



Town of Westport
Planning and Zoning Commission
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NOTED
2024 OCT 24 A 10:51

To be published in the Norwalk Hour on
Thursday, October 24, 2024, and Thursday, October 31, 2024

LEGAL NOTICE OF HEARING

Notice is hereby given that the Westport Planning and Zoning Commission will hold a
Remote Public Hearing on Monday, November 4, 2024, at 6:00 PM

The public may attend using the link to be published on the agenda prior to the meeting. The meeting agenda will be available at www.westportct.gov on the "Meeting List and Calendar" web page one week prior to the meeting. The agenda may contain additional items not requiring notice in the newspaper for which public testimony may be received.

1. **Text Amendment #846: #PZ-24-00565** submitted by Eric Bernheim Esq., FLB Law, to modify Sec. 5-2 of the Zoning Regulations for Retail Food Establishment Outdoor Eating Areas; to modify Section 31-9, Liquor Establishments, and Sec. 32-20, Special Requirements for Outdoor Eating Areas, to expand the Outdoor Eating Area and Liquor Establishment regulations so they may apply to existing Retail Food Establishments operating in a Residence Zone. A copy of the text amendment is available on-line at www.westportct.gov on the Planning & Zoning Office web page under "P&Z Pending Applications & Recent Approvals." A copy may also be viewed at Town Hall, 110 Myrtle Ave., in the Town Clerk's Office and Planning & Zoning Office.

Dated at Westport, CT on the 24th day of October and the 31th day of October 2024, Paul Lebowitz, Chair, P&Z Commission.

Text Amendment #846

Submitted: 9/25/24

Revised: 10/4/24

(10/23/24)

Received: 9/9/24

Public Hearing: 11/4/24

Adopted: _____

Effective date: _____

Proposed Text Change,

Note: Proposed new language is shown in red, highlighted, and underlined.
Proposed deletions are shown in bracketed, struck through and highlighted

§32 SUPPLEMENTARY USE REGULATIONS

Each of the following uses is permitted in each district to the extent indicated for that use and district, subject to all provisions of the applicable district, except as specifically provided for in this section. Every application for the use of property subject to conditions set forth herein shall be filed in accordance with the provisions of these regulations, and shall be subject to approval by any commission, board or agency stipulated in this section.

32-20 Special Requirements for Outdoor Eating Areas

Outdoor Eating Areas as defined in §5 shall be permitted: (i) notwithstanding anything to the contrary in Chapter 6, Section(s) 11-2, 12-2, 13-2, 14-2 and 18-2, of these Regulations, for any Retail Food Establishment existing or operating in a residential zone prior to September 1, 2024, and (ii) in all Non Residential Zones, except RPOD, GBD/R, DDD and CPD on privately-owned property subject to the following requirements:

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

1. Required Planning and Zoning Approvals. A Site Plan Waiver application shall initially be submitted to the Planning and Zoning Office and is eligible for approval by the Planning and Zoning Director pursuant to §43 and will be subject to obtaining a Zoning Permit. After the initial Site Plan Waiver is granted, the use shall be subject to an annual Zoning Permit from the Planning and Zoning Office renewed by May 1st each year thereafter provided there are no changes, or a new Site Plan Waiver must be obtained.

2. Required Other Department Approvals. Prior to submission of a Site Plan Waiver application, an Outdoor Patio approval must be obtained directly from:

- a. The Aspetuck Health District.
- b. The Fire Marshal's Office.

- c. The Building Department if proposing to use sidewalk areas.
- d. The Police Department for any Outdoor Eating Areas that abut driveways, parking lots and streets or are located within parking areas.

3. Location. Outdoor Eating Areas may be located on privately-owned property as follows: On-site, or on an abutting property 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 i.) it is separated from the Residential Zone by a public street or a waterbody or ii.) notwithstanding anything to the contrary in Chapter 6, Section(s) 11-2, 12-2, 13-2, 14-2 and 18-2, of these Regulations, it is a Retail Food Establishment in a residential zone existing or operating in such a manner to be consistent with the current definition of such an establishment prior to September 1, 2024. 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 in commercial zones 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. Notwithstanding anything to the contrary in Chapter 6, Section(s) 11-2, 12-2, 13-2, 14-2 and 18-2 of these Regulations, the hours of operation for outdoor dining in residential zones shall be limited to 7:00 a.m. to 9:00 pm Sundays through Thursdays and 7:00 a.m. to 10:00 p.m. 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. (814, 04/01/2022)

§5 DEFINITIONS

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:

Food Establishment Retail:

A retail food establishment shall mean any business where food or non-alcoholic beverages are sold to the public for either on premises or off premises consumption and the sale of alcoholic beverages must be for off-premises consumption only, except ~~that~~ such establishments that exist in a residential zone prior to September 1, 2024 ~~[the Residence B district as of the adoption of this regulation, June 3, 2024,]~~ may provide alcoholic beverages for on-premise 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. Notwithstanding the foregoing or anything to the contrary in Chapter 6, Section(s) 11-2, 12-2, 13-2, 14-2 and 18-2, of these Regulations, any Lot located in a Residential zone with a business capable of meeting the definition herein and operating under a zoning permit issued by the Town of Westport Planning & Zoning Department as a Retail Food Establishment in a residential zone on or before September 1, 2024, shall be deemed to be a retail food establishment regardless of whether such business began operating prior to the adoption of the definition of a Retail Food Establishment, and a Permitted Use on the Lot. (843, 06/17/2024)

Outdoor Eating Area:

An outdoor area serving as an Accessory Use to a Restaurant, Cafe, Tavern or Retail Food Establishment that allows for portable food carts, service stations, tables and chairs for outdoor

table service or self-service dining, provided, however, such uses shall not materially impede or obstruct safe pedestrian flow within and adjacent to the Outdoor Eating Areas See §32-20.(814, 04/01/2022)

§31 REGULATIONS APPLYING TO ALL DISTRICTS

Revised 01-25-17

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

1. 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.
2. Notwithstanding anything to the contrary in Chapter 6, Section(s) 11-2, 12-2, 13-2, 14-2 and 18-2 of these Regulations, Retail Food Establishments existing in the Residence B district as of the adoption of this regulation, June 3, 2024 a residential zone prior to September 1, 2024, provided the operator of such Retail Food Establishment may not allow for liquor sales after 9 p.m. and such liquor sales shall not exceed fifty (50%) percent of the total gross sales of such Retail Food Establishment (percentage of gross sales derived from the sale of liquor) to be verified by the operator annually by filing an affidavit with the Planning & Zoning Department; or
3. 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. (843, 06/17/2024)