ZONING BY-LAWS

WESTPORT, MASSACHUSETTS

Amended May 5, 2026

TABLE OF CONTENTS

Contents

SECTION 1 PURPOSE AND AUTHORITY 3
1.1 PURPOSE 3
1.2 AUTHORITY 3
1.3 SEVERABILITY 3
SECTION 2 ADMINISTRATION 4
2.1 ENFORCEMENT 4
2.2 AMENDMENT 4
2.3 VALIDITY 4
2.4 EFFECTIVE DATE 4
2.5 BOARD OF APPEALS 4
2.6 SPECIAL PERMITS 6
2.7 PLANNING BOARD 8
SECTION 3 DEFINITIONS 8
SECTION 4 ZONING DISTRICTS 30
4.1 ZONING DISTRICTS 30
4.2 LOCATION OF DISTRICTS 30
SECTION 5 USE REGULATIONS 31
5.1 TABLE OF USE REGULATIONS 31
5.2 NON-CONFORMING USES 35
5.3 COMPLIANCE WITH M.G.L CHAPTER 40A 36
SECTION 6 OVERLAY DISTRICTS 37
6.1 FLOOD PLAIN DISTRICT 37
6.2 AQUIFER PROTECTION DISTRICT 40
6.3 TELECOMMUNICATIONS FACILITIES OVERLAY DISTRICT 46
6.4 ADULT ENTERTAINMENT OVERLAY DISTRICT 49
6.5 NOQUOCHOKE OVERLAY DISTRICT (NOD) 54
6.6 SCIENCE AND TECHNOLOGY OVERLAY DISTRICT 65
SECTION 7 INTENSITY REGULATIONS 76
7.1 MINIMUM RESIDENTIAL LOT AREA AND FRONTAGE 76
7.2 MAXIMUM HEIGHT 77
7.3 MINIMUM AREA AND FRONTAGE FOR MULTIPLE DWELLINGS USES 77
7.4 LOT COVERAGE 77
7.5 NON-RESIDENTIAL MINIMUM LOT AREA AND FRONTAGE 77
7.6 PRE-EXISITNG NON-CONFORMING LOTS 78
7.7 YARD OR SET-BACK REQUIREMENTS 78
7.8 SEPARATE LOT PROTECTION 80
SECTION 8 GENERAL REGULATIONS 80
8.1 OPEN SPACE RESIDENTIAL DEVELOPMENT (OSRD) 80
8.2 LOW IMPACT DEVELOPMENT (LID) 88
8.3 PARKING REGULATIONS 97
8.4 SIGNS 98
8.5 COMMON DRIVEWAYS 99
8.6 FLEXIBLE FRONTAGE FOR REDUCED DENSITY 102
8.7 SITE PLAN REVIEW 105
SECTION 9 SPECIAL REGULATIONS 110
9.1 ASSISTED AND INDEPENDENT LIVING FACILITIES 110
9.2 INCLUSIONARY HOUSING 118
9.3 DRIVE-THROUGH FACILITIES 122
9.4 COMMERCIAL AND NON-COMMERCIAL WIND ENERGY FACILITIES 124
9.5 ACCESSORY DWELLING UNIT 128
9.6 SOLAR ENERGY SYSTEMS 129
9.7 HOME OCCUPATIONS 141
9.8 BED AND BREAKFAST 142
9.9 MARIJUANA ESTABLISHMENTS 142
9.10 SHORT TERM RENTALS 142

APPENDIX A ZONING DISTRICT DESCRIPTIONS 146

Article XIV OF THE TOWN OF WESTPORT GENERAL BY-LAWS
ZONING BY-LAWS

SECTION 1 PURPOSE AND AUTHORITY

1.1 PURPOSE

The purpose of this By-Law is declared to be the promotion of public health, safety, convenience, and welfare by:

A. Encouraging the most appropriate use of land;

B. Preventing overcrowding of land;

C. Conserving the value of land and buildings, including the conserving of natural resources and the preventing of blight and polluting the environment;

D. Lessening the congestion of traffic;

E. Preventing undue concentration of population;

F. Providing for adequate light and air;

G. Reducing hazards from fire and other dangers;

H. Assisting in the economical provisions of transportation, water, sewerage, schools, parks, and other public facilities;

I. Encouraging housing for persons of all income levels;

J. Preserving and increasing the amenities of the Town;

K. Giving effect to the policies and recommended proposals of the Master Plan of Westport.

The use, construction, repair, alteration, extension, and height of buildings and structures and the use, or alteration or extension of use of premises in the Town are hereby regulated as hereinafter provided.

1.2 AUTHORITY

The Westport Zoning By-Laws are adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution, G.L. c.40 and G.L. c.40A.

1.3 SEVERABILITY

The invalidity of any section, subdivision, paragraph or other part of this By-Law shall not affect the validity of the remainder of the By-Law.

