage the community use of ‘outdoors’ in both traditional green spaces (parks) and in retail/restaurant corridors.” Pg 7-6*
  - B. *“Allow additional uses which promote evening activities and outdoor life. These may include additional outdoor seating permitted for restaurants; seasonal kiosks/food vendors with their own seating in parks, plazas or other feasible locations.” Pg 7-9*
6. The Planning and Zoning Commission finds the amendment will benefit the Town of Westport by modifying the zoning regulations to address the needs Westport residents and businesses.

**Effective date: June 14, 2010**

**VOTE:**

AYES	4	Corwin, Press, Lathrop, Jinishian
NAYS	2	Lowenstein, Krawiec
ABSTENTIONS	0	

Very truly yours,



Ron Corwin  
Chairman, Planning & Zoning Commission

Att. Adopted Text Amendment #610

cc: Paul Friia, Tax Assessor  
Steve Smith, Building Official  
Steve Edwards, Department of Public Works  
Mark Cooper, Westport Weston Health District  
Ed Zygmant, Fire Marshal  
Al Fiore, Police Chief  
Ira Bloom, Town Attorney

Town of Westport Zoning Regulations

**Amendment #610**

Submitted: 3/16/10  
Received: 4/5/10  
Revised: 5/13/10  
Public Hearing: Scheduled for: 4/29/10  
Adopted: 5/13/10  
Effective date: 6/14/10

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§5 DEFINITIONS 5-2 Specific Terms

<i>TERM</i>	<i>DEFINITION</i>
<u>Outdoor Eating Area:</u>	<u>An outdoor area located on the same property as a Restaurant, Fast Food Restaurant or Retail Food Establishment that allows for tables &amp; chairs for outdoor table service or self-service dining subject to an annual Zoning Permit and the requirements found in §32-20.</u>
<u>Food Establishment, Retail:</u>	<u>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. Such establishments shall not be considered Restaurants or Fast Food Restaurants and no additional parking will be required provided that they have indoor seating for 10 patrons or less. For outdoor seating – See §5-2 &amp; §32-20 Outdoor Eating Areas.</u>

§22 RORD Zone

- 22-2.3.3 Outdoor Eating Areas for Restaurants, Fast Food Restaurants and Retail Food Establishments only in RORD #2 are subject to an annual Zoning Permit approval pursuant to §5 and §32-20 Outdoor Eating Areas., annual Health permit and the following conditions:
- ~~(a) The outdoor eating area shall be accessible from the restaurant building only~~
  - ~~(b) The outdoor eating area shall not exceed either twenty (20) percent of the interior patron floor area or 6 tables and 24 chairs, whichever is less.~~
  - ~~(c) The outdoor eating area shall be largely open to the elements, and shall not be enclosed with a roof and walls be they permanent or temporary. The only exception are the use of umbrella tables and the protection of food preparation areas required by state and local health regulation. This type of patio will require no parking. If any type of protection from the elements~~

*Town of Westport Zoning Regulations*

~~other than table umbrellas is put over or around the patio then parking shall be required in accordance with the parking requirements for a restaurant.~~

- ~~(d) The outdoor eating area shall be a seasonal operation not to exceed a six month period from May 1 to November 1 of each year.~~
- ~~(e) Such outdoor eating area shall be exempt from the off-street parking requirements. If the patio exceeds the requirements in (b) then parking shall be required for the whole patio as stated in (c).~~

§23 RBD Zone

- 23-2.3.3 Outdoor Eating Areas for Restaurants, Fast Food Restaurants and Retail Food Establishments are subject to an annual Zoning Permit approval pursuant to §5 and §32-20 Outdoor Eating Areas

§24 GBD Zone

- 24-2.3.5 Outdoor Eating Areas for Restaurants, Fast Food Restaurants and Retail Food Establishments are subject to an annual Zoning Permit approval pursuant to §5 and §32-20 Outdoor Eating Areas and §45-4, annual Health permit and the following conditions

- ~~(a) The outdoor eating area shall be accessible from the restaurant building only~~
- ~~(b) The outdoor eating area shall not exceed either twenty (20) percent of the interior patron floor area or 6 tables and 24 chairs, whichever is less.~~
- ~~(c) The outdoor eating area shall be largely open to the elements, and shall not be enclosed with a roof and walls be they permanent or temporary. The only exception are the use of umbrella tables and the protection of food preparation areas required by state and local health regulation. This type of patio will require no parking. If any type of protection from the elements other than table umbrellas is put over or around the patio then parking shall be required in accordance with the parking requirements for a restaurant.~~
- ~~(d) The outdoor eating area shall be a seasonal operation not to exceed a six month period from May 1 to November 1 of each year.~~
- ~~(e) Such outdoor eating area shall be exempt from the off-street parking requirements. If the patio exceeds the requirements in (b) then parking shall be required for the whole patio as stated in (c).~~

*Town of Westport Zoning Regulations*

§25 HSD Zone

- 25-2.3.5 Outdoor Eating Areas for Restaurants, Fast Food Restaurants and Retail Food Establishments are subject to an annual Zoning Permit approval pursuant to §5 and §32-20 Outdoor Eating Areas

§28 BPD Zone

- 28-2.3.4 Outdoor Eating Areas for Restaurants, Fast Food Restaurants and Retail Food Establishments subject to an annual Zoning Permit approval pursuant to §5 and §32-20 Outdoor Eating Areas and §45-4., annual Health permit and the following conditions

- (a) ~~The outdoor eating area shall be accessible from the restaurant building only~~
- (b) ~~The outdoor eating area shall not exceed either twenty (20) percent of the interior patron floor area or 6 tables and 24 chairs, whichever is less.~~
- (c) ~~The outdoor eating area shall be largely open to the elements, and shall not be enclosed with a roof and walls be they permanent or temporary. The only exception are the use of umbrella tables and the protection of food preparation areas required by state and local health regulation. This type of patio will require no parking. If any type of protection from the elements other than table umbrellas is put over or around the patio then parking shall be required in accordance with the parking requirements for a restaurant.~~
- (d) ~~The outdoor eating area shall be a seasonal operation not to exceed a six month period from May 1 to November 1 of each year.~~
- (e) ~~Such outdoor eating area shall be exempt from the off street parking requirements. If the patio exceeds the requirements in (b) then parking shall be required for the whole patio as stated in (c).~~

§29 BCD Zone

- ~~29-2.3.5 Outdoor Eating Areas for Restaurants, Fast Food Restaurants and Retail Food Establishments are subject to an annual Zoning Permit approval pursuant to §5 and §32-20 Outdoor Eating Areas and §45-4., annual Health permit and the following conditions~~

- ~~(a) ~~The outdoor eating area shall be accessible from the restaurant building only~~~~
- ~~(b) ~~The outdoor eating area shall not exceed either twenty (20) percent of the interior patron floor area or 6 tables and 24 chairs, whichever is less.~~~~



*Town of Westport Zoning Regulations*

- ~~(c) The outdoor eating area shall be largely open to the elements, and shall not be enclosed with a roof and walls be they permanent or temporary. The only exception are the use of umbrella tables and the protection of food preparation areas required by state and local health regulation. This type of patio will require no parking. If any type of protection from the elements other than table umbrellas is put over or around the patio then parking shall be required in accordance with the parking requirements for a restaurant.~~
- ~~(d) The outdoor eating area shall be a seasonal operation not to exceed a six month period from May 1 to November 1 of each year.~~
- ~~(e) Such outdoor eating area shall be exempt from the off street parking requirements. If the patio exceeds the requirements in (b) then parking shall be required for the whole patio as stated in (c).~~

§29A BCD/H Zone

29A-2.3.5 Outdoor Eating Areas for Restaurants, Fast Food Restaurants and Retail Food Establishments are subject to an annual Zoning Permit approval pursuant to §5 and §32-20 Outdoor Eating Areas and §45-4, annual Health permit and the following conditions

- ~~(a) The outdoor eating area shall be accessible from the restaurant building only~~
- ~~(b) The outdoor eating area shall not exceed either twenty (20) percent of the interior patron floor area or 6 tables and 24 chairs, whichever is less.~~
- ~~(c) The outdoor eating area shall be largely open to the elements, and shall not be enclosed with a roof and walls be they permanent or temporary. The only exception are the use of umbrella tables and the protection of food preparation areas required by state and local health regulation. This type of patio will require no parking. If any type of protection from the elements other than table umbrellas is put over or around the patio then parking shall be required in accordance with the parking requirements for a restaurant.~~
- ~~(d) The outdoor eating area shall be a seasonal operation not to exceed a six month period from May 1 to November 1 of each year.~~
- ~~(e) Such outdoor eating area shall be exempt from the off street parking requirements. If the patio exceeds the requirements in (b) then parking shall be required for the whole patio as stated in (c).~~

*Town of Westport Zoning Regulations*

§30 HDD Zone

30-2.4.4 Outdoor Eating Areas for Restaurants, Fast Food Restaurants and Retail Food Establishments are subject to an annual Zoning Permit approval pursuant to §5 and §32-20 Outdoor Eating Areas and §45-4., annual Health permit and the following conditions

- ~~(a) The outdoor eating area shall be accessible through the restaurant only.~~
- ~~(b) The outdoor eating area shall not exceed either 20% of the interior patron floor area or 6 tables and 24 chairs, whichever is less.~~
- ~~(c) The outdoor eating area shall be a largely open to the elements, and shall not be permanently enclosed with a roof and walls.~~
- ~~(d) The outdoor eating area shall be a seasonal operation not to exceed a six month period from May 1 to November 1 of the year.~~
- ~~(e) Such outdoor eating area shall be exempt from the off street parking requirements.~~

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, not reduce or impinge upon required off-street parking or loading spaces, be maintained in a clean and 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 to §5 and §32-20 Outdoor Eating Areas.

32-20 Special Requirements for Outdoor Eating Areas

Outdoor Eating Area as defined in §5 shall be permitted where applicable in these regulations subject to the following requirements:

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 a the issuance of a zoning permit.
2. Design/Use of Area. Outdoor Eating Areas may use umbrellas or a temporary fabric roof structure. Such a structure may have rigid supports and fabric or soft (non rigid) sides. Such areas may be heated. These area may not be considered in the future as permanent building additions. There shall be no music in any Outdoor Eating Area. The hours of operation shall be limited to 6:30 AM to

*Town of Westport Zoning Regulations*

11:00 PM on Mondays through Thursdays and 6:30 AM to 12:00 midnight on Fridays and Saturdays except if approved by ARC or Special Permit to operate as late as 2:00 AM.

3. **Size/Parking Requirements** – Outdoor Eating Areas for Restaurants and Fast Food Restaurants shall not require additional parking if the area does not exceed twenty (20) percent of the interior patron floor area or 500 square feet which ever is less. Parking shall not be required for Outdoor Eating Areas for Retail Food Establishments of 1,500 sq. ft. (gross floor area) or less when they do not exceed 250 sq. ft or 20% of the gross floor area which ever is less and for Retail Food Establishment of over 1,500 sq. ft (gross floor area) when they do not exceed 500 sq. ft. or 20% of the gross floor area which ever is less. Parking shall be required for the portion of an Outdoor Eating Area that is in excess of above in accordance with the parking requirements for patron area of a restaurant.
4. **Seasonal Use** – The Outdoor Eating Areas may be used all year round, however if such area is covered by a tent, canopy or fixed awning and will not be used on a regular basis for 3 continuous months (e.g., January, February, & March) all elements of the Temporary Fabric Roof Structures shall be removed from the area.
5. **Setback Requirements.** Outdoor Eating Areas are permitted in front, side and rear setback areas and front landscape areas, except for patron bars which must comply with setbacks, on private property provided that they do not block or interfere with sidewalks, walkways or emergency egress as determined by the Fire Marshall. Outdoor Eating Areas shall not be permitted within 30 feet of any Residential Zoning District Boundary Line.
  - a) Outdoor Eating Areas that have a clear line of sight to a residential zone (not blocked by a building) must obtain ARC approval unless such Outdoor Eating Area is bordered by a water body.
  - b) Outdoor Eating Areas located on the portion of a lot between a Residential Zoning District Boundary Line and the building shall only be permitted pursuant to Special Permit approval.
6. **Landscaping.** Required front landscape areas and vegetative buffers that are planted as of the effective date of this regulation (INSERT DATE) shall not have vegetation removed to accommodate this use.

*Town of Westport Zoning Regulations*

**43-14.2 Eligible Applications**

Administrative Site Plans may be submitted to the Administrative Review Committee for the following types of projects only:

1) Site Plan Modifications

Where only site work is involved such as parking lot alterations or expansions, landscape modifications (refuse area, screening, retaining walls, fences) and utility modifications; provided that said minor modifications complies with §34 and 35, herein.

2) Small Building Additions

Small building additions with fewer than five hundred (500) square feet of building coverage and containing fewer than five hundred (500) square feet of gross interior floor space. Exterior staircases mandated by the Fire Marshal and handicap ramps and elevators mandated by the Building Official for public safety; and awnings. Site Plan approval is not required for ground mounted or roof top mechanical units.

3) Small Changes of Use

A small change of use within an existing building including an increase of not more than three (3) required parking spaces on the lot.

Coastal site plan review pursuant to §31-10.7 shall be required for small changes of use on waterfront property.

4) Accessory Apartments

In accordance with §11-2.4, herein.

5) Affordable Accessory Apartments

In accordance with §11-2.4.12A, herein.

6) Apartments that predate 1959 per §11-2.4.13.

7) Exterior facade changes to commercial buildings.

8) Outdoor Storage & Display per §32-6

9) Outdoor Eating Areas that do not comply with the requirements of §32-20 (5).



**TOWN OF WESTPORT**  
**PLANNING & ZONING DEPARTMENT**  
Town Hall, 110 Myrtle Avenue  
Westport, CT 06880  
Phone(203) 341-1030, Fax (203) 454-6145

## Memorandum

**To:** Laurence Bradley, P&Z Director  
**From:** Susan Reynolds, Zoning Enforcement Officer  
**Date:** July 22, 2010  
**Re:** Amendment 610

I have a basic question which relates to this amendment and to restaurants with liquor licenses regardless of whether they have outdoor dining. Who regulates the number of liquor licenses in Westport and how would we know when the number has been exceeded so no additional approvals are granted?

