Text Amendment #785/#PZ-20-_____

Submitted: _____

Received: _____

Public Hearing: _____

Adopted: _____

Effective date: _____

Deleted language is [~~struck out and in brackets~~]; New language is <u>underlined</u>.

§4 ESTABLISHMENT OF ZONING DISTRICTS AND MAP

~~§4-5, Maximum Allowable Multi-Family Dwelling Units~~

~~The total number of multi-family dwelling units in all zoning districts throughout the Town of Westport shall not exceed 10% of the total number of single-family dwellings within the Town of Westport as reported in the most recent official U.S. Census of Housing Data for the Town of Westport.~~

~~The following shall be exempt from this requirement:~~

1. ~~Multi-family affordable housing units defined as assisted housing, which means housing which will receive financial assistance under any governmental program for the construction or substantial rehabilitation of low and moderate income housing and any housing occupied by persons receiving rental assistance under Chapter 319 of Section 1437F of Title 42 of the United States Code, or currently financed by Connecticut Housing Finance Authority mortgages or subject to deeds containing covenants or restrictions which require that such dwelling units be sold or rented at, or below, prices which will preserve the units as housing for which persons and families pay thirty percent (30%) or less of income, where such income is less than or equal to eighty percent (80%) of the median income. Median income means, after adjustments for family size, the lesser of the state median income or the area median income for the area in which the municipality containing the affordable housing development is located, as determined by the United States Department of Housing and Urban Development.~~

2. ~~The first two-hundred (200) multi-family units approved under §32-15B, Age-Restricted Housing, per §32-15B.18, Exemptions and/or dwelling units under §39A-3, Inclusionary Housing Overlay District, Designation/Uses Permitted, ALFCIL Facilities. (778, 06/03/2020)~~

§19B RESIDENTIAL-RENTAL HOUSING OPPORTUNITY / WORKFORCE ZONE (R-RHOW)

§19B-8 Application Requirements:

~~19B-8.9 An application for site plan approval submitted pursuant to §19B shall not be subject to the multi-family housing restrictions of §4-5, or any other regulatory restriction on, or prohibition of, multi-family housing.~~

§32 SUPPLEMENTARY USE REGULATIONS

§32-15B Age Restricted Housing (ARH)

~~32-15B.18 Exemptions~~

~~The first two-hundred (200) units approved for seniors under this regulation shall be exempt from §4-5, Maximum Allowable Multi-Family Dwellings. The exemption shall be effective from the date of approval and it will be on a first come-first serve basis. Such approval shall become null and void if a zoning permit is not secured within one (1) year. If the approval becomes void, the exemption from the §4-5, Maximum Allowable Multi-Family Dwellings, is also void and the project must repeat the approval process.~~

September 3, 2020

Town of Westport
Planning & Zoning Commission
Town Hall, 110 Myrtle Avenue
Westport, CT 06880
(203) 341-1030 Facsimile (203) 454-6145
www.westportct.gov

MEMORANDUM

TO: **Whom it May Concern**

FROM: Michelle Perillie, Planner AICP CFM

DATE: MAY 29, 2019, REVISED SEPTEMBER 3, 2020

SUBJECT: §4-5, Maximum Allowable Multi-Family Dwellings, Zoning History

The following is a chronology of the adoption of §4-5, Maximum Allowable Multi-Family Dwellings:

8/29/83 Adoption by the Planning and Zoning Commission of Amendment #298A (Appl. #83-565-A), submitted by the Planning and Zoning Commission, to adopt various provisions of the regulations including the adoption of §4-5, Maximum Allowable Multi-Family Dwellings. The amendment became effective on 8/29/83. The resolution stated the amendment was adopted for the following reasons:

1. To plug loopholes, tighten certain standards, eliminate conflicts and clear-up ambiguities in the regulations;
2. To make such revisions as are necessary to satisfy the requirements of State Statutes relative to historic factors, energy conservation and Coastal Area Management;
3. To further reduce adverse impacts from commercial development;
4. To provide additional safeguards and standards for uses in residential areas;
5. To reduce adverse impacts on environmentally sensitive lands;
6. To prevent the overcrowding of land; and
7. To promote the public health, safety and general welfare of the community.