SECTION 2 ADMINISTRATION

2.1 ENFORCEMENT

2.1.1 If the Inspector of Buildings shall be informed or have reason to believe that any provision of this By-Law has been, is being, or maybe violated, he or his agent shall investigate the facts and inspect the property in question.

2.1.2 If he shall find such violation, he shall give notice thereof in writing to the owner or to his duly authorized agent and to the occupant of the premises, and order that any use of any building or premises contrary to the provision of this By-Law shall immediately cease.

2.1.3 If the Inspector of Buildings is requested in writing to enforce the Zoning By-Law against any person allegedly in violation of the same and the Inspector of Buildings declined to act, he shall notify, in writing, the party requesting such enforcement of any action or refusal to act, and the reason, therefore, within fourteen (14) days of receipt of such request.

2.1.4 Penalty for non-compliance with any lawful order of the Inspector of Buildings pertaining to the Zoning By-Laws shall be punishable by a fine of $300.00, in accordance with the requirements of G.L. c.40, ss21D; provided that each day such violation continues shall constitute a separate offense.

2.2 AMENDMENT

This By-Law may be amended from time to time at an Annual or Special Town Meeting in accordance with the provisions of M.G.L. Chapter 40A, Section 5.

2.3 VALIDITY

The invalidity of any section or provision of this By-Law shall not invalidate any other section or provision thereof.

2.4 EFFECTIVE DATE

These By-Laws and any amendments thereto shall become effective upon a vote of the Town Meeting, subject to approval by the Attorney General of the Commonwealth of Massachusetts and the provisions of Section 6 of Massachusetts General Laws Chapter 40A.

2.5 BOARD OF APPEALS

2.5.1 There is hereby established a Board of Appeals of five (5) members and two (2) associate members to be appointed by the Selectmen as provided in M.G.L. Chapter 40A, Section 12 for terms of such length and so arranged that the terms of one (1) member shall expire each year.

2.5.2 The Board of Appeals shall elect annually a chairperson, a vice-chairperson, and a clerk from its own number and may, subject to appropriation, employ experts and clerical and other assistants. The Board shall adopt rules for the conduct of its business and for the purpose of M.G.L. Chapter 40A and shall file a copy of said rules with the Town Clerk.

2.5.3 The Board of Appeals for the purpose of this By-Law and M.G.L. Chapter 40A, shall be designated as the "Permit Granting Authority" and the "Special Permit Granting Authority." The Board shall act on all matters within its jurisdiction under this By-Law in the manner prescribed in M.G.L. Chapter 40A.

The Board shall have the following powers:

2.5.3.1 **Appeals**

To hear and decide appeals by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of M.G.L. Chapter 40A by the regional planning agency in whose area the Town is situated, or by any persons including an officer or Board of the Town, or of an abutting City or Town aggrieved by an order or decision of the Building Inspector or other administrative official, in violation of any provision of Chapter 40A or any ordinance or By-Law adopted thereunder, including this Zoning By-Law.

2.5.3.2 **Permits and Special Permits**

To hear and decide on applications for permits and/or special permits as provided by sections of this By-Law when it shall be found that the use involved is in harmony with the general purpose and intent of the By-Law, subject to appropriate conditions safeguards, and limitations on time and use.

2.5.3.3 **Variances**

To hear and decide petitions for variances and to grant upon appeal or petition with respect to particular land or structures a variance from the terms of the Zoning By-Laws, including a use or activity not otherwise permitted in the district where the land or structure is located, where the Board specifically finds that owing to circumstances relating to soil conditions, shape, or topography of such land or structures, but not affecting generally the zoning district in which it is located, a literal enforcement of the

By-Law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the By-Law.

The Board of Appeals may grant upon appeal or upon petition with respect to particular land or structures a variance from the terms of this By-Law where the Board of Appeals makes the required findings and follows the requirement of M.G.L Chapter 40A, Sections 10, 11, 13, 15, and 16 and the provisions of the foregoing section entitled **SPECIAL PERMITS**.

2.5.3.4 **Section 6 Findings**

In accordance with Massachusetts General Laws Chapter 40A, Section 6, pre-existing non-conforming structures or uses may be extended or altered, provided, that no such extension or alteration shall be permitted unless there is a finding by the Board of Appeals that such change, extension, or alteration shall not be substantially more detrimental than the existing non-conforming use to the neighborhood.

2.5.3.5 In exercising the above powers the Board of Appeals may, in conformity with the provisions of M.G.L. Chapter 40A, make orders or decisions, reverse or affirm in whole or in part, or modify any order or decision, and to that end shall have all powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit.

2.6 SPECIAL PERMITS

2.6.1 A special permit shall be required for all uses and for all exceptions to dimensional regulations, which are designed in this By-Law as requiring a special permit before the Inspector of Buildings may issue a building or occupancy permit.