With the 1500 foot rule at least all areas of town had a fighting chance for a license. With no distance limitation some areas of town may end up having bars cheek by jowl until the maximum number is reached, leaving other areas as dry as a proverbial wasteland. For example, we have had numerous complaints over the years about parking down on Riverside by Bridge St. and have also received requests for additional dining/drinking tenants there. Other areas currently have very limited access to liquor establishments.

As to the amendment:

Your cover memo dated 7/2/10 should be revised to a date after the 6/14/10 meeting referenced.

Design/Use of Area. How will the hours of operation be enforced? P&Z staff does not work nights and it's my understanding that the police do not enforce our regulations.

Size/Parking Requirement. How will parking be calculated? Will the Outdoor Eating Area be calculated based on the patio floor, the covered area, or the approved dining area which may be different than the floor or the covering?

Setback & Coverage Requirements. After "front landscape areas" it refers to patron bars which must comply with setbacks. Are we now going to allow patron bars outside? If this is referring to restaurants with patron bars and outdoor eating areas it should be more specific. The fact that outdoor eating areas are still not allowed within 30' of a residential zone line will still be a problem for many (Matsu Sushi, Crumbs). Perhaps sites within 30' of a residential zone can go to ARC for approval.

Landscaping. "Required front landscape areas and vegetative buffers that are planted have been previously approved shall not have vegetation removed to accommodate this use and must continue to be maintained as required in the original approval."

Eligible Applications. I would suggest keeping (9) for sites adjacent to residential zones.



# WESTPORT CONNECTICUT

PLANNING & ZONING  
TOWN HALL, 110 MYRTLE AVENUE  
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Hearings: May 20, 2010 & June 10, 2010  
Work Sessions: June 17 & July 8, 2010  
Decision: July 8, 2010

July 13, 2010

To Whom It May Concern:

**RE: Text Amendment #613:** Appl. #10-014 by the Planning and Zoning Commission for an amendment to the Westport Zoning Regulations to modify §5-2, Definitions of Change of Use, Floor Area, Restaurant & Fast Food Restaurant, to modify §22 the RORD Zone, to modify §23 the RBD Zone, to modify §24 the GBD Zone, to modify §24A the GBD/S Zone to modify §25 the HSD Zone, to modify §28 the BPD Zone, to modify §29 the BCD Zone, to modify §29A BCD/H Zone, to modify §30 the HDD Zone, to completely rewrite §31-9 Liquor Establishments, to modify §32-20 Outdoor Eating Areas and to modify §34-5 Off-Street Parking & Loading.

This is to certify that at a meeting of the Westport Planning and Zoning Commission held July 8, 2010 it was moved by Mr. Press and seconded by Mr. Lathrop to adopt the following resolution.

## RESOLUTION #10-014

WHEREAS, THE PLANNING AND ZONING COMMISSION met on July 8, 2010 and made the following findings:

1. Text Amendment #613 is proposed by the Planning and Zoning Commission and is intended to make it easier for restaurants and entertainment venues to establish themselves and remain profitable by allowing such uses in more locations and easing restrictions such as separating distances for patron bars and parking requirements. In Chapter 7 of the 2007 Plan of Conservation and Development there are numerous references that address the need to create more opportunities for dining and entertainment venues.
2. The Amendment proposes modifying the following definitions as follows:
  - Change of Use  
The current regulation considers "...any change necessitating the measurement of patron and non-patron floor area" to be a change of use this amendment eliminates this requirement. Since only Restaurants and Fast Food Restaurants are required to measure patron & non-patron area this change would reduce the number of site plan applications.

- Floor Area

The proposed change to the Floor Area definition would allow atrium space that is part of a movie theater or an indoor performance space, to not be counted twice as floor area as would be required in many other types of uses.

- Restaurant

The definition of Restaurant would be modified to limit patron floor area that is dedicated to counter service to a maximum of 25%. This addition to the restaurant definition is being transplanted from §31-9.2 where this restriction currently exists since the existing §31-9.2 will be deleted. Also, the definition of Restaurant is being cross-referenced with the definition of Retail Food Establishment from Amendment #610 to recognize the fact that an establishment that has less than 10 seats is not a Restaurant.

- Restaurant, Fast Food

The definition of Restaurant, Fast Food is being modified to remove the prohibition of alcoholic beverages. While it is anticipated that establishments such as McDonalds or Arby's will not begin to serve alcohol there are many other types of establishments such as pizzerias that have requested to serve beer and wine but were prohibited from doing so because of the existing regulation. The changes relating to 25% maximum counter service and Retail Food Establishment cited above are also being added to the definition of Restaurant, Fast Food.

3. The Amendment modifies §22 RORD Zone as follows:

All uses in the RORD zone except for those allowed in the Residence AAA zone are permitted only by Special Permit. These changes would allow Retail Food Establishments, Fast Food Restaurants, Cafes, Taverns and Indoor & Outdoor commercial recreational and entertainment uses in all RORD districts by Special Permit.

Currently only grocery stores and delicatessens and restaurants are allowed in RORD #2 only. These changes would allow all of the above uses in all RORD zones by Special Permit. Also, cafes, taverns, fast food restaurants, indoor theaters & assembly halls and indoor & outdoor commercial recreational facilities would be eliminated from the list of prohibited uses in the RORD zone.

4. The Amendment modifies §23 RBD Zone as follows:

All uses in the RBD zone except for those allowed in the Residence AAA zone are permitted subject to Site Plan approval. These changes would allow Retail Food Establishments, Fast Food Restaurants and Restaurants in the RBD zone as Principal uses subject to Site Plan approval. Indoor & Outdoor commercial recreational and entertainment uses would now be allowed in the RBD Zone by Special Permit.

5. The Amendment modifies §24 GBD Zone as follows:

All uses in the GBD zone except for those allowed in the Residence AAA zone are permitted subject to Site Plan approval. The GBD zone would be modified to allow Retail Food Establishments and Fast Food Restaurants as Principal uses subject to Site Plan approval. The Special Permit requirements for Fast Food Restaurants would be eliminated.

6. The Amendment modifies §24A GBD/S Zone as follows:

All uses in the GBD/S zone are permitted only by Special Permit. The only proposed change to the GBD/S zone is to add Retail Food Establishments to the list of Special Permit Uses.

7. The Amendment modifies §25 HSD Zone as follows:

All uses in the HSD zone except for those allowed in the Residence AAA zone are permitted subject to Site Plan approval. The HSD zone would be modified to allow Restaurants and Fast Food Restaurants as Principal uses subject to Site Plan approval. The only type of restaurant that is currently a Principal use in the HSD zone is a drive-in restaurant. The HSD zone is the only district that allows drive-in restaurants.

The Special Permit requirements for Fast Food Restaurants would be eliminated. Additionally, Indoor & Outdoor commercial recreational and entertainment uses would now be allowed in the HSD Zone by Special Permit

8. The Amendment modifies §28 BPD Zone as follows:

All uses in the BPD zone except for those allowed in the Residence AAA zone are permitted subject to Site Plan approval. The BPD zone would be modified to allow Retail Food Establishments and Fast Food Restaurants as Principal uses subject to Site Plan approval.

Indoor & Outdoor commercial recreational and entertainment uses would now be allowed in the BPD Zone by Special Permit.

Fast Food restaurants, indoor theaters & assembly halls and indoor & outdoor commercial recreational facilities would be eliminated from the list of prohibited uses in the BPD zone.

9. The Amendment modifies §29 BCD Zone as follows:

All uses in the BCD zone except for those allowed in the Residence AAA zone are permitted subject to Site Plan approval. The BCD zone would be modified to allow Retail Food Establishments and Fast Food Restaurants as Principal uses subject to Site Plan approval. Additionally, the restriction that prohibits grocery stores, delicatessens, Retail Food Establishments, Restaurants, Fast Food Restaurants, Cafes & Taverns from being located above the first floor would be eliminated.



Further the requirement that Fast Food Restaurants obtain a Special Permit would be eliminated.

10. The Amendment modifies §29A BCD/H Zone as follows:

All uses in the BCD/H zone except for those allowed in the Residence AAA zone are permitted subject to Site Plan approval. The BCD/H zone would be modified to allow Retail Food Establishments and Fast Food Restaurants as Principal uses subject to Site Plan approval.

Further the requirement that Fast Food Restaurants obtain a Special Permit would be eliminated.

11. The Amendment modifies §30 HDD Zone as follows:

All uses in the HDD zone except for those allowed in the Residence AAA zone are permitted only by Special Permit. These changes would allow Retail Food Establishments and Fast Food in the HDD Zone by Special Permit. Also, the restrictions on the gross square footage of Restaurants, Fast Food Restaurants, Cafés and Taverns in the HDD zone would be eliminated.

Further, the additional restrictions regarding Liquor Establishments in the HDD Zone found in §30-2.3 would be eliminated.

12. The Amendment modifies §31-9 Liquor Establishments as follows:

The section for Liquor Establishments §31-9 would be entirely rewritten. The 1,500 separating distance for patron bars would be eliminated in lieu of new regulations and restrictions. The new regulations would be much simpler and easier for staff, the Commission and the public to understand. Specifically:

- Selling of alcoholic liquor for on-premises consumption would only be permitted in Non-Residence Zones, except for Special Events that obtain a temporary liquor permit approved by the Planning & Zoning Director, the Police Chief and issued by the Connecticut Liquor Commission.
- The sale of alcoholic liquor in Residence Districts (except for Special Events) shall only be permitted at such locations in existence with a valid liquor permit from the CT Liquor Commission as of the effective date of this regulation.
- The establishment of any new location or change in the type of license for the sale of alcoholic liquor for on-premises consumption shall be subject to Special Permit approval by the Planning & Zoning Commission.
- Any permit renewal or change in the permittee for the sale of alcoholic liquor for on-premises consumption shall be subject to Special Permit approval by the Planning & Zoning Commission. However, the Planning & Zoning Director may waive this requirement with the endorsement of the Chief of Police upon said permit application to the CT Liquor Commission.

13. The Amendment modifies §32-20 Outdoor Eating Areas as follows:

Sundays were inadvertently eliminated from the days and hours of operation established for this regulation. Use of Outdoor Eating Areas on Sunday would be consistent with both the proposed hours in Amendment #610 which is Monday-Thursday from 6:30 AM to 11:00 PM and Section 6-1 of the Town Code which limits the sale of alcoholic liquor to between the hours of 12:00 noon and 11:00 PM on Sundays.

14. The Amendment modifies §32-20 Outdoor Eating Areas as follows:

Restaurants & Private Clubs, excluding patron bars (except in BCD & BCD/H where no on-site parking is required) from 1 space per 35 square feet to one space per 50 square feet for patron areas. Non Patron Areas would remain at 1 space per 500 square feet.

Patron Bar areas, would have their parking requirement reduced to 1 space for every 50 square feet for the portion of the Patron Bar Area that is less than 50% of the Total Patron Area. The requirement to include the top surface of the bar would be eliminated. The change also states that this provision would only apply when the patron bar area exceeds 50% of the total patron area.

15. The Commission find there are benefits for the Town of Westport, existing businesses and new businesses looking to locate there associated with the amendment, including:

- Increasing opportunities for Restaurants & Fast Food Restaurants in Westport.
- Simplifying the Zoning Regulations by removing barriers to creating Restaurants, Fast Food Restaurants and Retail Food Establishments;
- Allowing Retail Food Establishments to have some allowable seating areas;
- Reducing the number of applications processed by the Zoning Board of Appeals & the Administrative Review Committee;
- Create simplified requirements for Liquor Establishments;
- Reduce parking requirements so that Restaurants and Fast Food Restaurants can expand their patron area and thus be more profitable and successful;

16. A hearing was held to allow members of the public the opportunity to offer testimony on the amendment. A number of restaurant and property owners spoke on the amendment.

NOW THEREFORE, BE IT RESOLVED that Text Amendment #613: Appl. #10-014 by the Planning and Zoning Commission for an amendment to the Westport Zoning Regulations to modify §5-2, Definitions of Change of Use, Floor Area, Restaurant & Fast Food Restaurant, to modify §22 the RORD Zone, to modify §23 the RBD Zone, to modify §24 the GBD Zone, to modify §24A the GBD/S Zone to modify §25 the HSD Zone, to modify §28 the BPD Zone, to modify §29 the BCD Zone, to modify §29A BCD/H Zone, to modify §30 the HDD Zone, to completely rewrite §31-9 Liquor Establishments, to modify §32-20 Outdoor Eating Areas and to modify §34-5 Off-Street Parking & Loading be **ADOPTED** for the following reasons:

1. The Planning and Zoning Commission finds the amendment is consistent with the Comprehensive Plan.
2. The Planning and Zoning Commission finds the amendment is consistent with the 2007 Town Plan of Conservation and Development as it addresses many of the issues raised in Chapter 7 regarding restaurant and entertainment venues.
3. The Planning and Zoning Commission finds the amendment is consistent with the 2007 Town Plan of Conservation and Development that includes specific recommendations to:
  - A. *“Westport Center is the main activity center and focal point of Westport -- the heart of a vital, well developed, and yet balanced community. An area of 110 acres of land (144 acres total) that offers a blend of government, retail, office, food, cultural, recreation, and leisure activities in a fairly compact setting, the downtown area is most active during the business day; activity drops-off noticeably after 6:00 PM.” Pg 7-2*
  - B. *“Allow additional uses which promote evening activities and outdoor life. These may include additional outdoor seating permitted for restaurants; seasonal kiosks/food vendors with their own seating in parks, plazas or other feasible locations.” Pg 7-9*
  - C. *“Restaurants in close proximity to one another that provide a night-life business that attracts Westporters and out-of-towners. The large parking lots at the station that are empty at night and on weekends can support and handle more of this use.” Pg 7-11*
4. The Planning and Zoning Commission finds the amendment will benefit the Town of Westport by modifying the zoning regulations to address the needs of Westport restaurants and retail food establishments now and in the future.