6/21/91 Adoption by the Planning and Zoning Commission of Amendment #406 (Appl. #91-45), submitted by the Planning and Zoning Commission which substitutes "most recent" for date of 1980. The amendment became effective on 6/21/91.

6/28/07 Adoption by the Planning and Zoning Commission of Text Amendment #570 (Appl. 07-025) submitted by the Planning and Zoning Commission which exempts any existing and proposed multi-family affordable housing from the cap. The amendment became effective on 8/3/07.

9/1/16 Adoption by the Planning and Zoning Commission of Text Amendments #714 and #715 which proposed a new Article §19B, Residential-Rental Housing Opportunity/ Workforce Zone District (R-RHOW) as provided by Section 8-30g of the Connecticut General Statutes and located this new zoning district at 1177 Post Road East. The text amendment was adopted including language with exempts all dwelling units proposed within this zone from inclusion in the multifamily dwelling units subject to §4-5.

10/20/16 Adoption by the Planning and Zoning Commission of Text Amendment #721 (Appl. #16-033) submitted by the Planning and Zoning Commission which modified to the section to exempt the first 200 senior units from the multi-family housing cap. The amendment became effective on 11/20/16.

10/12/17 Adoption by the Planning and Zoning Commission of Text Amendment #739 (#17-050) submitted by Redniss and Mead which modified to the section to exempt dwelling units under §39A-3, Inclusionary Housing Overlay District, Designation/Uses Permitted, ALFCIL Facilities. The amendment became effective on 11/12/17.

Memorandum

To: Mary Young, Planning and Zoning Director

From: Michelle Perillie, AICP/CFM; Planner

Date: September 8, 2005, *revised August 28, 2020*

Re: **Maximum Allowable Multi-Family Dwellings under §4-5**

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§4-5, Maximum Allowable Multi-Family Dwellings, of the Zoning Regulations states,

> *"The total number of multi-family dwelling units in all zoning districts throughout the Town of Westport shall not exceed 10% of the total number of single-family dwellings within the Town of Westport as reported in the most recent official U.S. Census of Housing Data* for the Town of Westport.*
>
> *The following shall be exempt from this requirement:*
>
> *Multi-family affordable housing units defined as assisted housing, which means housing which will receive financial assistance under any governmental program for the construction or substantial rehabilitation of low and moderate income housing and any housing occupied by persons receiving rental assistance under Chapter 319 of Section 1437F of Title 42 of the United States Code, or currently financed by Connecticut Housing Finance Authority mortgages or subject to deeds containing covenants or restrictions which require that such dwelling units be sold or rented at, or below, prices which will preserve the units as housing for which persons and families pay thirty percent (30%) or less of income, where such income is less than or equal to eighty percent (80%) of the median income. Median income means, after adjustments for family size, the lesser of the state median income or the area median income for the area in which the municipality containing the affordable housing development is located, as determined by the United States Department of Housing and Urban Development."*

The 2018 American Community Survey of the US Census reported that there are ***9,289*** single-family, detached dwelling units in Westport. Therefore ***929*** multi-family units are now permitted in Town.*

At the 6/28/07 work session, the Planning and Zoning Commission approved Amend #570 which amended §4-5 of the Westport Zoning Regulations to exempt the dwelling units that are affordable in accordance with §8-30g of the CT General Statutes.

Amendment #619 creating the Inclusionary Housing Overlay District, which became effective on 12/3/10, requires that 20% of all residential units in a qualifying development be deed restricted as affordable in accordance with §8-30g of the CT General Statutes and that those deed restricted units are exempt from the multi-family cap. Four projects have been approved under these regulations to date located at 1135 Post Road East (12 residential units of which 2 are affordable), 785 Post Road East (14 residential units of which 3 are affordable) and 793 Post Road East (28 residential units of which 6 are affordable). The project being developed at 1141 Post Road East was formerly among the Inclusionary Housing projects listed above. Subsequently, the Planning and Zoning Commission approved an Assisted Living project (#18-007) at this location with two existing off-site single-family homes to be deed restricted as affordable units. This project will not include multi-family dwelling units.