2.6.2 Each application for a special permit shall be on forms supplied and shall be filed in triplicate with the Town Clerk who shall transmit copies thereof to the Special Permit Granting Authority within three (3) days of receipt of them (Saturdays, Sundays, and holidays excluded)..

2.6.3 The Special Permit Granting Authority shall, at the expense of the applicant, give public notice of the appeal in the manner provided in Chapter 40A, Section 9, which require among other things, publication of a notice of a hearing not less than fourteen (14) days prior to the date of the hearing in a newspaper of general circulation in Westport, and by

posting such notices in a conspicuous place in the Town for a period of not less than fourteen (14) days before the day of such hearing, and by mail to all interested parties, according to Chapter 40A, Section 9. Public hearings shall be held within sixty-five (65) days after the filing of an application.

2.6.4 The decision of the Special Permit Granting Authority must be made within ninety (90) days following a public hearing. Failure to take final action upon an application for a special permit within said ninety (90) days shall be deemed to be a grant of the permit applied for. The Board shall cause to be made a detailed record of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and setting forth clearly the reason or reasons for its decisions, and of its other official actions, copies of all which shall be filed within fourteen (14) days in the office of the Town Clerk and shall be mailed forthwith to parties in interest, as designated in Section Eleven (11) of Chapter 40A, and to each person present at the hearing who request that notice be sent to him and states the address to which notice is to be sent.

2.6.5 No variance or special permit, any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certificate of the Town Clerk that twenty (20) days have elapsed and no appeal has been filed, that it has been dismissed or denied, is recorded in the registry of deeds and indexed in the grantor index under the name of the owner of the record or is recorded and noted on the owner's certificate of title.

2.6.6 No appeal, application or petition which has been unfavorably acted on by the Special Permit Granting or Permit Granting Authority shall be reconsidered on its merits, within two (2) years of such action, unless said Special Permit Granting Authority or Permit Granting Authority finds, by a vote of four of its five members and unless all but one of the members of the Planning Board consents thereto, specific and material changes in the conditions upon which previous unfavorable action was based, and describes such change in the records of its proceedings, and unless all but one of the members of the Planning Board consents thereto and after notice is given to parties of interest of the time and place of proceedings when the question of such consent will be considered.

2.6.7 The period within which final action shall be taken may be extended for a definite period by mutual consent of the Board of Appeals and the applicant. In the event the Board determines that the site plan and evidence presented to it at the public hearing are inadequate to permit the Board to make a finding or determination, or to permit the Planning Board the proper amount of time to make its report, the Board may, at its discretion, instead of denying the application, adjourn the hearing to a later date to permit the applicant to submit a revised site plan and further evidence, provided, however that such adjournment shall not extend the ninety (90) day period within which final action shall be taken by the Board unless said period is extended to a day certain by mutual consent.

2.6.8 A special permit granted under this section shall lapse within three (3) years from the grant thereof unless substantial use has been commenced, except for good cause as determined by the permit granting authority, or, in the case of a permit for construction, if the construction has not begun by such date and continued except for good cause as determined by the Special Permit Granting Authority.

2.7 PLANNING BOARD

The Planning Board is hereby designated as the Special Permit Granting Authority (SPGA) for all uses so designated in the Schedule of Use Regulations (Section 6.1), for Assisted and Independent Living Facilities (Section 9.1), for Inclusionary Housing (Section 9.2), for Drive-Through Facilities (Section 9.3), for the Noquochoke Overlay District (Section 5.5), for the Science and Technology Overlay District (Section 5.6), for Common Driveways (Section 8.5), for the Flexible Frontage for Reduced Density (Section 8.6), for the Solar Energy Systems (Section 9.6), and for the Medical Marijuana Treatment Centers (Section 9.9) and as otherwise designated in the Zoning Bylaw. The Planning Board shall act on all special permit applications as provided by the Rules and Regulations of the Planning Board as Special Permit Granting Authority to be adopted hereunder.

SECTION 3 DEFINITIONS

In this By-Law, the following terms, unless a contrary meaning is required by the context or is specifically prescribed, shall have the following meanings: Words used in the present tense include the future, and the plural includes the singular; the word "lot" includes the word "plot"; the word "building" includes the word "structure"; the word "shall" is intended to be mandatory; "occupied" or "used" shall be considered as though followed by the words "or intended, arranged or designed to be used or occupied." The word "person" includes a corporation as well as an individual.