**Effective date: August 9, 2010**

**VOTE:**

AYES	-6-	Corwin, Lowenstein, Press, Lathrop, Walsh, Jinishian
NAYS	-0-	
ABSTENTIONS	-0-	

Very truly yours,



Ron Corwin  
Chairman, Planning & Zoning Commission

Att. Adopted Text Amendment #613

cc: Paul Fria, Tax Assessor  
Steve Smith, Building Official  
Steve Edwards, Department of Public Works  
Mark Cooper, Westport Weston Health District  
Ed Zygmant, Fire Marshal  
Al Fiore, Police Chief  
Ira Bloom, Town Attorney  
Hadley Rose, RTM Moderator  
Matt Mandel, RTM P&Z Committee Chair

*Town of Westport Zoning Regulations*

**Amendment #613**

Submitted: 4/12/10  
Received: 4/15/10  
Revised: 5/3/10  
Public Hearing: Scheduled for: 5/20/10  
Adopted: 7/8/10  
Effective date: 8/9/10

§5 DEFINITIONS 5-2 Specific Terms

**TERM**

**DEFINITION**

***Change of Use:***

A change of use shall be subject to Site Plan Review.

The following shall be deemed to be change of use for purposes of these regulations.

- Any change that increases the minimum required number of parking spaces for a building or use.
- ~~Any change necessitating the measurement of patron and non-patron floor area.~~
- Any change from a vacant rentable space in a building structure or lot, or portion thereof, which has been unoccupied for a period of 12 months or more to a use that is different from the previous use.
- Any change from a vacant lot area to a parking area.
- The change from any residential use to any commercial use shall also be deemed to be a "change of use."
- Any change in the primary nature of the business of a Restaurant which serves alcoholic beverages including the manner in which patrons are seated or in which alcoholic beverages are served. Such change of use shall also require a special permit pursuant to §43 (Special Permit and/or Site Plan Review Procedures) of these regulations.

*Town of Westport Zoning Regulations*

**TERM**

**DEFINITION**

***Floor Area:***

The floor area of a building shall be the sum of the total horizontal areas of all the floors of that building measured from the interior faces of the exterior walls. Floor areas shall include the area of basements, cellars, and half-stories. Attics and crawl spaces (as defined in these regulations) are not included in the floor area. Only one floor of an atrium shall be included in the floor area. Only one atrium in a building will be excluded from the floor area except for when such an area is part of an indoor movie theater or indoor performance space. These indoor theater & performance spaces shall not be counted at all as atrium space. All other openings in a floor shall be counted as floor area.

***Restaurant:***

A place having an adequate kitchen and dining room, the primary business of which is the service of hot meals to patrons seated at tables or counters. Meals are served by waiters or waitresses and consumed at the table or counter where they are ordered. A Restaurant may have a Restaurant 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, Fast Food; Restaurant, Drive-in). No more than 25% of the patron Floor Area shall be dedicated to counter service. An establishment with less than 10 seats is to be considered a Retail Food Establishment.

***Restaurant, Fast Food:***

A place whose primary business is the quick sale of (1) frozen desserts, (2) food, already prepared, or prepared and cooked quickly, or cooked or heated in a microwave oven, or (3) ~~non-alcoholic~~ beverages for consumption on or off the premises. Generally, service is cafeteria style in disposable plates or containers, and food and beverages are not consumed at the point where they are ordered or paid for. No more than 25% of the patron Floor Area shall be dedicated to counter service. An establishment with less than 10 seats is to be considered a Retail Food Establishment.

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§22 RORD Zone

22-2.2 Special Permit Uses

22-2.2.4 Grocery Stores and delicatessens, and Retail Food Establishments in RORD#2, only.

22-2.2.5 Restaurants, Fast Food Restaurants, Cafés and Taverns in RORD #2, only.

22-2.2.10 Indoor and outdoor commercial recreation and entertainment uses.

22-2.4 Prohibited Uses

The following uses in addition to §32-7, herein, shall be prohibited: ~~cafe, tavern,~~ gasoline filling station, automobile service establishment or repair garage, any lot, establishment or dealer for new or used motor vehicles, automobiles, motorcycles, trucks, mobile homes, trailers, campers, boats, farm or other heavy equipment, hotels, motels, motor inns, drive-in ~~and fast food restaurants,~~ indoor theaters and assembly halls, newspaper and job printing establishments, veterinary hospitals, animal clinics, bowling alleys, skating rinks, and ~~other indoor and outdoor commercial recreation facilities and~~ heavy commercial uses such as lumber yards, septic tank sales, construction equipment yards and contractor's storage. ~~and restaurant in RORD #1 and #3, only.~~

§23 RBD Zone

23-2.1 Principal Uses

23-2.1.4 Restaurants, Fast Food Restaurants, Retail Food Establishments

23-2.2 Special Permit Uses

23-2.2.2 ~~Fast food restaurants, not exceeding 2000 square feet of Gross Floor Area; provided that no lot shall be used for a fast food restaurant if such lot is located within 500 feet from another lot used for a fast food restaurant, and that no Fast Food Restaurant shall be located within 500 feet of another Fast Food Restaurant on the same lot.~~ Indoor & Outdoor Commercial Recreational and Entertainment Uses.

*Town of Westport Zoning Regulations*

§24 GBD Zone

24-2.1 Principal Uses

24-2.1.2 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.
- b. Grocery stores and delicatessens and Retail Food Establishments
- c. Restaurants and Fast Food 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. Undertaker's establishments.
- i. Newspaper and job printing establishments.
- j. Off-street parking lots, docks and garages.

24-2.2 Special Permit Uses

~~24-2.2.4 Fast food restaurants.~~

§24A GBD/S Zone

24A-2.1 Principal Uses

24A-2.1.2 The following non-residential uses are permitted however the Planning and Zoning Commission can prohibit certain of these uses on the street level (See §24A-2.3 for Prohibited Uses in the GBD/S):

- (a) Stores and shops where goods are sold and services are rendered primarily at retail.
- (b) Grocery stores, and delicatessens and Retail Food Establishments.
- (c) Restaurants.
- (d) Cafes and taverns.
- (e) Business, professional, medical, insurance, real estate, and other offices.
- (f) Banks.
- (g) Indoor theaters and assembly halls.



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- (h) Undertaker's establishments.
- (i) Newspaper and job printing establishments.
- (j) Commercial marinas including accessory boat sales. No boat shall be occupied or used as a dwelling or dwelling unit.
- (k) Fast food restaurants.
- (l) Commercial wireless telecommunication service facilities, in conformance with §32-16.

§25 HSD Zone

25-2.1 Principal Uses

25-2.12 The following additional uses are permitted subject to Site approval in accordance with §43, herein.

- a. Any use permitted in a General Business District.
- b. Gasoline filling stations, automobile service establishment, motor vehicle repair garages, any lot, establishment, agency or dealer for new, rental or used motor vehicles, automobiles, motorcycles, trucks, mobile homes, trailers, campers, boats and farm or other heavy equipment. All parking and storage of vehicles shall be on the lot.
- c. Motels, hotels or motor inns.
- d. Restaurants, Fast Food Restaurants and Drive-in restaurants.

25-2.1 Special Permit Uses

The following uses are permitted subject to Special Permit and Site Plan approval in accordance with §43, herein.

25-2.1.1 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.

25-2.1.2 Bowling alleys, skating rinks, golf driving ranges, paddle tennis courts, tennis courts and other indoor and outdoor commercial recreation and entertainment uses, except game rooms.

25-2.1.3 Fast Food Restaurants Indoor & Outdoor Commercial Recreational & Entertainment Uses

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25-2.1.4 Commercial Wireless telecommunication service facilities, in conformance with §32-16.

25-2.1.5 Private Occupational Schools.

§28 BPD Zone

28-2.1 Principal Uses

28-2.1.2 The following uses are permitted only in a principal building existing on the premises at the time the BPD boundary is established and subject to Site Plan approval in accordance with §43, herein. This provision shall not be deemed to prevent new construction and use of a principal building on a lot, provided that such new construction or re-construction shall strictly adhere to the purposes of this district.

- a. Stores and shops where goods are sold and services are rendered primarily at retail.
- b. Grocery stores, and delicatessens and Retail Food Establishments
- c. Restaurants and Fast Food Restaurants.
- d. Cafes and taverns.
- e. Business, professional, medical, healthcare professional, insurance, real estate and other offices.
- f. Banks
- g. Undertaker's establishments.
- h. Newspaper and job printing establishments.
- i. Off-street parking lots, docks and garages.

28-2.2 Special Permit Uses

28.2.2.5 Indoor & Outdoor Commercial Recreation and Entertainment Uses.

28-2.4 Prohibited Uses

The following uses in addition to those listed in §32-7, herein, shall be prohibited: gasoline filling stations, automobile service establishments, motor vehicle repair garages, any lot, establishment, agency or dealer for new, rental or used motor vehicles, automobiles, motorcycles, trucks, mobile homes, trailers, campers, boats, farm or other heavy equipment, hotels, motels, motor-homes, drive-in and fast food restaurants, ~~indoor theaters and assembly halls,~~ newspaper and job printing establishments, ~~indoor and outdoor commercial recreation uses,~~ commercial marinas and heavy commercial uses such as lumber yards, septic tanks sales, construction equipment yards, contractor's storage yards, etc.

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§29 BCD Zone

29-2.1 Principal Uses

- 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 and delicatessens and Retail Food Establishments, ~~not above the first floor.~~
  - (c) Restaurants and Fast Food Restaurants, ~~not above the first floor.~~
  - (d) Cafes and taverns, ~~not above the first floor.~~
  - (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 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 Fast food restaurants, not above the first floor.~~
- 29-2.2.56 Commercial Wireless telecommunication service facilities, in conformance with §32-16.
- 29-2.2.67 Bank drive-in within 500 feet of another bank drive-in as permitted by §29-2.3.3.

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§29A BCD/H Zone

29A-2.1 Principal Uses

- 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, and delicatessens and Retail Food Establishments,
  - (c) Restaurants and Fast Food 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 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 Fast food restaurants.~~
- 29A-2.2.56 Commercial Wireless telecommunication service facilities, in conformance with §32-16.

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29A-2.2. ~~67~~ 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.

29A-2.2. ~~78~~ Bank drive-in within 500 feet of another bank drive-in as permitted by §29-2.3.3.

§30 HDD Zone

**30-2.2 Special Permit Uses**

The following additional uses are permitted subject to Special Permit and Site Plan Review in accordance with §43 & 44, herein.

- (a) Residential Units (apartments, condos and/or co-ops) not to exceed 3 bedrooms and averaging 2,000 square feet in size; maximum unit size shall not exceed 3,500 SF;
- (b) Hotels, with a conference and/or seminar facility not to exceed 400 square feet area;
- (c) Restaurants, Fast Food Restaurants, cafes and taverns ~~not to exceed the gross interior square footage of the ground floor area of a building existing on the effective date of the HDD;~~
- (d) In-door commercial recreation and entertainment uses;
- (e) Retail stores and retail service establishments on the ground floor; and on the upper floors not to exceed 10% of the sum of the gross floor area of all buildings existing on the effective date of the HDD.
- (f) Grocery stores, ~~and delicatessens~~ and Retail Food Establishments on the ground floor only;
- (g) Surface parking lots;
- (h) Business, professional, insurance, real estate and other offices, excluding healthcare professional and medical on the upper floors only (not ground floor) and not to exceed 10% of the sum of gross floor area of all buildings existing on the effective date the HDD.

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- (i) Banks with a sidewalk walk-up window only, but no bank drive-in.
- (j) Commercial Wireless telecommunication service facilities, in conformance with §32-16.

**30-2.3 — Liquor Establishments**

30-2.3.1 — Notwithstanding the provisions of §31-9, Liquor Establishments, the Planning and Zoning Commission Special Permit and Site Plan review may authorize the approval of only one (1) hotel liquor permit for on-premises consumption in a HDD; provided that:

- (a) — no valid liquor permit exists in the HDD on the effective date of the HDD, and
- (b) — at least one or more valid liquor permits existed in the HDD within five years prior to the effective date of the HDD. Said liquor permit shall only be permitted in an existing building with a gross interior floor area greater than 5,000 square feet and for a restaurant with a patron floor area greater than 1,000 square feet.

§31-9 Liquor Establishments

**31-9 Liquor Establishments**

No premises shall be used for the purpose of selling any alcoholic liquor, beer, ale or wine for on premises consumption under any permit for a restaurant, cafe, tavern, club, hotel or nightclub, as

defined by the State Liquor Commission, if such premises is within a radius of fifteen hundred (1,500) feet from any other premises where any alcoholic liquor, beer, ale or wine is sold for on premises consumption under any of the above named permits, except as noted below:

**31-9.1 General Conditions**

No premises used for the purpose of selling alcoholic liquors, beer, ale, or wine for on-premises consumption for which the permit for such alcoholic liquors, beer, ale or wine is abandoned or discontinued for a period of one hundred eighty (180) days shall thereafter be used for the purpose of selling any alcoholic liquors, beer, ale or wine for on-premise consumption except in compliance with §31-9 in its entirety unless the property owner or the property owner's agent provides documentation to establish the property owner's intent to maintain the use. No building, structure, or portion thereof where any alcoholic liquors, beer, ale or wine are sold, for on premises consumption which has been destroyed or damaged by fire, explosion, act of God or other casualty which has not been restored or

## *Town of Westport Zoning Regulations*

~~continued for such use to the same extent as said use existed before construction within two (2) years of such destruction or damage, shall be restored or continued unless the property owner or the property owner's agent provides documentation to establish the property owner's intent to maintain the use. Such use shall not be extended or expanded except in compliance with §31-9. Also see §6-1.4.~~

### ~~31-9.2 Restaurants~~

~~Restaurants, as defined in §5-2, which have a restaurant permit to allow the retail sale of alcoholic liquor to be consumed on the premises, as granted by the Department of Liquor Control, are permitted within 1500 feet of another establishment, provided that:~~

- ~~a. — There is only one such restaurant on the premises and there is no more than one other establishment selling liquor, beer, ale or wine for off-premises consumption on the premises.~~
- ~~b. — Alcoholic liquor is served in the restaurant from a service bar only to seated patrons.~~
- ~~c. — The service of alcoholic liquor in the restaurant is incidental to the service of hot meals.~~
- ~~d. — No more than 25% of the Patron Floor Area of the restaurant is dedicated to counter service.~~

### 31-9 Liquor Establishments

31-9.1 The sale of alcoholic liquor for on premises consumption shall be limited to Non-Residential Zoning Districts except for liquor establishments in Residence Districts that have a valid liquor permit issued the by the Connecticut Liquor Control Commission as of the effective date of this regulation August 9, 2010 and Special Events that obtain a temporary liquor permit approved by the Planning & Zoning Director, the Police Chief and issued by the Connecticut Liquor Control Commission.