During the 9/1/16 work session, the Planning and Zoning Commission approved Amendments #714 and #715 which proposed a new Article §19B entitled "Residential-Rental Housing Opportunity/Workforce Zone District," (R-RHOW) as provided by Section 8-30g of the Connecticut General Statutes, "Affordable Housing Land Use Appeals Procedure." and located this new zone district at 1177 Post Road East. The text amendment was adopted including language with exempts all dwelling units proposed within this zone from inclusion in the multifamily dwelling units subject

to the multi-family cap (Westport Zoning Regulation §4-5).

During the October 19, 2017 work session, the Planning and Zoning Commission approved Amendments #740 and #741 which proposed a new zoning district entitled "Business Center Retail Residential" (BCRR) and located this zoning district at 33 Elm Street. The Planning and Zoning Commission approved the Site Plan in Resolution #17-065 in a work session held March 15, 2018 to approve a mixed use building to contain four one-bedroom apartments, one of which is an affordable rental at 80% of State Median Income.

The Planning & Zoning staff research has determined that there are 1,220 approved multi-family dwelling units in town. Of these, 286 units are affordable and meet §8-30g of the CT General Statutes, and 65 additional market rate units have been approved in the R-RHOW zoning district and are therefore, not included in the calculation of the cap. The remaining 869 multifamily units count toward the cap.

The following are the multifamily units which are exempt from the cap:

3 Bradley Lane, 19 Indian Hill, 86 Saugatuck Ave	4 affordable + 16 market rate units
5 Canal Park (Canal Park)	50 affordable senior units
20 Cross Street	3 affordable + 7 market rate units
35 Elm Street	1 affordable + 3 market rate units
Hales Court	78 affordable units
201 Main Street	3 affordable + 11 market rate units
59 Post Road East (Bedford Square)	5 affordable + 21 market rate units
785 Post Road East	3 affordable + 11 market rate units
793 Post Road East	6 affordable + 22 market rate units
1135 Post Road East	2 affordable + 10 market rate units
1177 Post Road East	29 affordable + 65 market rate units exempt from cap
1480 Post Road East	7 affordable + 25 market rate units
1655 Post Road East (Hidden Brook)	35 affordable units
1655 Post Road East (Sasco Creek)	37 affordable + 15 market rate units
20 Ketchum St/518 Riverside Ave	3 affordable + 14 market rate units
553, 570 & 580 Riverside Ave/9 Ketchum St.	5 affordable + 22 market rate units
10 West End Avenue	6 affordable units
54 Wilton Road	2 affordable + 10 market rate units
41 Richmondville Avenue	7 affordable + 26 market rate units
	TOTAL: 286 affordable units and 65 market rate units exempt

Therefore, if you subtract the 869 approved affordable and market rate units from the 929 allowable, **60** additional market rate multi-family dwellings can be approved before the cap is reached.**

** As of the 2010, the American Community Survey of the US Census will be reporting the number of single-family detached dwellings. Data from the Westport Tax Assessor has been used to confirm the 2014-2018 ACS 5-year estimate.*

**As of 8/28/20, two §8-30g multi-family projects have been overturned by the court however the final resolution has not been determined so have not been added to this list. (*57,79 & 85 Post Road West/1, 19 & 37 Lincoln Street - 81units with 25 affordable and 122 Wilton Roads, 19 units with 6 affordable).*