Accessory Dwelling Unit - A self-contained housing unit, inclusive of sleeping, cooking and sanitary facilities on the same lot as a principal dwelling, subject to otherwise applicable dimensional and parking requirements, that:

1. Maintains a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the state building code for safe egress;

2. Is not larger in gross floor area than 1/2 the gross floor area of the principal dwelling or 900 square feet, whichever is smaller; and

3. Is subject to such additional restrictions as may be imposed by a municipality, including, but not limited to, additional size restrictions and restrictions or prohibitions on short-term rental, as defined in section 1 of chapter 64G; provided, however, that no municipality shall unreasonably restrict the creation or rental of an accessory dwelling unit that is not a short-term rental.

Accessory Use - A use or building customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building. In buildings restricted to residence use, the office of a professional man, customary family occupations and workshops not conducted for compensation, shall be deemed accessory uses.

Adult Entertainment Establishment - The following uses, as defined in G.L. c.40A, §9A, shall be known as Adult Entertainment Establishments: Adult Bookstore, Adult Motion Picture Theatre, Adult Paraphernalia Store, Establishment Which Displays Live Nudity for Its Patrons, and Adult Video Store.

For purposes of this By-Law, the term "substantial or significant portion of stock in trade" shall be deemed to exist under any of the following circumstances:

a. When the cost (either wholesale or retail) of the portion of the stock in trade on hand characterized or distinguished by depicting or concerning sexual conduct or sexual excitement, as defined in G. L. c. 272, §3l, comprises more than ten percent (10%) of the total stock in trade on hand; or

b. When monthly revenues, including rentals, from such stock in trade exceeds more than ten percent (10%) of the monthly revenues from all stock in trade; or

c. When an area of more than ten percent (10%) of the floor area open to or observable by customers is wholly or partially used for the display or storage of such stock in trade; or

d. When a business with any such stock in trade fails, upon request of the Inspector of Buildings to produce accurate information to determine whether the thresholds set forth in paragraphs (a), (b) or (c) have been exceeded, there shall be a presumption that such business comprises an Adult Entertainment Establishment.

Adult Theater - (2008 ATM, Article 45 deleted this section)

Advanced Materials - An emerging new category of operations generally described as: All new materials and modifications to existing materials to obtain superior performance in one or more characteristics that are critical for the application under consideration.

Affordable Housing Restriction - A deed restriction approved by the Board and Town Counsel that designates a Dwelling Unit as affordable housing pursuant to the statutory requirements of the General Laws of the Commonwealth of Massachusetts, regulations and guidelines adopted pursuant thereto by the Dept. of Housing and Community Development, as well as any applicable requirements of the Westport Zoning By-Laws and regulations promulgated thereunder and that renders the unit eligible for inclusion in the SHI maintained by DHCD or any successor agency. (2009 ATM, Article 28)

Affordable Unit - A housing unit that by deed restriction is and shall remain permanently

affordable by being available, upon sale or resale, for purchase or rent to purchasers or renters so that the unit shall count towards the Town's Subsidized Housing Inventory as maintained by the Department of Housing and Community Development.

Agriculture and Agricultural - shall include farming in all of its branches and the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural or horticultural commodities, the growing and harvesting of forest products upon forest land, the raising of livestock including horses, the keeping of horses as a commercial enterprise, the keeping and raising of poultry, swine, cattle and other domesticated animals used for food purposes, bees, fur-bearing animals, and any forestry or lumbering operations, performed by a farmer, who is hereby defined as one engaged in agriculture or farming as herein defined, or on a farm as an incident to or in conjunction with such farming operations, including preparations for market, delivery to storage or to market or to carriers for transportation to market.

Agri-commercial - means commercial activities designed to market to and bring the public to a Farm Enterprise for a farm related experience and increase the sale of agricultural products to the public with the express purpose of enhancing the agricultural viability of a Farm Enterprise.

Agri-entertainment - means entertainment, such as a seasonal event, festival, contest, music, party, or other time-specific event, designed specifically to bring the public to a Farm Enterprise for a farm-related educational experience by displaying a combination of the farm setting and products of the agricultural operations with the ultimate goal to encourage the purchase of agricultural products. Agri-entertainment is designed to enhance the agricultural viability of farm operations.

Agri-tourism - means tourism designed specifically to bring the public to a Farm Enterprise for a farm-related educational experience by displaying a combination of the farm setting and products of agricultural operations with the goal to encourage the purchase of agricultural products. Agricultural tourism shall include Farm-Stay programs, entertainment events on the farm, fundraising activities, and community events. Agri-tourism is designed to enhance the agricultural viability of the farm operations.

Agrivoltaic – Dual Use Solar: Practice of installing solar photovoltaic panels on farmland in such a manner that primary agricultural activities (such as animal grazing and crop/vegetable production) are maintained simultaneously on that farmland.

Alter - Activities such as demolition, construction, clearing, excavation, grading, filling, and reconstruction that result in a change in the natural cover or topography.

Analytical Laboratory Instrument Manufacturing - (NAICS 334516) This group covers establishments primarily engaged in manufacturing laboratory instruments and instrumentation systems for chemical or physical analysis of the composition or concentration of samples of solid, fluid, gaseous, or composite material.