31-9.2 The establishment of any new location or change in the type of permit license for the sale alcoholic liquor for on premises consumption shall be subject to Special Permit approval by the Planning & Zoning Commission.

31-9.3 Any permit renewal or change in permittee for the sale of alcoholic liquor for on-premises consumption shall be subject to Special Permit approval by the Planning & Zoning Commission. However, the Planning & Zoning Director may waive this requirement after consultation with and approval of the Chief of Police on such application to the Connecticut Liquor Control Commission.

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**32-20 Special Requirements for Outdoor Eating Areas**

2. **Design/Use of Area.** Outdoor Eating Areas may use umbrellas or a temporary fabric roof structure. Such a structure may have rigid supports and fabric or soft (non rigid) sides. Such areas may be heated. These area may not be considered in the future as permanent building additions. There shall be no music in any Outdoor Eating Area. The hours of operation shall be limited to 6:30 AM to 11:00 PM on [~~Mondays~~] **Sunday** through Thursdays and 6:30 AM to 2:00 AM on Fridays and Saturdays.

**§34-5 Off Street Parking & Loading**

[SEE ATTACHED CHART]



*Town of Westport Zoning Regulations*

§34-5 USE	MINIMUM REQUIRED PARKING SPACES
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-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 elderly housing	0.75 spaces for each dwelling unit for elderly persons
Accessory apartment unit	1 space for the converted unit
Managed Residential Community	0.75 space for each private residential unit
Home Occupations located in residence districts	2 spaces in addition to the requirements for the dwelling unit.
Community residence for the mentally retarded	2 spaces in addition to the requirements for the dwelling unit.
Elderly group home	1 space per bedroom or guest room.
Automobile repair shops, garages and gas stations	5 spaces per bay or vehicle work station plus 1 space per employee plus 2 additional spaces
Automobile dealers	1 space per employee plus 1 space per vehicle work station plus 20 spaces for customer parking.
Vehicle Rental	1 space per employee plus 1 customer space for each 5 rental vehicles
Funeral Homes, 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.
Office (business and professional), Bank Office Area, except within the BCD and BCD/H.	1 space for each 250 square feet of gross floor area
Bank Customer Area with cashier and/or teller, except within the BCD and BCD/H.	1 space for each 220 feet of gross customer area.
Medical offices, except psychiatrists, and clinics	1 space for each 165 square feet of gross floor area.

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§34-5 USE	MINIMUM REQUIRED PARKING SPACES
including other similar uses including chiropractors, physical therapists, optometrists, and dentists, except within the BCD and BCD/H.	
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 200 square feet of gross floor area
Retail and service establishments including spas, beauty salons, opticians, gyms, healthclubs, 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 35 <del>50</del> 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. <u>This provision shall only apply when the patron bar area exceeds 50% of the total patron area.</u>	1 space for each 20 square feet of gross patron floor area <del>including the entire top surface of the bar.</del>
Hospitals and convalescent homes	1 space for each 3 beds.
Theaters, except within the BCD and BCD/H.	1 space for each 3 seats.
Places of Worship	The greater of (a) one space for each 3 occupants of the sanctuary as determined by the Fire Marshall, or; (b) one space for each 3 occupants of all rooms, other than the sanctuary, used for social functions, as determined by the Fire Marshall.
Auditoriums, field houses, gym, athletic fields & stadiums	1 space for each 5 spectator seats of design capacity.
Game Room for coin operated amusement devices	1 space per 180 square feet of gross interior floor area.
Laboratory, wholesale, warehouse storage establishment <sup>1</sup>	1 space for each 1-1/2 employees during the largest daily work shift or 500 square feet of gross interior floor area, whichever is greater.

<sup>1</sup> In order to be considered as a separate use such areas, excluding laboratories, shall comprise at least 15% of the total gross interior floor area of the building or tenant space and shall be a block of space(s) located in an attic, 1/2 story, or cellar. The space less than 15% shall be part of the principal use for parking.

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<b>§34-5</b>	<b>USE</b>	<b>MINIMUM REQUIRED PARKING SPACES</b>
	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.
	Other Uses	In order to maintain the purpose and intent of these regulations the Commission shall determine the number of parking spaces to be provided in connection with any use not included in this Section.



# WESTPORT CONNECTICUT

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Hearings: March 17, 2011  
Decision: March 17, 2011

March 23, 2011

To Whom It May Concern:

**RE: Text Amendment #628:** Appl. #11-006 submitted by the Planning and Zoning Commission for revisions to the Outdoor Eating Areas Amendment (#610) and the Restaurant and Liquor Establishment Amendment (#613)

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on March 17, 2011 it was moved by Mr. Lathrop and seconded by Mrs. Lowenstein to adopt the following resolution.

## RESOLUTION #11-006

WHEREAS, THE PLANNING AND ZONING COMMISSION met on March 17, 2011 and made the following findings:

1. On May 13, 2010 the Planning & Zoning Commission adopted Amendment #610 which made substantial changes to Outdoor Eating Areas and created a new use called a Retail Food Establishment. On July 8, 2010, the Planning & Zoning Commission adopted Amendment #613 which established new rules for on-premises consumption of alcoholic beverages and eliminated the "1,500 ft rule" which required a separation between patron bars.
2. Text Amendment #628 is proposed by the Planning and Zoning Commission at the request of the Planning & Zoning staff, who asked for changes and modifications to these amendments to clarify the language of the adopted text and to facilitate the implementation of the regulations.
3. The Amendment proposes modifying the following definitions in §5-2 as follows:
  - Change of Use  
Elimination from the "Change of Use" definition the requirement that a change in the nature of how alcoholic beverages are served or patrons are seated requires a Site Plan/Special Permit approval.
  - Outdoor Eating Areas  
1) Allow Cafes and Taverns to also have Outdoor Eating Areas. 2) Specifically require that annual permits for Outdoor Eating Areas be renewed by May 1<sup>st</sup> each year.

- Retail Food Establishment

Provide greater clarity by specifying that a Retail Food Establishment can not have more than 10 indoor seats. The proposed change also specifies that the sale of alcohol at Retail Food Establishments must be for off-premises consumption only. This makes the definition of Retail Food Establishments consistent with the Connecticut General Statutes which only allow on-premises consumption at Restaurants, Cafes and Taverns.

- Restaurant

The definition of Restaurant would be modified to distinguish a Restaurant from a Retail Food Establishment based upon the number of seats. Further since staff has proposed eliminating the definition of Fast Food Restaurant some wording changes are needed in the definition of Restaurant.

- Restaurant, Fast Food

The definition of Restaurant, Fast Food will be eliminated. The elimination of this definition makes sense as the two main distinctions between a Restaurant and a Fast Food Restaurant were 1) Fast Food Restaurants were prohibited from serving alcohol and 2) Fast Food Restaurants required a Special Permit approval. Amendments #610 and #613 eliminated these requirements and thus the difference between these two types of establishments is now de minimis.

4. The Amendment modifies §22 RORD Zone as follows:

- Delete the words Fast Food Restaurant
- Add as permitted uses Cafes and Taverns
- Allow Cafes and Taverns to have Outdoor Eating Areas

These changes make all uses consistent and equitable by allowing Cafes and Taverns in this zone and permitting these establishments to have Outdoor Eating Areas.

5. The Amendment modifies §23 RBD Zone as follows:

- Delete the words Fast Food Restaurant

6. The Amendment modifies §24 GBD Zone as follows:

- Delete the words Fast Food Restaurant
- Allow Cafes and Taverns to have Outdoor Eating Areas

These changes make all uses consistent and equitable by allowing Cafes and Taverns to have Outdoor Eating Areas.

7. The Amendment modifies §24A GBD/S Zone as follows:

- Delete the words Fast Food Restaurant

8. The Amendment modifies §25 HSD Zone as follows:

- Delete the words Fast Food Restaurant

9. The Amendment modifies §28 BPD Zone as follows:

- Delete the words Fast Food Restaurant
- Allow Cafes and Taverns to have Outdoor Eating Areas

These changes make all uses consistent and equitable by allowing Cafes and Taverns to have Outdoor Eating Areas.

10. The Amendment modifies §29 BCD Zone as follows:

- Delete the words Fast Food Restaurant
- Allow Cafes and Taverns to have Outdoor Eating Areas

These changes make all uses consistent and equitable by allowing Cafes and Taverns to have Outdoor Eating Areas.

11. The Amendment modifies §29A BCD/H Zone as follows:

- Delete the words Fast Food Restaurant
- Allow Cafes and Taverns to have Outdoor Eating Areas

These changes make all uses consistent and equitable by allowing Cafes and Taverns to have Outdoor Eating Areas.

12. The Amendment modifies §30 HDD Zone as follows:

- Delete the words Fast Food Restaurant
- Allow Cafes and Taverns to have Outdoor Eating Areas

These changes make all uses consistent and equitable by allowing Cafes and Taverns to have Outdoor Eating Areas.

13. The Amendment modifies §31-9 Liquor Establishments as follows:

- §31-9 will be modified to only require consultation of the Police Chief as the Connecticut Liquor Control Commission application no longer has a place for the Police Chief to sign.

14. The Amendment modifies §32-20 Outdoor Eating Areas as follows:

- In opening paragraph of §32-20. The proposed new wording now clearly specifies that Outdoor Eating Areas are allowed in all Non-Residence Zones except RPOD, DDD, and CPD.
- Design/Use of Area: 1) Specifically calls out the types of structures rather than use the undefined term of "a temporary fabric roof structure" 2) only allows umbrellas on landscaped surfaces and 3) remove the prohibition on Outdoor Music until 9 PM, after 9 PM a Special Permit is required.
- Size/Parking Requirements: Create a single standard for Outdoor Eating Areas of 20% of the patron floor area or 20% of the Floor Area of Retail Food Establishment or 500 square feet which ever is less. Also the measurement of Outdoor Eating Areas shall be the area of the tent, canopy, awning, patio, deck or landscaped area shown on a Site Plan which ever is larger.
- Seasonal Use: Simplifies this section by no longer requiring a minimum time for the removal of structures. This simplifies the regulation by stating that structures must be removed when not in use without the need for tracking of when the items are removed.

- Setbacks & Coverage: Provides a clear and measurable standard of 50 feet from a Residential Zone unless separated by a street or a water body. Also specifies that tents, canopies and fixed awning be counted in building coverage
  - Landscaping: Merges this section with Setbacks and Coverage and future specifies that only landscaping installed as part a Site Plan application shall not be removed to create an Outdoor Eating Area.
15. The Amendment modifies §34-5 Off Street Parking & Loading by adding a parking standard for Retail Food Establishment of 1 space 180 square feet.
16. The Amendment modifies §43-14.2 [ARC] Eligible Applications as follows:
- Substitute the word “Alteration” a defined term in the Zoning Regulations for the words “façade change.
  - The second change is to eliminate Outdoor Eating Areas from the list of ARC eligible applications.
17. The following changes shall become P&Z Department policy:
- Not requiring parking for Outdoor Eating Areas in locations where there is no mandatory parking requirement such as in the BCD and BCD/H zones as the regulations already recognize that parking in these areas is for the most part handled by off-site parking lots
  - Not requiring annual sign-offs from WWHD, Police and Fire Departments for permit renewals where all site layout and seating arrangements are the same as prior years but still require a Zoning Permit.
  - Allow establishments that have a combination of both retail space and patron dining room space to use both areas when calculating the size of their Outdoor Eating Areas.
18. The Commission find there are benefits for the Town of Westport associated with the amendment, including:
- Simplifying the Zoning Regulations by removing barriers to creating Restaurants, and Retail Food Establishments;
  - Greatly simplifying for the public and staff the rules regarding how Outdoor Eating Area are to be established and regulated;
  - Allowing Cafés and Taverns to have Outdoor Eating Area;
  - Increasing opportunities for Cafés and Taverns in Westport.
  - Increase opportunities for Outdoor Eating Areas in general.
19. A hearing was held to allow members of the public the opportunity to offer testimony on the amendment.