Attached: Approved Multifamily Dwelling Units Spreadsheet, dated 8/28/20

Approved Multifamily Dwelling Units

ADDRESS	MAP	LOT	ZONE	# of UNITS	# of Afford Units	APPROVALS
3 Bradley Lane (19 Indian Hill & 86 Saugatuck Ave)	B6	139, 131, 119	R-AHZ/W	20	4	P&Z Res. #07-051 (4 of which will remain in 19 Indian Hill which were pre-1959 apts approved per Res. #93-014 in 4/15/93)
35 Bridge Street (Saugatuck School)	C06	109	A	36		P&Z Res. #89-005
Canal Street/Kings Highway North (Canal Park)	C11	061	A	50	50	P&Z
24 Compo Road North	D09	145	A	4		(3) pre-1930 apts and (1) pre-1959 apt
16 Crooked Mile Road	B16	053	AA	3		#07-027 - Pre-1959 (2)
10-12 Cross Highway	C12	92	A	5		P&Z Res. #91-120
14 Cross Highway	C12	91	A	4		P&Z Res.#91-108
8 Cross Street	C09	71	RORD#1	8		ZBA Variance #1081 - 1/8/59
20 Cross Street	C09	69	RORD#1	10	3	P&Z Res #98-016 (deed restricted affordable)
22 Davenport Avenue	B05	78	B	3		(2) pre-1959 apts - ZBA Variance #626 5/5/55
28 Davenport Avenue	B05	75	B	4		(4) pre-59 apartments - Res. #09-019
7 Dr. Gillette Circle	B05	42	B	3		ZBA variance #1558 9/7/62 and #3303 11/3/82
11 Dr. Gillette Circle	B05	44	B	3		ZBA variance #1558 9/7/62 and #3303 11/3/82
35 Elm Street	C10	157	BCRR	4	1	P&Z Res 17-065 3/15/17
13-15 Evergreen Avenue	D10	14	A	3		(3) pre-1930 apts - Ltr from P&Z staff dated 10/18/84
26 Franklin Street	B06	103	RORD#2	4		ZP #27928
0 Hales Court	D06	20	MHZ	78	78	P&Z Res. #08-104
5 Hiawatha Lane	B05	67	B	4		(3) pre-1959 apts - P&Z Res. #92-17 5/19/92
131 Hillspoint Road (Edgewater Commons)	E06	19	A	25		P&Z Res. #83-66
35 Kings Highway North	B09	69	AA	3		(3) pre-1959 apts - P&Z Res. #90-067 7/9/90
74 Kings Highway South	B07	2	A	3		(3) pre-1959 apts - P&Z Res. #97-101 10/21/97
1-17 Ludlow Road	C09	6	RORD#1	16		P&Z Res. #86-67-1 - 8/15/86
19 Ludlow Road (aka 130 Post Road West)	C09	5	RORD #1	8		P&Z Res. #05-041
7 Main Street	C09	134	BCD	12		P&Z Res. #05-056
90 Main Street	C10	147	BCD	8		P&Z Res. #86-47
201 Main Street	C10	91	RBD	14	3	P&Z Res. #17-033
345 Main Street (Coffee N)	C11	93	GBD	4		ZP #23017 4/26/90
79 Myrtle Avenue	D10	5	A	5		(4) pre-1959 apts - P&Z Res. #92-142 - 10/15/92
2-14 Post Road East (above Klaff's)	C09	131	BCD	10		ZP #15989 7/6/77
59 Post Road East (Bedford Square)	C09 C10	140 144		26	5	P&Z Res. #13-023 8/15/13
266 Post Road East	D09	130	BPD	2		P&Z Res. #03-025
281 (301) Post Road East (Playhouse "20")	D10	94	A	20		P&Z Res. #80-11 & ZBA variance #393
785 Post Road East	E09	191	IHZ	14	3	P&Z Res. #16-036
793 Post Road East	E09	193	IHZ	28	6	P&Z Res. #17-039a
1135 Post Road East	G09	27	IHZ	12	2	P&Z Res. #14-053
1177 Post Road East	G09	29	R-RHOW	94	29	P&Z Res. #16-011
1275 Post Road East (Harvest Commons)	G09	70	PRD	82		P&Z Res. #79-299
1400 Post Road East (Regents Park)	H09	20	PRD	81		P&Z Res. #82-23