Animal (except Poultry) Slaughtering - (NAICS 311611) This U.S. industry comprises establishments primarily engaged in slaughtering animals (except poultry and small

game). Establishments that slaughter and prepare meats are included in this industry.

Applicant - The person or persons, including a corporation or other legal entity, applying for a special permit hereunder. The Applicant must own, or be the beneficial owner of, all the land included in the proposed site, or have authority from the owner(s) to act for him/her/ it/them or hold an option or contract duly executed by the owner(s) and the Applicant giving the latter the right to acquire the land to be included in the site. A property owner or agent of a property owner who has filed an application.

Area Median Income - Median income as reported by the most recent information from the United States Department of Housing and Urban Development and/or DHCD for the Providence-Fall River, RI-MA HUD Metro FMR Area.

Area of Special Flood Hazard – The land area covered by the floodwaters of the base flood is the Special Flood Hazard Area (SFHA) on NFIP maps. The SFHA is the area where the National Flood Insurance Program's (NFIP's) floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies. The SFHA includes Zone A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE/AR/AO, AR/AH, AR/A, VO, V1-30, VE, or V.

Assembly Line Operations - Fabrication of raw materials or assembly of parts or materials fabricated offsite.

Assisted Living Facility (ALF) - A facility as defined in 651 CMR 12.02.

As of Right Siting - Development may proceed with the issuance of a building permit.

Bank - A financial institution that is open to the public and engaged in deposit banking, and that performs closely related functions such as making loans, investments, and fiduciary activities.

Bank Branch - A banking service(s) office, which may or may not include automated teller machines, that does not include drive-through services of any kind.

Base Flood - The flood having a one percent chance of being equaled or exceeded in any given year.

Bed & Breakfast (homestay) - A private owner-occupied residence with one to three guestrooms. The bed and breakfast homestay is subordinate and incidental to the main residential use of the building. The home is to be the primary and legal residence of the owner, is a single-family residence, and the owner shall be responsible for the operation of the property and shall be a resident of the property when the Bed and Breakfast establishment is in operation. Individual guests are prohibited from staying at a bed and breakfast establishment for more than fourteen (14) days in any 30-day period.

Bedroom: A separate room intended for, or which customarily could be used for sleeping.

Best Management Practice (BMP): For the purposes of stormwater management, structural or nonstructural and managerial techniques that are recognized to be the most

effective and practical means to prevent or reduce non-point source pollution from entering receiving waters.

Big Box Retail - A singular retail or wholesale user who occupies no less than 75,000 square feet of gross floor area, typically requires high parking to building area ratios, and has a regional sales market. Regional retail/wholesale sales can include but are not limited to membership warehouse clubs that emphasize bulk sales, discount stores, and department stores.

Biofiltration, Bioretention and/or Rain Garden - A stormwater treatment practice that uses soils, plants, and microbes to treat storm water before it is infiltrated and/or discharged. Bioretention cells are shallow depressions filled with sandy soil topped with a thick layer of mulch and planted with dense native vegetation.

Biotechnology - The fusion of biology and technology. Biotechnology is the application of biological techniques to product research and development. In particular, biotechnology involves the use by industry of recombinant DNA, cell fusion, and new bioprocessing techniques. Biotechnology uses are subject to all federal, state and local regulations.

Buffer Area - An area of land, including landscaping, berms, walls, fences, and building setbacks, that is located between land uses of different character and is intended to mitigate negative impacts of the more intense use on a residential or vacant parcel.

Building - An independent structure having a roof supported by columns or walls, resting on its own foundations and designed for the shelter, housing or enclosure of persons, animals, chattel or property of any kind.

Building Permit - A construction permit issued by the Building Inspector; the building permit evidences that the project is consistent with the state and federal building codes as well as local Zoning By-Laws.

Business and Secretarial Schools - (NAICS 611410) This category includes establishments offering courses in business machine operation, office procedures, and secretarial and stenographic skills.

Café - An establishment primarily engaged in the sale of coffee and tea beverages and bakery goods.

Coastal High Hazard Area - An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is as identified on flood Insurance maps

Congregate Living - A shared living environment that combines housing and supportive services where residents share one or more common facilities including, but not limited to, kitchens, dining areas, bathrooms, recreational, cultural, personal care, or social service facilities. Examples of supportive services include, but are not limited to,

transportation, healthcare provision, and laundry and meal services. Residents must have their own bedroom.

Corporate Offices - The business offices of local, national or international companies.

Cutting Tool and Machine Tool Accessory Manufacturing - (NAICS 333515) This category covers establishments primarily engaged in manufacturing cutting tools, machinists' precision measuring tools, and attachments and accessories for machine tools and for other metalworking machinery, not elsewhere classified. Establishments primarily engaged in manufacturing hand tools, except power-driven types, are classified in the cutlery, hand tools, and general hardware industries.