NOW THEREFORE, BE IT RESOLVED that Amendment #628: Appl. #11-006 by the Planning and Zoning Commission for a text amendment to the Westport Zoning Regulations to modify §5 (Definitions), §5-2 (Change of Use) to delete from the change of use definition a change in manner in which patrons are seated or in which alcoholic beverages are sold, §5-2 (Outdoor Eating Area), references to Fast Food Restaurants will be deleted and annual renewals will be required each year as of May 1<sup>st</sup>. Also allows Cafes and Taverns to have Outdoor Eating Areas; §5-2 (Food Establishment Retail), to modify to indicate alcoholic beverages may be sold only for off premise consumption and retail food establishments may have no more than 10 patron seats; §5-2 (Restaurant), to modify Restaurant definition so that the Fast Food Restaurant can be deleted. This change will also distinguish a Restaurant from a Retail Food Establishment based on more than 10 indoor seats, §5-2 (Restaurant, Fast Food), to delete the Restaurant, Fast Food definition; §22 (RORD Zone), §22-2.2.5, to delete Fast Food Restaurant, §22-2.3.3, to delete Fast Food Restaurant and give Cafes and Taverns the same Outdoor Eating Area privileges as Restaurants and Retail Food Establishments; §23 (RBD Zone), §23-2.1.4, to delete Fast Food Restaurant, §23-2.3.3, to delete Fast Food Restaurant; §24 (GBD Zone), §24-2.1.2, to delete Fast Food Restaurant, §24-2.3.5, to delete Fast Food Restaurant and give Cafes and Taverns the same Outdoor Eating Area privileges as Restaurants and Retail Food Establishments; §24A (GBD/S Zone), §24A-2.1.2 to delete Fast Food Restaurant; §25 (HSD Zone), §25-2.1.2, to delete Fast Food Restaurant, §25-2.3.5, to delete Fast Food Restaurant; §28 (BPD Zone), §28-2.1.2 to delete Fast Food Restaurant, §28-2.3.4 to delete Fast Food Restaurant and give Cafes and Taverns the same Outdoor Eating Area privileges as Restaurants and Retail Food Establishments; §29 (BCD Zone), §29-2.1.2 to delete Fast Food Restaurant, §29-2.3.5 to delete Fast Food Restaurant and give Cafes and Taverns the same Outdoor Eating Area privileges as Restaurants and Retail Food Establishments; §29A (BCD/H Zone), §29A-2.1.2 to delete Fast Food Restaurant, §29A-2.3.5 to delete Fast Food Restaurant and give Cafes and Taverns the same Outdoor Eating Area privileges as Restaurants and Retail Food Establishments; §30 (HDD Zone), §30-2.2, to delete Fast Food Restaurant, §30-2.4.4 to delete Fast Food Restaurant and give Cafes and Taverns the same Outdoor Eating Area privileges as Restaurants and Retail Food Establishments; §31-9 (Liquor Establishments), §31-9.2 to modify the requirement for the Police to sign an application for Connecticut Liquor Control commission as these forms no longer require the Police Chief's signature, §32-20 (Outdoor Eating Areas), §32-20 provides clarifying language that specifies that outdoor Eating Areas are permitted in non residential zones except RPOD, DDD and CPD, Design/Use of Area deletes the term temporary fabric roof structures and substitutes tents, canopies, awnings, decks or landscaped areas shown on a site plan, only allows umbrellas on landscaped surfaces, deletes the prohibition regarding outdoor music up until 9 PM, after 9 PM a Special Permit is required, and eliminates ARC approval for 2AM closing in favor of P&Z Commission approval; Size/Parking Requirements eliminates Fast Food references and greatly simplifies how parking requirements are calculated. Also gives specific guidance on how to measure the area of an Outdoor Eating Area; Seasonal Use simplifies how seasonal use is determined; Setback & Coverage Requirements simplifies how setbacks are to be regulated and specifies that Outdoor Eating Areas cannot be within 50 feet of a residential zone unless separated by a street or a water body. Requires that any tents,



canopies or fixed awnings be counted in building coverage; Landscaping section is merged with Setbacks & Coverage requirements. It specifies that only landscaping that was installed as part of an approved Site Plan cannot be removed. §34-5 to add Retail Food Establishments to the list of uses such as retail that require 1 parking space for every 180 square feet of gross floor area, §43-14.2 (Eligible Applications for ARC) to change the words façade change and changes to Alterations. Outdoor Eating areas are eliminated from the list of approved ARC applications be **ADOPTED** for the following reasons:

1. The Planning and Zoning Commission finds the amendment is consistent with the Comprehensive Plan.
2. The Planning and Zoning Commission finds the amendment is consistent with the 2007 Town Plan of Conservation and Development as it addresses many of the issues raised in Chapter 7 regarding restaurant and entertainment venues.
3. The Planning and Zoning Commission finds the amendment is consistent with the 2007 Town Plan of Conservation and Development that includes specific recommendations to:
  - A. *“Westport Center is the main activity center and focal point of Westport -- the heart of a vital, well developed, and yet balanced community. An area of 110 acres of land (144 acres total) that offers a blend of government, retail, office, food, cultural, recreation, and leisure activities in a fairly compact setting, the downtown area is most active during the business day; activity drops-off noticeably after 6:00 PM.” Pg 7-2*
  - B. *“Allow additional uses which promote evening activities and outdoor life. These may include additional outdoor seating permitted for restaurants; seasonal kiosks/food vendors with their own seating in parks, plazas or other feasible locations.” Pg 7-9*
  - C. *“Restaurants in close proximity to one another that provide a night-life business that attracts Westporters and out-of-towners. The large parking lots at the station that are empty at night and on weekends can support and handle more of this use.” Pg 7-11*
4. The Planning and Zoning Commission finds the amendment will benefit the Town of Westport by modifying the zoning regulations to address the needs of Westport Restaurants, Cafes, Taverns and Retail Food Establishments now and in the future.

**Effective date: STAFF RECOMMENDS APRIL 8, 2011**

**VOTE:**

AYES	-7-	Corwin, Lowenstein, Lathrop, Krawiec, Walsh, Jinishian, Gratrix
NAYS	-0-	
ABSTENTIONS	-0-	

Very truly yours,

A handwritten signature in cursive script that reads "Ron Corwin" followed by the initials "nc".

Ron Corwin  
Chairman, Planning & Zoning Commission

Att. Adopted Text Amendment #628

cc: Paul Friia, Tax Assessor  
Steve Smith, Building Official  
Steve Edwards, Department of Public Works  
Mark Cooper, Westport Weston Health District  
Ed Zygmant, Fire Marshal  
Al Fiore, Police Chief  
Ira Bloom, Town Attorney  
Hadley Rose, RTM Moderator  
Matt Mandel, RTM P&Z Committee Chair

Town of Westport Zoning Regulations

**Amendment #628**

Submitted:2/3/11  
Received:2/10/11  
Revised 2/17/11  
Public Hearing: Scheduled for:3/17/11  
Adopted:3/17/11  
Effective date:4/8/11

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§5 DEFINITIONS 5-2 Specific Terms

<i>TERM</i>	<i>DEFINITION</i>
<i>Change of Use:</i>	<p>A change of use shall be subject to Site Plan Review.</p> <p>The following shall be deemed to be change of use for purposes of these regulations.</p> <ul style="list-style-type: none"><li>• Any change that increases the minimum required number of parking spaces for a building or use.</li><li>• Any change from a vacant rentable space in a building structure or lot, or portion thereof, which has been unoccupied for a period of 12 months or more to a use that is different from the previous use.</li><li>• Any change from a vacant lot area to a parking area.</li><li>• The change from any residential use to any commercial use shall also be deemed to be a "change of use."</li><li>• <del>[Any change in the primary nature of the business of a Restaurant which serves alcoholic beverages including the manner in which patrons are seated or in which alcoholic beverages are served. Such change of use shall also require a special permit pursuant to §43 (Special Permit and/or Site Plan Review Procedures) of these regulations.]</del></li></ul>
<i>Outdoor Eating Area:</i>	<p>An outdoor area located on the same property as a Restaurant, Cafes, Taverns <del>[Fast Food Restaurant]</del> or Retail Food Establishment that allows for tables &amp; chairs for outdoor table service or self-service dining subject to an <del>[annual]</del> Zoning Permit <u>renewed each year prior to May 1<sup>st</sup></u> and the requirements found in §32-20.</p>

*Town of Westport Zoning Regulations*

22-2.3 Accessory Uses

22-2.3.3 Outdoor Eating Areas for Restaurants, Cafes, Taverns [~~Fast Food Restaurants~~] and Retail Food Establishments subject to an annual Zoning Permit approval pursuant to §5 and §32-20 Outdoor Eating Areas.

§23 RBD Zone

23-2.1 Principal Uses

23-2.1.4 Restaurants [~~Fast Food Restaurants,~~] and Retail Food Establishments

23-2.3 Accessory Uses

23-2.3.3 Outdoor Eating Areas for Restaurants, [~~Fast Food Restaurants~~] and Retail Food Establishments subject to an annual Zoning Permit approval pursuant to §5 and §32-20 Outdoor Eating Areas.

§24 GBD Zone

24-2.1.2 Principal Uses

(c) Restaurants [~~and Fast Food Restaurants~~]

24-2.3 Accessory Uses

24-2.3.5 Outdoor Eating Areas for Restaurants, Cafes, Taverns [~~Fast Food Restaurants~~] and Retail Food Establishments subject to an annual Zoning Permit approval pursuant to §5 and §32-20 Outdoor Eating Areas.

§24A GBD/S Zone

24A-2.1.2 Special Permit Uses

(~~k~~) [~~Fast Food Restaurants~~]

(~~h~~) (k) Commercial wireless telecommunication service facilities, in conformance with §32-16

*Town of Westport Zoning Regulations*

29A-2.3 Accessory Uses

29A-2.3.5 Outdoor Eating Areas for Restaurants, Cafes, Taverns [~~Fast Food Restaurants~~] and Retail Food Establishments subject to an annual Zoning Permit approval pursuant to §5 and §32-20 Outdoor Eating Areas.

§30 HDD Zone

30-2.2 Special Permit Uses

(c) Restaurants, [~~Fast Food Restaurants~~], Cafes and Taverns

30-2.4 Accessory Buildings, Structures and Uses

30-2.4.4 Outdoor Eating Areas for Restaurants, Cafes, Taverns [~~Fast Food Restaurants~~] and Retail Food Establishments subject to an annual Zoning Permit approval pursuant to §5 and §32-20 Outdoor Eating Areas.

§31-9 Liquor Establishments

31-9.3 Any permit renewal or change in permittee for the sale of alcoholic liquor for on premises consumption shall be subject to Special Permit approval by the P&Z Commission. However, the P&Z Director may waive this requirement after consultation with [~~and approval of~~] the Police Chief. [~~on such application to the Connecticut Liquor Control Commission.~~]

**32-20 Special Requirements for Outdoor Eating Areas**

Outdoor Eating Area as defined in §5 shall be permitted [~~where applicable in these regulations~~] in all Non Residential Zones, except RPOD, DDD and CPD subject to the following requirements:

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 [a] the issuance of a zoning permit.

*Town of Westport Zoning Regulations*

Zoning District Boundary Line.] Outdoor Eating Areas that have a tent, canopy or fixed awning shall be counted in building coverage.

- a) ~~[Outdoor Eating Areas that have a clear line of sight to a residential zone (not blocked by a building) must obtain ARC approval unless such Outdoor Eating Area is bordered by a water body.~~
- b) ~~[Outdoor Eating Areas located on the portion of a lot between a Residential Zoning District Boundary Line and the building shall only be permitted pursuant to Special Permit approval.]~~

**6. Landscaping.**

- Required front landscape areas and vegetative buffers that are planted and were approved as part of a Site Plan application as of the effective date of this regulation (6/14/10) 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.

**43-14.2 Eligible Applications**

Administrative Site Plans may be submitted to the Administrative Review Committee for the following types of projects only:

1) Site Plan Modifications

Where only site work is involved such as parking lot alterations or expansions, landscape modifications (refuse area, screening, retaining walls, fences) and utility modifications; provided that said minor modifications complies with §34 and 35, herein.

2) Small Building Additions

Small building additions with fewer than five hundred (500) square feet of building coverage and containing fewer than five hundred (500) square feet of gross interior floor space. Exterior staircases mandated by the Fire Marshal and handicap ramps and elevators mandated by the Building Official for public safety; and awnings. Site Plan approval is not required for ground mounted or roof top mechanical units.

3) Small Changes of Use

A small change of use within an existing building including an increase of not more than three (3) required parking spaces on the lot.

Coastal site plan review pursuant to §31-10.7 shall be required for small changes of use on waterfront property.

4) Accessory Apartments

*Town of Westport Zoning Regulations*

§34-5 USE	MINIMUM REQUIRED PARKING SPACES
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-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 elderly housing	0.75 spaces for each dwelling unit for elderly persons
Accessory apartment unit	1 space for the converted unit
Managed Residential Community	0.75 space for each private residential unit
Home Occupation, Level 1	2 spaces in addition to the requirements for the Dwelling Unit.
Home Occupation, Level 2	2 spaces in addition to the requirements for the Dwelling Unit plus additional parking as determined by the P&Z Commission.
Community residence for the mentally retarded	2 spaces in addition to the requirements for the dwelling unit.
Elderly group home	1 space per bedroom or guest room.
Automobile repair shops, garages and gas stations	5 spaces per bay or vehicle work station plus 1 space per employee plus 2 additional spaces
Automobile dealers	1 space per employee plus 1 space per vehicle work station plus 20 spaces for customer parking.
Vehicle Rental	1 space per employee plus 1 customer space for each 5 rental vehicles
Funeral Homes, 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.
Office (business and professional), Bank Office Area, except within the BCD and BCD/H.	1 space for each 250 square feet of gross floor area
Bank Customer Area with cashier and/or teller, except within the BCD and BCD/H.	1 space for each 220 feet of gross customer area.

*Town of Westport Zoning Regulations*

<b>§34-5</b>	<b>USE</b>	<b>MINIMUM REQUIRED PARKING SPACES</b>
	Other Uses	In order to maintain the purpose and intent of these regulations the Commission shall determine the number of parking spaces to be provided in connection with any use not included in this Section.





# WESTPORT CONNECTICUT

PLANNING & ZONING  
TOWN HALL, 110 MYRTLE AVENUE  
WESTPORT, CONNECTICUT 06880  
(203) 341-1030 • (203) 341-1079  
(203) 454-6145 - fax

Hearings: July 14, 2011  
Decision: July 14, 2011

July 19, 2011

To Whom It May Concern:

**RE: Text Amendment #635:** Appl. #11-029 by the Planning and Zoning Commission for an amendment to the Westport Zoning Regulations to modify §31-9.2, Liquor Establishments, to delete the requirement that the Planning and Zoning Commission approve liquor establishments by Special Permit; §31-9.3, Liquor Establishments, to delete this section; §32-6.2, (Outdoor Storage and Display), to delete the words a Temporary Zoning Permit is and to change reference to §43-15 to §43-14.