Approved Multifamily Dwelling Units

ADDRESS	MAP	LOT	ZONE	# of UNITS	# of Afford Units	APPROVALS
1480 Post Road East	H09	16	GBD/A	32	7	P&Z Res. #19-028
1630 Post Road East (Lansdowne)	H08	75	PRD	90		P&Z Res. #80-10-3
1655 Post Road East (Hidden Brook)	H09	151	MHP	35	35	P&Z Res. #98-074
1655 Post Road East (Sasco Creek)	H09	151	MHP	52	37	P&Z #12-03 9(54 total units but 2 are not in multifamily bldg)
5-23 Post Road West	C09	118	GBD	9		ZP #25053 - 1/11/94
408 Post Road West (Terra Nova)	B07	41	PRD	54		P&Z Res. #02-105
16 Redcoat Road	B14	66	AAA	3		(2) pre-1959 apts and main unit - ZP #41259
41 Richmondville Avenue	C12	46	A/B	33	7	P&Z Res. #PZ-20-00132 6/25/20
44 Richmondville Avenue	C12	164	A	3		Pre-1930 (2) - Letter 4/8/04
54 Richmondville Avenue	C12	163	A	3		(3) pre-1930 apts - Ltr from P&Z staff dated 3/17/92
124 Riverside Avenue (The Convent)	C08	35	A	4		P&Z Res dated 5/16/68
222 Riverside Avenue	C08	31	RORD #3	15		P&Z Res. #05-009
20 Ketchum St/518 Riverside Avenue	B6	44,83,84,85	GBD/S	27	5	P&Z Res. #07-018
553, 570 & 580 Riverside Ave/9 Ketchum St.	B6	44, 84	GBD/S	17	3	P&Z Res. #19-049
1 St. John Place	C10	116	A	3		ZP #18548 - 4/28/83
82 Saugatuck Avenue	B06	120	GBD	3		(2) pre-1959 apts - Ltr from P&Z staff dated 4/2/92
83 Saugatuck Avenue	B06	107	RORD#2	3		ZBA Variance #4146 dated 1986
90 Saugatuck Avenue	B06	118	B	3		ZBA Variance #5697 dated 2000
98 Saugatuck Avenue	B06	116	B	3		(2) pre-1959 apts - ZBA variance #4853 1/25/94
105 Saugatuck Avenue	B06	113	RORD#2	6		ZBA variance #3069 - 7/25/79
218 Saugatuck Avenue	B05	15	AA	3		(2) pre-1959 apts - P&Z Res. #97-046 8/5/97
220 Saugatuck Avenue (Indian River Green)	B05	13	DDD#2	20		P&Z Res. #85-113 - 8/8/85
10 West End Avenue	B05	23	B	6	6	(3) pre-1930 units already and 3 new approved (6 total) per Res. #06-027
17 Whitney Glen Lane (Whitney Glen)	D09	158	A	62		P&Z Res. #83-77-3
5 Wilcox Lane	D08	35	A	3		(2) pre-1930 apts - Stipulation 10/4/01
10 Wild Rose Road	C11	165	A	3		(2) pre-1930 apts - Ltr from P&Z staff dated 3/25/85
54 Wilton Road	C10	073	GBD/R	12	2	12 Condominiums, P&Z Resolution #18-002, modified at 4/25/19 P&Z meeting
			TOTAL	**1220**	**286**	

List revised 2/15/19 based on review of department records : 28 Davenport Ave (3 units changed to 4), 35 Kings Hwy North (4 units changed to 3), 7 Main Street (11 units changed to 12), 90 Main Strret (7 units changed to 8), 73 Myrtle Avenue (5 units removed), 79 Myrtle Avenue (4 units changed to 5), 266 Post Rd East (3 units changed to 2), 40 Railroad Place (5 units removed), 16 Redcoat Road (5 changed to 3), 54 Richmondville Avenue (4 changed to 3), 260 Riverside Avenue (8 units removed), 24 Ludlow Road (modified # from 7 to 2 so removed from list as not mulit-family) and 59-73 Post Road West (8 units removed). List revised on 6/5/19 to update 54 Wilton Road pursuant to modified resolution #18-002 that reduced proposed density. List revised on 10/23/19 to update 553, 570 & 580 Riverside Ave/9 Ketchum St. pursuant to resolution #19-049 that reduced proposed density. List revised on 8/27/20 to update 41 Richmondville Avenue pursuant to PZ-20-00132.

Prepared by P&Z staff on September 13, 2005, revised August 28, 2020