Data Processing, Hosting, and Related Services - (NAICS 518210) This industry comprises establishments primarily engaged in providing infrastructure for hosting or data processing services. These establishments may provide specialized hosting activities, such as web hosting, streaming services or application hosting, provide application service provisioning, or may provide general time-share mainframe facilities to clients. Data processing establishments provide complete processing and specialized reports from data supplied by clients or provide automated data processing and data entry services.

Day Care Center - Any facility operated for the purpose of providing care, protection and guidance to individuals during only part of a 24-hour day. This term includes nursery schools, preschools, day care centers for children or adults, and other similar uses but excludes public and private educational facilities or any facility offering care to individuals for a full 24- hour period.

Dental Equipment and Supplies Manufacturing - (NAICS 339114) This classification comprises of establishments primarily engaged in manufacturing artificial teeth, dental metals, alloys, and amalgams, as well as a wide variety of equipment, instruments, and supplies used by dentists, dental laboratories, and dental colleges.

Dental Laboratories - (NAICS 339116) This classification comprises establishments primarily engaged in making dentures, artificial teeth, and orthodontic appliances to order for the dental profession.

Designated Location for Solar Energy Systems - The zoning districts designated by Section 24.

Detention - The temporary storage of stormwater runoff in a stormwater management facility with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

Detention Facility - A detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.

Developer - A person who undertakes land disturbance activities.

Development - Any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Distribution Center - (See also warehouse) A use where goods are received and/or stored for delivery to the ultimate customer at remote locations.

Disturbance of Land - Any action that causes a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material. See Land Disturbance Activity.

Dwelling - A building or part thereof designed, erected, or used for continuous and permanent habitation for one or more families or individuals.

Dwelling, Multi-Family - A building containing more than two dwelling units, with each unit containing its own sleeping, cooking and sanitary facilities.

Dwelling, One-Family - A detached building containing one dwelling unit only and having two side yards.

Dwelling, Two-Family - A detached building containing two (2) dwelling units, with each unit containing its own sleeping, cooking and sanitary facilities.

Easement - A legal right granted by a landowner to a third-party grantee allowing the use of private land for stormwater management purposes.

Electromedical and Electrotherapeutic Apparatus Manufacturing - (NAICS 334510) This classification covers establishments primarily engaged in manufacturing orthopedic, prosthetic, and surgical appliances and supplies; arch supports and other foot appliances; fracture appliances, elastic hosiery, abdominal supporters, braces, and trusses; bandages; surgical gauze and dressings; sutures; adhesive tapes and medicated plasters; and personal safety appliances and equipment.

Electronic Connector Manufacturing - (NAICS 334417) This industry is comprised of manufacturers of electronic connectors, such as coaxial, cylindrical, rack and panel, and printed circuit connectors. Establishments primarily engaged in manufacturing electrical connectors are classified in SIC 3643: Current-Carrying Wiring Devices, those manufacturing electronic capacitors are classified in SIC 3675: Electronic Capacitors, and those manufacturing electronic coils, transformers, and other inductors are classified in SIC 3677: Electronic Coils, Transformers, and Other Inductors.

Electronic Data Processing (EDP) - The use of automated methods to process commercial data. Typically, this uses relatively simple, repetitive activities to process large volumes of similar information. For example: stock updates applied to an inventory, banking transactions applied to account and customer master files, booking and ticketing transactions to an airline's reservation system, billing for utility services.

Eligible Household - A household whose total income does not exceed 80% of the area median income, adjusted for household size, as reported by the most recent information from the United States Department of Housing and Urban Development and/or DHCD.

Engineering Services - (NAICS 541330) This category covers establishments engaged primarily in providing professional engineering services. Civil, mechanical, electrical and electronic, chemical, sanitary, industrial, petroleum, mining, aeronautical, and marine engineering are among the disciplines included. Establishments primarily providing and supervising their own engineering staff on temporary contract to other firms are included in this industry.

Facility - A structure or place, which is built, installed, or established to serve a particular purpose.

Family - One or more persons occupying a dwelling unit and living, sleeping, cooking and eating on the same premises as a single housekeeping unit.

Farm Enterprise - means a farming operation that is entitled to protection under M.G.L. Chapter 40A, Section 3.

Farm Management Services - (NAICS 115116) This category describes establishments primarily engaged in providing farm management and maintenance services for farms, citrus groves, orchards, and vineyards. Such activities may include supplying contract labor for agricultural production and harvesting, inspecting crops and fields to estimate yield, determining crop transportation and storage requirements, and hiring and assigning workers to tasks involved in the harvesting and cultivating of crops; but establishments primarily engaged in performing such services without farm management services are classified in the appropriate specific industry within Industry Group 072. Workers with similar functions include agricultural engineers, animal breeders, animal scientists, county agricultural agents, dairy scientists, extension service specialists, feed and farm management advisors, horticulturists, plant breeders, and poultry scientists.