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on July 14, 2011 it was moved by Mrs. Lowenstein and seconded by Mr. Press to adopt the following resolution.

## RESOLUTION #11-029

WHEREAS, THE PLANNING AND ZONING COMMISSION met on July 14, 2011 and made the following findings:

1. In July 2010, the Planning & Zoning Commission adopted Amendment # 613 which greatly reduced the restrictions regarding the sale of alcohol for on- premises consumption at Restaurants, Cafes and Taverns. However, at that time these uses still required Special Permit approval and renewals required the sign-off from the Police Chief.
2. Since adoption of Amendment #613 the Commission has continued to streamline the approval process, especially for Restaurant uses which are encouraged by the 2007 POCD.
3. Based upon discussions with the Town Attorney's office it was suggested that since no criteria exist by which to evaluate these types of Special Permit uses that the Commission might want to consider reducing or eliminating this requirement.
4. The changes proposed to §32-6 Outdoor Storage & Display are purely technical in nature as the Commission eliminated Temporary Zoning Permits as part of Amendment #610. However, the reference to Temporary Zoning Permits was not deleted from this section.

5. The Amendment proposes the following changes in §31-9 as follows:
  - Delete: 31-9.2 The establishment of any new location or change in the type of permit license for the sale of alcoholic liquor for on premises consumption shall be subject to Special Permit approval by the P&Z Commission.
  - Delete: 31-9.3 Any permit renewal or change in permittee for the sale of alcoholic liquor for on premises consumption shall be subject to Special Permit approval by the P&Z Commission. However, the P&Z Director may waive this requirement after consultation with the Police Chief.
6. The Amendment modifies §32-6.2 as follows:
  - Eliminate cross references to Temporary Zoning Permits and §43-15 and §45-4
7. The Commission finds there are benefits for the Town of Westport associated with the amendment, including:
  - Simplifying the Zoning Regulations by removing barriers to creating Restaurants, Cafes and Taverns;
  - Reduce the number of Special Permit applications that must be heard by the P&Z Commission;
  - Create simplified requirements for Liquor Establishments;
  - Increasing opportunities to establish Restaurants, Cafes and Taverns in Westport.
8. A hearing was held to allow members of the public the opportunity to offer testimony on the amendment.

NOW THEREFORE, BE IT RESOLVED that **Text Amendment #635:** Appl. #11-029 by the Planning and Zoning Commission for an amendment to the Westport Zoning Regulations to modify §31-9.2, Liquor Establishments, to delete the requirement that the Planning and Zoning Commission approve liquor establishments by Special Permit; §31-9.3, Liquor Establishments, to delete this section; §32-6.2, (Outdoor Storage and Display), to delete the words a Temporary Zoning Permit is and to change reference to §43-15 to §43-14. **be ADOPTED** for the following reasons:

1. The Planning and Zoning Commission finds the amendment is consistent with the Comprehensive Plan.
2. The Planning and Zoning Commission finds the amendment is consistent with the 2007 Town Plan of Conservation and Development as it addresses some of the issues raised in Chapter 7 regarding restaurants.
3. The Planning and Zoning Commission finds the amendment is consistent with the 2007 Town Plan of Conservation and Development that includes specific recommendations to:
  - A. *“Westport Center is the main activity center and focal point of Westport -- the heart of a vital, well developed, and yet balanced community. An area of 110 acres of land (144 acres total) that offers a blend of government, retail, office, food, cultural, recreation, and leisure activities in a fairly compact setting, the downtown area is most active during the business day; activity drops-off noticeably after 6:00 PM.” Pg 7-2*

- B. *"Allow additional uses which promote evening activities and outdoor life. These may include additional outdoor seating permitted for restaurants; seasonal kiosks/food vendors with their own seating in parks, plazas or other feasible locations." Pg 7-9*
- C. *"Restaurants in close proximity to one another that provide a night-life business that attracts Westporters and out-of-towners. The large parking lots at the station that are empty at night and on weekends can support and handle more of this use." Pg 7-11*
- 4. The Planning and Zoning Commission finds the amendment will benefit the Town of Westport by modifying the zoning regulations to address the needs of Westport Restaurants, Cafes and Taverns now and in the future.
- 5. This regulation make the administration of Liquor Establishments more efficient for staff and applicants

**Effective date: August 15, 2011**

**VOTE:**

AYES	-7-	Corwin, Lowenstein, Press, Lathrop, Walsh, Jinishian, Gratrix
NAYS	-0-	
ABSTENTIONS	-0-	

Very truly yours,



Ron Corwin  
Chairman, Planning & Zoning Commission

Att. Adopted Text Amendment #635

cc: Paul Friia, Tax Assessor  
Mark Cooper, Westport Weston Health District  
Ed Zygmant, Fire Marshal  
Al Fiore, Police Chief  
Ira Bloom, Town Attorney  
Hadley Rose, RTM Moderator  
Matt Mandel, RTM P&Z Committee Chair

*Town of Westport Zoning Regulations*

**Amendment #635**

Submitted: 6/7/11  
Received: 6/9/11  
Revised: 7/1/11  
Public Hearing: 7/14/11  
Adopted: 7/14/11  
Effective date: 8/15/11

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**31-9 Liquor Establishments**

**31-9.1**

The sale of alcoholic liquor for on premises consumption shall be limited to Non-Residential Zoning Districts except for liquor establishments in Residential Districts that have a valid liquor permit issued by the Connecticut Liquor Control Commission as of the effective date of this regulation August 9, 2010 and Special Events that obtain a temporary liquor permit approved by the P&Z Director, the Police Chief and issued by the Connecticut Liquor Control Commission.

~~**31-9.2**~~

~~The establishment of any new location or change in the type of permit license for the sale of alcoholic liquor for on premises consumption shall be subject to Special Permit approval by the P&Z Commission.]~~

~~**31-9.3**~~

~~Any permit renewal or change in permittee for the sale of alcoholic liquor for on premises consumption shall be subject to Special Permit approval by the P&Z Commission. However, the P&Z Director may waive this requirement after consultation with the Police Chief.]~~

**32-6 Outdoor Storage and Display**

Outdoor storage and display is permitted as an accessory use in all Non-Residential Districts except DDD and HDD, subject to Site Plan approval in accordance with §43, herein, and the following conditions:

*Town of Westport Zoning Regulations*

- 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, not reduce or impinge upon required off-street parking or loading spaces, be maintained in a clean and 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.
- 32-6.2 Truck trailer storage shall be restricted to a designated loading area. No such trailer shall be stored for more than seven (7) days unless [~~a Temporary Zoning permit is~~] authorized by the Administrative Review Committee pursuant to ~~§43-14~~ [43-15 and 45-4], herein. No such permit shall be valid for more than ninety (90) days. Retail sales are not permitted from a stored trailer. A trailer shall be a vehicle mounted on an axle with wheels for transport on the public highways.



# WESTPORT CONNECTICUT

PLANNING & ZONING  
TOWN HALL, 110 MYRTLE AVENUE  
WESTPORT, CONNECTICUT 06880  
(203) 341-1030 • (203) 341-1079  
(203) 454-6145 - fax

Hearing: April 26, 2012

Decision: June 7, 2012

June 11, 2012

G. Kenneth Bernhard  
Cohen & Wolf, P.C.  
320 Post Road West  
Westport, CT 06880

**RE: Text Amendment #649/P&Z Application #12-013, Modifications to §32-20 (5), Coverage Requirements for Tents, Canopies and Fixed Awnings at Outdoor Eating Areas**

Dear Mr. Bernhard:

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on 6/7/12 it was moved by Mr. Stephens and seconded by Mr. Whittle to adopt the following resolution.

## RESOLUTION #12-013

WHEREAS, THE PLANNING AND ZONING COMMISSION met on 6/7/12 and made the following findings:

1. The request to amend the Westport Zoning Regulations is to modify §32-20 (5) of the Westport Zoning Regulations regarding Outdoor Eating Areas to exempt tents, canopies and fixed awning from Building Coverage if storm water runoff is addressed in a drainage plan approved by the Town Engineer.
2. On May 13, 2010, the Planning & Zoning Commission adopted Amendment #610 which made substantial changes to the Outdoor Eating Areas. On March 17, 2011, the Commission approved Amendment #628 which further refined and clarified the regulations regarding Outdoor Eating Areas.
3. The current zoning regulations regarding Outdoor Eating Areas counts tents, canopies and fixed awnings as building coverage but they are exempted from setback requirements. Retractable awnings and umbrellas are not counted in coverage.



Very truly yours,

A handwritten signature in cursive script, appearing to read "Catherine Walsh".

Catherine Walsh  
Chairman,  
Planning & Zoning Commission

cc: Town Attorney  
Fire Marshal  
Police Chief  
Town Engineer  
WWHD Director  
RTM Moderator  
RTM P&Z Committee Chairman

Attached: Adopted Text Amendment 649



**Amendment #649**

Submitted: 3/7/12

Received: 3/8/12

Revised: 4/12/12

Public Hearing: 4/26/12

Adopted: 6/7/12

Effective date: 7/9/12

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Language to be deleted is ~~struck-out~~ and  
Language to be added is underlined.

**Sec. §32-20 Outdoor Eating Areas**

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.



**Town of Westport**  
**Planning and Zoning Commission**  
Town Hall, 110 Myrtle Avenue  
Westport, CT 06880  
Tel: 203-341-1030 Fax: 203-454-6145  
www.westportct.gov

Hearing: July 23, 2020

Decision: July 23, 2020

July 24, 2020

**RE: Text Amendment #783/Appl. #PZ-20-00462, (NEW), §32-20A,  
Continuation of Temporary Outdoor Dining in Response to COVID-19**

To Whom It May Concern

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on July 23, 2020 it was moved by Mr. Lebowitz and seconded by Ms. Dobin to adopt the following resolution.

**RESOLUTION #PZ-20-00462**

WHEREAS, THE PLANNING AND ZONING COMMISSION met on July 23, 2020 and made the following findings:

Background

1. State and local civil preparedness emergencies were declared in mid-March 2020 due to the Coronavirus Pandemic (COVID-19). Local restaurants were restricted to offering take-out and curbside pick-up. On May 20, 2020 Phase 1 of the State of Connecticut's Business Re-Opening program began and municipalities were authorized to approve "Outdoor Activities" pursuant to Executive Order No. 7MM enabling local restaurants to offer outdoor patron dining provided each establishment demonstrates compliance with COVID-19 public health and safety guidelines issued by the State of CT.
2. On June 17, 2020 the State of CT began Phase 2 of the Business Re-Opening program enabling resumption of indoor dining limited to 50% of the original occupancy. The State's Business Re-Opening program combined with residents' efforts to support local businesses have helped many restaurants. Sadly some restaurants have permanently closed due to the financial hardships associated with COVID-19. This has additionally resulted in employment losses.

3. For those restaurants who continue to endure, it remains a struggle to make a profit even with the combined offering of outdoor patron dining and limited indoor patron dining. Some restauranteurs have shared they are expending significant resources to provide outdoor dining options to their patrons who perceive they are safer when dining outside, and have suggested adoption of a local zoning regulation to offer assurance through the holiday season their resources may continue to be utilized whether or not Governor Lamont rescinds Executive Order No. 7MM should the State of CT continue a positive trend and restaurants are allowed to resume 100% occupancy for indoor patron dining.
4. The Planning and Zoning Commission in response held a Work Session on July 9, 2020 and directed staff to prepare a Text Amendment for review at a public hearing.

#### Proposal

5. Text Amendment #783, dated July 10, 2020 proposes temporary zoning regulations to allow continued outdoor patron dining consistent with Executive Order No. 7MM that if adopted will extend the "Outdoor Activity" provisions to March 31, 2021 with the ability to grant further extensions if warranted.
6. Use of the regulation may not be necessary so long as EO No. 7MM remains in effect; however it is intended to give assurance to those restaurants who are struggling during the pandemic that their financial investments in support of providing outdoor dining options will remain viable through the holiday season whether or not Governor Lamont rescinds EO No. 7MM should the State of CT continue to successfully contain the spread of COVID-19, and restaurants are allowed to resume 100% occupancy for indoor patron dining in some later phase of the State's Business Recovery Program.
7. The Declaration of Public Health and Civil Preparedness Emergency issued on March 10, 2020 by Governor Lamont contains an expiration date of September 9, 2020. The Planning and Zoning Commission acting in their planning capacity proposed this text amendment so that it could be adopted and go into effect before September 9, 2020.

#### Department Comments

8. Text Amendment #783 was referred to Town Officials for comments in anticipation of a public hearing.
9. Referrals to regional council of governments are not required for Text Amendments related to COVID-19 pursuant to Executive Order No. 7M, Section 1 and were therefore not sent.
10. The Town Attorney's Office in comments dated July 16, 2020 recommended language be added as a modification in response to a what-if scenario involving the State slipping backwards in the containment of COVID-19 and the Governor needing to temporarily close restaurants due to public health and safety concerns.

