

## **§29A BUSINESS CENTER DISTRICT / Historic (BCD/H)**

### **29A-1 Purpose**

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

### **29A-2 Permitted Uses**

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

#### **29A-2.1 Principal Uses**

- 29A-2.1.1 Any use permitted in the Residence AAA District, specified in §11-2, herein subject to a special permit approval.
- 29A-2.1.2 The following additional uses are permitted subject to Site Plan approval in accordance with §43, herein:
  - (a) Stores and shops where goods are sold and services are rendered primarily at retail, not above the first floor.
  - (b) Grocery stores and delicatessens.
  - (c) Restaurants.
  - (d) Cafes and taverns.
  - (e) Business, professional, medical, healthcare professional, insurance, real estate and other offices.
  - (f) Banks
  - (g) Indoor theaters and assembly halls.
  - (h) Undertakers' establishments.
  - (i) Newspaper and job printing establishments.
  - (j) Off-street parking lots, decks and garages.

**29A-2.2 Special Permit Uses**

- 29A-2.2.1 Veterinary hospitals and animal clinics. There shall be no more than one outside exercise area for animal runs. The use of such area shall be limited to the period from 8:00 A.M. to 8:00 P.M.
- 29A-2.2.2 Golf driving ranges, paddle tennis courts, tennis courts, bowling alleys, skating rinks and other indoor and outdoor commercial recreation and entertainment uses, except game rooms.
- 29A-2.2.3 Commercial marinas, including accessory boat sales. No boat shall be occupied or used as a dwelling or dwelling unit.
- 29A-2.2.4 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-2.2.6 Commercial Wireless telecommunication service facilities, in conformance with §32-16.
- 29A-2.2.7 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-2.2.8 Bank drive-in within 500 feet of another Drive-in Bank as permitted by §29A-2.3.3.

**29A-2.3 Accessory Uses**

- 29A-2.3.1 Uses customarily accessory to a permitted principal use including the manufacturing, processing or assembly of goods which is incidental to the conduct of a retail business conducted on the premises, subject to the provisions of §32-7, herein.
- 29A-2.3.2 Outdoor storage and display is permitted in accordance with §32-6, herein.
- 29A-2.3.3 Bank drive-in; except that no lot shall be used for a drive-in bank, if such lot is located within a radius of 500 feet from any other lot used for a drive-in bank, provided that the Planning & Zoning Commission may permit upon a Special Permit Approval in accordance with §43 of the regulations, and so long as the Commission shall find that such use shall maintain or improve the traffic level of service and safety conditions in and around the site. The application must be accompanied by a traffic report supplied by the applicant.
- 29A-2.3.4 Wholesaling and warehousing.
- 29A-2.3.5 Outdoor eating areas for restaurants 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 or 6 tables and/or 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 exceptions 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-2.3.6 Game Rooms, subject to the following conditions:

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

29A-2.3.7 One attached dwelling unit, provided the density does not exceed 20 bedrooms per acre.

**29A-2.4 Prohibited Uses**

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

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

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

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

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

**29A-5 Height**

No building or structure shall exceed the height of either 25 feet to the top of a flat roof or 30 feet to the mid point of a pitched roof, whichever is less; except for an addition or alteration that cannot exceed the existing main roof line of an existing building on a lot on the effective date of

the BCD/H, 6/1/04. There shall be no restriction on the number of stories allowed within the height limit. The Planning & Zoning Commission may allow incidental architectural features to exceed the height limit by up to three (3) additional feet (Also see §29A-9).

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

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

**29A-7 Building Area**

No mandatory requirement.

**29A-8 Floor Area**

**29A-8.1 Maximum**

No one mandatory requirement.

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

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

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

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

**29A-9 Architectural Design**

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

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

Proposed new buildings on the same lot as the historic building, exterior building additions and alterations and roof top mechanical units shall be submitted to the Historic District Commission and the Architectural Review Board for a combined recommendation from a joint meeting. Their

guidelines for review will be the most recent Secretary of the Interior's Standards for the Treatment of Historic Properties, Standards for Rehabilitation.

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

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

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

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

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

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

**29A-10 Signs**

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

**29A-11 Parking and Loading**

Parking and Loading shall be provided by existing private lots, municipal lots, and on-street spaces. Existing on-site parking as of 11/1/99 must be retained whether an existing building is destroyed, constructed, reconstructed or expanded.

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

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

**29A-13 First Floor Defined**

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

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

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

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

**29A-14.1 Written Notice Required**

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