Fast Food Restaurant: Any restaurant serving the majority of its food in disposable containers, packages, or other similar wrapping, for consumption on or off the premises

Federal Emergency Management Agency (FEMA) - Administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

Finfish Farming and Fish Hatcheries - (NAICS 112511), **Shellfish Farming** – (NAICS 334516), **Other Aquaculture** – (NAICS 112519) This industry classification includes establishments engaged in the production of finfish and shellfish within a confined space and under controlled growing and harvesting procedures. It includes farmed aquatic animals intended as human food (catfish, trout, and oysters), bait (minnows), and pets (goldfish and tropical aquarium fish).

First Flush - Pollutant concentrations, including suspended sediments, carried by storm water in the beginning of a storm. These concentrations are typically higher than at the middle or end of the storm. To determine "first flush", see Water Quality Volume definition.

Flood Boundary and Floodway Map - An official map of a community issued by FEMA that depicts, based on detailed analyzes, the boundaries of the 100-year and 500-year floods and the 100-year floodway. (For maps done in 1987 and later, the floodway designation is included on the FIRM.)

Flood Hazard Boundary Map (FHBM) - An official map of a community issued by Federal Insurance Administrator, where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E.

Flood Insurance Rate Map (Firm) - An official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study - An examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

Floodway - The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Frontage - That portion of a lot fronting upon a street or way, said frontage to be measured continuously along one street line between its side lot lines and their intersection with the street line.

Front Yard - A "front yard" is a required open unoccupied space, within and extending the full width of the lot, between the street line and the front of a building.

Functionally Dependent Use - means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Glass Product Manufacturing Made of Purchased Glass - (NAICS 327215) This category covers establishments primarily engaged in manufacturing glass products from purchased glass.

Green Roof - The roof of a building that is partially or completely covered with vegetation and soil, or a growing medium, planted over a waterproofing membrane. A green roof is used to mitigate the effects of urbanization on water quality by filtering, absorbing or detaining rainfall.

Heat Island Effect - Built up areas that are hotter than nearby rural areas. Common strategies for reducing the heat island effect are: 1) increasing tree and vegetative cover, 2) installing green roofs 3) installing cool, mainly reflective, roofs, and 4) using cool pavements.

Health Club - A facility where members or nonmembers use equipment or space for the

purpose of physical exercise.

Height - The height is described as the vertical distance between the highest point of the roof and the average elevation of the naturally existing mean grade (the measurements taken at the corners of the building or structure) prior to any excavation, leveling, grading, or filling at the building foundation, exclusive of chimneys, air shafts, ventilators, vents, lightning rods, or similar items which may be of the height required for proper operation or use. Height applies to all buildings and/or structures. The building shall remain in compliance with the height requirement after final grading.

Highest Adjacent Grade – for floodplain management purposes, the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure – for floodplain management purposes, means any structure that is:

a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    1) By an approved state program as determined by the Secretary of the Interior or
    2) Directly by the Secretary of the Interior in states without approved programs.

Hot Spot - A stormwater hotspot is an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. Infiltration basins should never receive runoff from stormwater hotspots, unless the stormwater has already been fully treated by another stormwater treatment practice. This is due to potential groundwater contamination.

Impervious Cover - Those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

Independent Living Facility (ILF) - A facility reserved by deed for occupancy by persons over the age of fifty-five who are able to care for themselves, but with some common facilities as described herein.

Industry, Heavy - The production, assembly, processing, finishing or manufacture of any object or material which results in or would result in noise, dust, odor, vibration, gases, or any objectionable feature that can or could be detected at any time off the

premises upon which located.

Industry, Light - Fabrication, assembly, processing, finishing work or packaging in such a manner that noise, dust, odor, vibration, or similar objectionable features are confined to the premises and are in no way objectionable to abutting property.

Infiltration - The flow of water from the ground surface down into the soil.

Infiltration Facility - Any structure or device designed to infiltrate retained water to the ground. These facilities may be above grade or below grade.

Instruments and Related Products Manufacturing for Measuring, Displaying, and Controlling Industrial Process Variables - (NAICS 334513) This U.S. industry comprises establishments primarily engaged in manufacturing instruments and related devices for measuring, displaying, indicating, recording, transmitting, and controlling industrial process variables. These instruments measure, display or control (monitor, analyze, and so forth) industrial process variables, such as temperature, humidity, pressure, vacuum, combustion, flow, level, viscosity, density, acidity, concentration, and rotation.