11. The Town Attorney's Office recommended the language underlined below be added as a modification to Text Amendment #783:

*Continuation of Temporary Outdoor Dining in Response to COVID-19 - Any restaurant operating with an approved temporary outdoor dining permit issued pursuant to CT Governor Lamont's Executive Order 7MM as of the date of this amendment may continue to operate and use the area approved and as shown in that permit, until March 31, 2021 or until Executive Order No. 7 MM is repealed to contain the spread of COVID-19.*

12. The Fire Marshal in comments dated July 15, 2020 offered the following to which the Building Official concurred:

*"This office supports Text Amendment #783. It cautions the Commission and the present/future users of Outdoor Dining Activity permits that inclement winter weather typical of Westport may pose significant logistical and permitting challenges. These may come at additional cost."*

13. Users of Outdoor Dining Activity Permits may need to resubmit applications (at no charge) to the Planning and Zoning Department to retrofit existing/approved Outdoor Dining Activities should physical modifications be needed to address inclement winter weather.
14. Such resubmissions will need to be reviewed by the Fire Marshal's Office and Westport Weston Health District to confirm all COVID-19 public health and safety guidelines are met.
15. Planning and Zoning staff prepared comments dated July 20, 2020 that cited since Phase 1 of the State's Business Re-Opening program began over 60 applications for Outdoor Activities were received by the Planning and Zoning Department from local businesses, and 97% of these applications were approved, none were denied, and the remainder remain pending review.
16. The P&Z staff comments described most establishments have operated successfully without incident. Others had received warnings for failure to seek an Outdoor Activity approval, or for unauthorized additions of more tables than originally approved, or failure to maintain requisite distancing between tables. P&Z staff also identified noise complaints have been registered by some residents who occupy homes located in close proximity to restaurants.
17. The P&Z staff comments reference the 2017 *Plan of Conservation and Development* that contains what may be perceived herein as competing goals to support economic vitality without adversely impacting nearby residential neighborhoods:
  - *"Support Appropriate Economic Development."* Pg. 74; and
  - *"Protect residential neighborhoods from encroachment by inappropriate uses."* Pg. 80

### Public Participation

18. A hearing was held on July 23, 2020 to receive testimony from members of the public as required pursuant to State Statutes and to get input on how best to reconcile the competing economic demands of local restaurants with the desires of some residents who live in close proximity to restaurants who have expressed a desire to have the peaceful enjoyment of their homes restored.
19. The public hearing was held remotely using electronic means due to the COVID-19, as Town Hall remains closed. The public hearing was broadcast live on public access television, live on-line on the Town's website, and interested parties were provided the opportunity to join the meeting and offer "live" testimony.
20. All application materials, and public comments received prior to the public hearing were posted on the Town's website consistent with the Governor's Executive Order to maintain transparency while conducting remote meetings.

**NOW THEREFORE, BE IT RESOLVED Text Amendment #783:** Appl: PZ-20-00462 submitted by the Planning and Zoning Commission, **IS ADOPTED AS MODIFIED** to add a new Section 32-20A, Continuation of Temporary Outdoor Dining in Response to COVID-19, that extends until March 31, 2021 all the same provisions currently enabling Outdoor Activities for Restaurants pursuant to Executive Order No. 7MM issued by Governor Lamont. The amendment was modified to add language identifying the regulation will remain in effect until March 31, 2021 unless Executive Order No. 7 MM is repealed should it be necessary to contain the spread of COVID-19 and was amended to add language emphasizing that all Temporary Outdoor Dining shall be in strict compliance with all Federal, State, and Local COVID-19 guidelines and requirements. A copy of the adopted text amendment is available on-line at [www.westportct.gov](http://www.westportct.gov) is on file in the Town Clerk's Office, is on file in the Planning and Zoning Office, and is attached herein.

### **REASONS**

1. Adopting local regulations to continue outdoor dining through the holiday season should provide the security desired by many restauranteurs during these uncertain times and allow them to plan ahead.
2. Adopting local regulations and putting them into effect on September 8, 2020 is appropriate as it precedes the expiration of the Governor's Public Health and Civil Preparedness Emergency on September 9, 2020.
3. Adopting a modification to the text amendment to clarify that the Governor or his designee's decision will override any adopted local zoning regulation is also appropriate in these uncertain times, should the State of Connecticut slip backwards in the containment of COVID-19 and the Governor needs to temporarily close restaurants due to public health and safety concerns.

4. The Planning and Zoning Commission finds this amendment is consistent with the Comprehensive Plan (Zoning Regulations and Zoning Map), and the 2017 *Plan of Conservation and Development* that recommends supporting appropriate economic development.

VOTE:

AYES	-6-	{Dobin, Stephens, Rutstein, Lebowitz, Cammeyer, Gratrix}
NAYS	-0-	
ABSTENTIONS	-0-	

**The effective date of this amendment is: September 8, 2020.**

Very truly yours,



Danielle Dobin, Chairman  
Planning & Zoning Commission

**Attached**

Adopted Text Amendment #783, as modified

cc: First Selectman  
Conservation Director  
DPW Director  
Fire Marshal  
Police Chief  
RTM P&Z Committee Chairman  
Tax Assessor  
Town Attorney  
Town Engineer  
Westport Weston Health District Director

**Text Amendment #783**

Submitted: 7/13/20

Received: 7/16/20

Public Hearing: Scheduled for: 7/23/20

Adopted as Modified: 7/23/20

Effective date: 9/8/20

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

***FROM §32, SUPPLEMENTARY USE REGULATIONS***

**32-20A, CONTINUATION OF TEMPORARY OUTDOOR DINING  
IN RESPONSE TO COVID-19**

Continuation of Temporary Outdoor Dining in Response to COVID-19 - Any restaurant operating with an approved temporary outdoor dining permit issued pursuant to CT Governor Lamont's Executive Order 7MM as of the effective date of this amendment may continue to operate and use the area approved and as shown in that permit, until March 31, 2021, 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, stated, and local COVID-19 guidelines and requirements.

Such extension shall not be interpreted to create any nonconforming right and further provided that the operation of the Temporary Outdoor dining between the suspension of the State's declared state of emergency and March 31, 2021 shall be deemed to be a complete and total waiver of nonconforming rights under any local, state or federal authority.



Town of Westport  
Planning and Zoning Commission  
Town Hall, 110 Myrtle Avenue  
Westport, CT 06880  
Tel: 203-341-1030 Fax: 203-454-6145  
www.westportct.gov

Hearing: March 11, 2021

Decision: March 11, 2021

March 12, 2021

**RE: Text Amendment #788/Apl. #PZ-21-00104, Modification to §32-20A,  
Continuation of Temporary Outdoor Dining in Response to COVID-19**

To Whom It May Concern

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on March 11, 2021 it was moved by Mr. Lebowitz and seconded by Ms. Dobin to adopt the following resolution.

**RESOLUTION #PZ-21-00104**

WHEREAS, THE PLANNING AND ZONING COMMISSION met on March 11, 2021 and made the following findings:

Background

1. State and local civil preparedness emergencies were declared in mid-March 2020 due to the Coronavirus Pandemic (COVID-19). Local restaurants were restricted to offering take-out and curbside pick-up. On May 20, 2020 Phase 1 of the State of Connecticut's Business Re-Opening program began and municipalities were authorized to approve "Outdoor Activities" pursuant to Executive Order #7MM enabling local restaurants to offer outdoor patron dining provided each establishment demonstrates compliance with COVID-19 public health and safety guidelines issued by the State of CT.
2. Since Phase 1 of the State's Business Re-Opening program began in May 2020, close to 80 applications for Outdoor Activities for local restaurants were approved by the Planning and Zoning Department. Most establishments have operated successfully without incident. Others have received warnings for failure to seek an Outdoor Activity approval, unauthorized additions of more tables than originally approved, failure to maintain requisite distancing between tables, and a noise complaint was registered by one resident who occupies an apartment above an existing restaurant.



3. On June 17, 2020 the State of CT began Phase 2 of the Business Re-Opening program enabling resumption of indoor dining limited to 50% occupancy. The State's Business Re-Opening program combined with residents' efforts to support local businesses helped many restaurants. Sadly, some restaurants closed due to financial hardships associated with COVID-19. This also resulted in employment losses.
4. On July 23, 2020, the Planning and Zoning Commission adopted §32-20A, Continuation of Temporary Outdoor Dining in Response to COVID-19, pursuant to Text Amendment #783, effective Sept. 8, 2020, and scheduled to expire on March 31, 2021. This regulation provides the same flexible standards in support of restaurants provided by Governor Lamont's Executive Order #7MM. At that time, it was unknown if/when EO #7MM would be extended and the Commission wanted to enable restaurants to plan for the holiday season with the knowledge their timeline provided. EO #7MM was subsequently extended. Currently EO #7MM and many other executive orders were extended until April 19, 2021 pursuant to EO #10A.
5. The Explanatory Statement for Text Amendment #788 dated Feb. 22, 2021 describes the Planning and Zoning Commission at the Feb. 11, 2021 Work Session directed staff to prepare a Text Amendment to the local zoning regulations to continue temporary allowing Outdoor Activities consistent with EO #7MM "until further notice."
6. On March 4, 2021 Governor Lamont issued a press release describing restaurants may resume indoor dining at 100% capacity effective March 19, 2021, provided all COVID protocols remain in place (6-foot separation, wearing of face masks, etc.). For many local restaurants this change will have no appreciable positive impact due to constraints associated with maintaining the required 6-foot separation. Therefore; the need remains to provide an outdoor dining option consistent with EO #7MM.

### Proposal

7. Text Amendment #788 authored by the Planning and Zoning Commission dated Feb. 22, 2021 proposes continuation of temporary zoning regulations in §32-20A, "until further notice" enabling outdoor patron dining consistent with Executive Order #7MM, and clarifying these same regulations also apply to retail establishments consistent with EO #7MM. The text amendment further clarifies Outdoor Activities will be permitted to any new restaurant or retail establishment that has not yet applied for an Outdoor Activities approval.
8. Use of the regulation may not be necessary so long as EO #7MM remains in effect; however it is intended to give assurance to those restaurants who are struggling during the pandemic their financial investments to provide outdoor dining options will remain viable through the warm weather season whether or not Governor Lamont rescinds EO #7MM should the State of CT continue to successfully contain the spread of COVID-19, and restaurants are allowed to resume 100% occupancy for indoor patron dining without the COVID safety protocols in some later phase of the State's Business Recovery Program.

Department Comments

9. Text Amendment #788 was referred to Town Officials for comments in anticipation of a public hearing with no objections received.
10. The Fire Marshal confirmed to P&Z Staff his office will continue to serve as the Authority Having Jurisdiction to confirm applicants have complied with all sector rules for COVID-19 compliance, established by the State of CT. The Town Attorney's Office reviewed the draft language before being finalized as a formal text amendment, so additional comments were not requested.
11. P&Z staff comments dated 3/3/21 identified the Planning and Zoning Commission will revisit in the future whether to modify the regulations to potentially make some regulations permanent or extinguish the regulations following an evaluation of both positive and negative effects resulting from use of the temporary zoning regulations.

Public Participation

12. A hearing was held on March 11, 2021 to receive testimony from members of the public as required pursuant to State Statutes.
13. The public hearing was held remotely using electronic means due to the COVID-19, as Town Hall remains closed. The public hearing was broadcast live on public access television, live on-line on the Town's website, and interested parties were provided the opportunity to join the meeting and offer "live" testimony.
14. Over a dozen emails were sent from residents offering support for Text Amendment #788.
15. Some correspondence received suggested the amendment should be modified before adoption to include an expiration date rather than leaving it open-ended.
16. All application materials, and public comments received prior to the public hearing were posted on the Town's website consistent with the Governor's Executive Order to maintain transparency while conducting remote meetings.

**NOW THEREFORE, BE IT RESOLVED Text Amendment #788:** Appl. #PZ-21-00104 submitted by the Planning and Zoning Commission is **ADOPTED** to modify Section 32-20A, Continuation of Temporary Outdoor Dining in Response to COVID-19, that if adopted as submitted will extend "Until Further Notice," current temporary zoning standards for Outdoor Activities for restaurants and will include Retail Establishments. A copy of the adopted text amendment is on file in the Westport Town Clerk's Office, is on file in the Westport Planning and Zoning Office and is attached to this notice.

**REASONS**

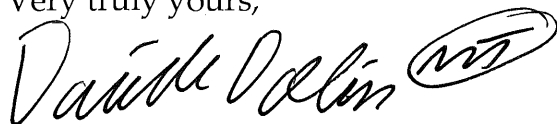
1. Adopting local regulations to continue temporary provisions for outdoor dining should provide the security desired by many restauranteurs during these uncertain times and allow them to plan ahead.
2. Expanding the regulations to include Retail Establishments is consistent with the intent of EO #7MM which permits, "*Expedited Municipal Review of Outdoor Dining and Retail*," [emphasis added] to promote social distancing in order to prevent the potential transmission of COVID-19 in commercial establishments.
3. Adopting local regulations and making them effective by April 1, 2021 is appropriate as it immediately subsequent to the expiration of the existing temporary zoning regulations scheduled to expire on March 31, 2021; therefore there will be no interruption in authorization to continue Outdoor Activities.
4. The Planning and Zoning Commission finds this amendment is consistent with the Comprehensive Plan (Zoning Regulations and Zoning Map), and the 2017 *Plan of Conservation and Development* that recommends supporting appropriate economic development.

**VOTE:**

AYES	-5-	{Dobin, Lebowitz, Olefson, Stephens, Walsh}
NAYS	-0-	
ABSTENTIONS	-0-	

**The effective date of this amendment is: April 1, 2021.**

Very truly yours,



Danielle Dobin, Chairman  
 Planning & Zoning Commission

**Attached**  
 Adopted Text Amendment #788

cc: First Selectman's Office  
Conservation Director  
DPW Director  
Fire Marshal  
Police Chief  
Tax Assessor  
Town Attorney  
Town Engineer  
Westport Weston Health District Director  
RTM P&Z Committee Chairman  
RTM Moderator

Text Amendment #788

Submitted: 2/22/21

Received: 3/11/21

Public Hearing: 3/11/21

Adopted: 3/11/21

Effective date: 4/1/21

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

## *FROM §32, SUPPLEMENTARY USE REGULATIONS*

### **§32-20A, CONTINUATION OF TEMPORARY OUTDOOR DINING, AND RETAIL OUTDOOR ACTIVITIES IN RESPONSE TO COVID-19**

~~[Continuation of Temporary Outdoor Dining 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 [amendment] 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 ~~[March 31, 2021]~~ 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. ~~[and]~~ It is further provided that the operation of the Temporary Outdoor [d]Dining or retail Outdoor Activities Approval between [the suspension] any expiration of the State's declared state of emergency and [March 31, 2021] the expiration of this regulation shall not be deemed to be a waiver of any obligations by any applicant pursuant to [complete and total waiver of nonconforming rights under] any local, state or federal [authority] law.



**Town of Westport**  
**Planning and Zoning Commission**  
Town Hall, 110 Myrtle Avenue, Room 203  
Westport, CT 06880  
Tel: 203-341-1030 | Fax: 203-454-6145 | [PandZ@westportct.gov](mailto:PandZ@westportct.gov)  
[www.westportct.gov](http://www.westportct.gov)

Hearing: March 14, 2022

Decision: March 14, 2022

March 15, 2022

**RE: Text Amendment #814/PZ-22-00133, to modify the Zoning Regulations to create permanent standards for Outdoor Storage and Display for non-Food Establishments on private property, and to modify various sections of the Zoning Regulations to create permanent standards for Outdoor Eating Areas for Food Establishments on private property, in response to Public Act 21-2, Sec. 182**

To Whom It May Concern,

This is to certify that at a meeting of the Westport Planning and Zoning Commission held on March 14, 2022, it was moved by Mr. Cammeyer and seconded by Mr. Olefson to adopt the following resolution.

#### **RESOLUTION # PZ-22-00133**

WHEREAS, THE PLANNING AND ZONING COMMISSION met on March 14, 2022, and made the following findings:

#### **Background**

1. State legislation has temporarily regulated "Outdoor Activities" for the past two years by expanding opportunities for business to be conducted outside as a mechanism to mitigate the spread of COVID-19. Outdoor Activities authorized Food Establishments to provide outdoor dining, and Outdoor Activities enabled non-food Establishments to offer outdoor storage and display of merchandise without zoning limitations.
2. Health Code requirements related to Outdoor Activities were increased, and local zoning requirements were all but temporarily removed. A series of phases, rules, and guidelines were established by the State of CT defining how Food Establishments could re-open while protecting the public health and providing for an economic recovery.
3. Governor Lamont on May 12, 2020, initially issued Executive Order #7MM, "*Protection of Public Health and Safety During COVID-19 Pandemic and Response.*"

4. The State Legislature on March 31, 2021, adopted Special Act 21-3, *An Act Concerning the Outdoor Sale of Goods and Provision of Food and Beverage Service*, that became effective immediately, and is scheduled to expire on March 31, 2022. Special Act 21-3 replaced EO #7MM and authorized the “Outdoor Activities” approved under EO #7MM to continue.
5. The State Legislature on June 21, 2021, adopted Public Act 21-2, *An Act Concerning Provisions Related to Revenue and Other Items to Implement the State Budget for the Biennium Ending June 30, 2023*. This 790-page Act has varying effective dates. Section 182, related to outdoor dining, is effective April 1, 2022. Sec. 182 replaces all other State legislation and Executive Orders that preceded it including Special Act 21-3 and EO #7MM. It also takes precedence over some local zoning regulations including §32-20, *Special Requirements for Outdoor Eating Areas*, and related sections.
6. The Planning and Zoning Commission at a Work Session on Feb. 28, 2022, endorsed a draft text amendment to proceed to public hearing to modify the zoning regulations in response to Public Act. 21-2, Sec. 182.

### Proposal

7. Text Amendment #814, authored by the Planning and Zoning Commission, is primarily intended to address permanent State requirements for Food Establishments that replace temporary state enabling legislation affecting outdoor dining. If adopted, the Zoning Regulations will be consistent with Public Act 21-2, Sec. 182 and add elective standards for Outdoor Storage and Display for non-Food Establishments. It will:
  - A. Incorporate, modify and/or replace language to implement State legislation adopted pursuant to Public Act 21-2, Sec. 182, related to Food Establishments as defined in CGS §19a-36i;
  - B. Add supplemental zoning standards to enhance public health and safety; and
  - C. (Elective) Modify Outdoor Storage and Display regulations to permit non-Food Establishments, such as the Westport Book Shop, to continue locating merchandise outside by removing current zoning barriers (setbacks) that inhibit some retailers.
8. Proposed changes include:
  - A. Modify §5-2, (definition of) “*Outdoor Eating Area*;”
  - B. Modify the Accessory Use sections for all non-residential zoning districts where Food Establishments are permitted, to identify administrative approval is required before commencing any Outdoor Eating Area use, as described in §32-20, including:
    - i. §22-2.3.3, Outdoor Eating Areas in the Restricted Office & Retail District (RORD);
    - ii. §23-2.3.3, Outdoor Eating Areas in the Restrict Business District (RBD);
    - iii. §24-2.3.5, Outdoor Eating Areas in the General Business District (GBD);
    - iv. §24A-2.3, Outdoor Eating Areas in the General Business District Saugatuck (GBD/S);
    - v. §25-2.3.5, Outdoor Eating Areas in the Highway Service District (HSD);
    - vi. §28-2.3.4, Outdoor Eating Areas in the Business Preservation District (BPD);
    - vii. §29-2.3.5, Outdoor Eating Areas in the Business Center District (BCD);
    - viii. §29A-2.3.5, Outdoor Eating Areas in the Business Center District/Historic (BCD/H);
    - and
    - ix. §30-2.4.4, Outdoor Eating Areas in the Historic Design District (HDD).

- C. Add language to §29B-2.2.4 to provide Outdoor Eating Area standards for Food Establishments in the Business Center Retail Residential (BCRR), which appear to have been overlooked by the author of the district.
- D. Modify §32-6, *Outdoor Storage and Display*, to clarify where such uses are permitted, and to remove setback requirements so continued use of sidewalks (subject to Federal ADA requirements) will be allowed by non-Food Establishments.
- E. Modify §32-20, *Special Requirements for Outdoor Eating Areas*, to implement and supplement standards in Public Act 21-2, Sec. 182 including:
  - i. Required Planning and Zoning approvals;
  - ii. Required Other Department approvals;
  - iii. Location;
  - iv. Size;
  - v. Parking requirements;
  - vi. Setback and Coverage requirements;
  - vii. Lighting requirements;
  - viii. Covers, enclosures, and Structures requirements;
  - ix. Hours of operation; and
  - x. Signage.
- F. Remove §32-20A, *Continuation of Temporary Outdoor Dining, and Retail Outdoor Activities in Response to COVID-19* (currently expired).
- G. Modify §34-5, *Parking Requirements Table*, to identify Accessory Outdoor Eating Areas are exempt from minimum parking requirements.
- H. Modify §43-5.2 to add Accessory Outdoor Eating Area applications to the list of small-scale projects eligible to obtain a Site Plan Waiver from the P&Z Director or her designee (versus Site Plan review by the Planning and Zoning Commission).

### Department Comments

- 9. Referrals sent to Town Department heads and others yielded no objections to the Amendment.
- 10. Eileen Flug, Assistant Town Attorney, in comments dated 3/2/22 suggested if the amendment is adopted, it be modified to clarify language in §32-20, Sec. 3, Location. She recommended:

Replace This:

*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).*

With That:

*Location. Outdoor Eating Areas may be located on privately-owned property as follows: On-site, or on an abutting property with the approval of the property owner, in either case subject to providing a pathway constructed in compliance with Federal ADA requirements that is at least four feet wide.*



11. Mary Young, Planning and Zoning Director, in comments dated 3/11/22 suggested the amendment be modified prior to adoption so language in §32-20, Sec. 9, *Hours of Operation*, is consistent with Public Act 21-2, Sec. 182, that requires any Accessory Outdoor Eating Area be subject to administrative approval only (not Special Permit approval). She recommended:

Replace This:

*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 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.

With That:

*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 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.

### Public Participation

12. A public hearing was held to receive testimony from members of the public as required pursuant to State Statutes.
13. The public hearing was held remotely due to COVID-19. The hearing was broadcast “live” on public access television, “live” on-line on the Town's website, and anyone could join the meeting and offer “live” testimony.
14. All application materials, and public comments received in writing prior to the meeting were posted on the Town's website to maintain transparency while conducting remote meetings.

**NOW THEREFORE, BE IT RESOLVED Text Amendment #814:** Appl: PZ-22-00133 submitted by the Planning and Zoning Commission, is **ADOPTED AS MODIFIED** to amend §32-6, Outdoor Storage and Display, to remove prohibition on locating display areas for non-Food Establishments within the 30’ Front Landscape setback area provided no existing landscaping is removed; to amend §5, Definitions, §32-20, Special Requirements for Outdoor Eating Areas, §34-5, Parking Requirements Table, and §43-5.2, Site Plan Review and Hearings, in response to Public Act 21-2, Section 182 to provide new standards and requirements for Outdoor Eating Areas on privately-owned property in non-residential zoning districts.

### MODIFICATIONS

1. §32-20, Sec. 3, *Location*, is modified as described in Finding #10 herein for clarity.
2. §32-20, Sec. 9, *Hours of Operation*, is modified as described in Finding #11 herein so the Zoning Regulations may be consistent with the requirements of Public Act 21-2, Sec. 182.

### REASONS

1. The Zoning Regulations require modifications to be consistent with state mandates for Food Establishments listed in Public Act 21-2, Sec. 182.
2. Public Act 21-2, Sec. 182 and Text Amendment #814 are intended to retain opportunities for business to be conducted outside as a mechanism to mitigate the spread of COVID-19 and continue on-going economic recovery efforts.

3. All residents should have opportunities to dine-out. Outdoor Eating Areas, in particular the igloos at Rizzuto's, were identified as being the only safe dining option for one resident this past winter who is immunocompromised. This same resident shared in his letter he speaks for other similarly situated residents with chronic conditions who benefit from dining options that don't require going inside a crowded restaurant and offered his support for the amendment.
4. One restaurateur confirmed in his correspondence he has year-round demand for reservations outside that exceed his capacity, and he offered his support for Text Amendment #814.
5. Another restaurateur shared in his correspondence the economic vitality of his restaurant was dependent on allowance for current outdoor dining conditions to continue.
6. Text Amendment #814 is consistent with the comprehensive plan and goals listed in the *2017 Plan of Conservation and Development*, as it will allow continued support of "appropriate economic development," (Pg. 73) while simultaneously serving to, "Protect residential neighborhoods from encroachment by inappropriate uses." Pg. 80, within the parameters in Public Act 21-2, Sec. 182.

**VOTE:**

AYES	-6-	{Dobin, Lebowitz, Cammeyer, Olefson, Cohn, Tesler}
NAYS	-1-	{Zucaro}
ABSTENTIONS	-0-	

**The effective date of this amendment is April 1, 2022.**

Very truly yours,



Danielle Dobin, Chairman  
Planning & Zoning Commission

**Attached**

Adopted Text Amendment #814

cc: Jen Tooker, First Selectwoman  
Lynn Scully, Interim Operations Director  
Ira Bloom, Town Attorney  
Nicholas Bamonte, Town Attorney's Office  
Eileen Flug, Assistant Town Attorney  
Keith Wilberg, Town Engineer  
Alicia Mozian, Conservation Director  
Anna Rycenga, Conservation Commission Chair  
Nate Gibbons, Fire Marshal  
Foti Koskinas, Police Chief  
Randy Herbertson, DPIC Chairman  
Maxwell Crowley, President WestportDowntown Association  
Matt Mandell, RTM P&Z Committee Chairman  
Jeff Wieser, RTM Moderator

**Text Amend. #814 to Modify Outdoor Storage and Display regulations and Outdoor Eating Area related regs.**Submitted: 3/1/22Received: 3/14/22Public Hearing: 3/14/22Adopted with modifications: 3/14/22Effective date: 4/1/22


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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 1<sup>st</sup> 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 1<sup>st</sup> 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 1<sup>st</sup> 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 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 1<sup>st</sup> 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 1<sup>st</sup> 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 1<sup>st</sup> 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 1<sup>st</sup> 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 1<sup>st</sup> 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 1<sup>st</sup> 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 with the approval of the property owner, in either case subject to providing a pathway constructed in compliance with Federal ADA requirements that is at least four-feet wide.
  - 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. 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 Marshal'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**

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 bedroom unit 2 bedroom unit 3 or more bedroom unit Public Senior housing	1.75 spaces per unit. 2.25 spaces per unit. 2.50 spaces per unit. 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 Assisted Living Facility Full Care Living Facility	1.0 spaces per unit. 1.0 spaces per unit. 0.5 spaces per unit. Also 1 parking space per employee for the largest shift.
Accessory apartment unit	1 space for the converted unit.
Managed Residential Community	1.0 space for each private residential unit. Also 1 parking space per employee for the largest shift.
Home Occupation, Level 1	2 spaces in addition to the requirements for the Dwelling Unit.
Home Occupation, Level 2	2 spaces in addition to the requirements for the Dwelling Unit plus additional parking as determined by the P&Z Commission.
Community residence for the mentally retarded	2 spaces in addition to the requirements for the dwelling unit.
Automobile repair shops, garages and gas stations	5 spaces per bay or vehicle workstation plus 1 space per employee plus 2 additional spaces.
Automobile dealers	1 space per employee plus 1 space per vehicle workstation plus 20 spaces for customer parking.
Vehicle Rental	1 space per employee plus 1 customer space for each 5 rental vehicles.
Funeral Homes, 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.
Office Business and Professional), Bank Office Area, except within the BCD and BCD/H.	1 space for each 250 square feet of gross floor area.
Bank Customer Area with cashier and/or teller, except within the BCD and BCD/H.	1 space for each 220 feet of gross customer area.
Bank Customer Area with cashier and/or teller, except within the BCD and BCD/H.	1 space for each 220 feet of gross customer 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 200 square feet of gross floor area. (764, 02/10/2019; 792, 05/27/2021)
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 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.
<u>Outdoor Eating Area Accessory to a Retail Food Establishment or Restaurant.</u>	<u>No parking is required.</u>
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 <sup>1</sup> Boat Repairs and Boat Storage	1 space for each 1-1/2 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"> <li>a. First Floor, 1 space per each 200 SF of gross floor area.</li> <li>b. Areas above the First Floor, 1 space per each 300 square feet of gross floor area.</li> <li>c. Warehouse Storage space above the First Floor, 1 space per each 500 square feet of gross floor area.</li> <li>d. Basement and/or Cellar space, 1 space per each 500 square feet of gross floor area.</li> <li>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)</li> </ul>
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.
<sup>1</sup> 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) square feet of building coverage or containing more than five hundred (500) sq. ft. of gross interior floor space, 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.