Instrument Manufacturing for Measuring and Testing Electricity and Electrical Signals - (NAICS 334515) This industry is made up of companies that manufacture a multitude of analytical devices. Examples of industry output include voltmeters, ammeters, watt-meters, watt-hour meters, semiconductor test equipment, and circuit testers.

Land: Land, including areas covered by water

Land Disturbance Activity - Any activity that changes the volume or peak flow discharge rate of rainfall runoff from the land surface, including: grading, digging, cuffing, scraping, excavating of soil, placement of fill materials, paving construction, substantial removal of vegetation, any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.

Landowner/Owner - The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

Land Uses With Higher Potential Pollutant Loads ("LUHPPL") - Defined in 310 CMR 10.04and 314 CMR 9.02 to include the following: Land uses identified in 310 CMR 22.208(2), 310CMR 22.20C(2)(a-k) and (m), 310 CMR 22.21 (2)(a)(1 -8) and 310 CMR 22.21 (2)(b)(1 -6), areas within a site that are the location of activities that are subject to an individual National Pollutant Discharge Elimination System ("NPDES") permit or the NPDES Multi-Sector General Permit; auto fueling facilities (gas stations); exterior fleet storage areas; exterior vehicle service and equipment cleaning areas; marinas and boatyards; parking lots with high-intensity-use; confined disposal facilities and disposal sites.

Lot - An area of land in one ownership with definite boundaries, used, or available for use, as the site of one or more buildings.

Lot Area - The horizontal area of a lot exclusive of any area in a street or recorded way open to public use.

Lot, Corner: Any lot having at least two (2) contiguous sides abutting upon one or more streets, provided that the interior angle at the intersection of such two sides is less than one hundred thirty-five (135) degrees

Lot Coverage - A measure of intensity of land use that represents the portion of a site that is impervious (i.e., does not absorb water). This portion includes but is not limited to all areas covered by buildings, parked structures, driveways, roads, sidewalks, and any area of concrete asphalt.

Low Impact Development (LID) - A comprehensive land planning and engineering design strategy that emphasizes conservation and use of existing natural site features integrated with distributed small-scale storm water controls to closely mimic natural hydrological patterns.

Low Impact Development (LID) Management Plan - A plan required to be submitted as part of this bylaw.

Manufactured Home - A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

Manufacture of Medical and Electronic Products - A use, which produces from raw materials or assembles from pre-made parts, medical or electronic products, where such production or assemblage requires the employment of skilled technicians. Any such manufacturing process is to take place within a building.

Manufacturing - To bring something into being by forming, shaping, combining, or altering materials.

Manufacturing, Heavy - The manufacture or compounding process of raw materials. These activities or processes would necessitate the storage of large volumes of highly flammable, toxic matter or explosive materials needed for the manufacturing process. These activities may involve outdoor operations as part of their manufacturing process.

Manufacturing, Light - The manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing and custom manufacturing.

Marijuana – All parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant,

its seeds or resin including tetrahydrocannabinol as defined in Section 1 of M.G.L. Chapter 94C; provided, that "marijuana" shall not include: (i) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake made from seeds of the plant or the sterilized seed of the plant that is incapable of germination; (ii) hemp; or (iii) the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products. Marijuana also includes marijuana products except where the context clearly indicates otherwise.

Marijuana Accessories – equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing marijuana into the human body.

Marijuana Establishment - A marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business as defined in MGL Chapter 94G, Section 1 or the Cannabis Control Commission regulations at 935 CMR 500.00 and 935 CMR 501.00, including medical marijuana treatment centers. Marijuana Establishment uses include, but are not limited to the following uses and attributes

Independent Testing Laboratory – a laboratory that is licensed by the Cannabis Control Commission and is: (i) accredited to the most current International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the commission; (ii) independent financially from any medical marijuana treatment center or any licensee or marijuana establishment for which it conducts a test; and (iii) qualified to test marijuana in compliance with 935 CMR 500.160 and M.G.L. Chapter 94C, Section 34.

Marijuana Cultivator – an entity licensed to cultivate, process and package marijuana, to deliver marijuana to Marijuana Establishments and to transfer marijuana to other Marijuana Establishments, but not to consumers**.**

Marijuana Microbusiness – A collocated Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator or Product Manufacturer or both, in compliance with the operating procedures for each license. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other Marijuana Establishments.

Marijuana Product Manufacturer – an entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to Marijuana Establishments and to transfer marijuana and marijuana products to other Marijuana Establishments, but not to consumers.

Marijuana Retailer – an entity licensed to purchase and deliver marijuana and marijuana products from Marijuana Establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to Marijuana Establishments and to consumers.

Marijuana Transporter – An entity, not otherwise licensed by the Commission, that is licensed to purchase, obtain, and process cannabis or marijuana product solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments, but not to consumers. Marijuana Transporters may be an Existing Licensee Transporter or Third party Transporter.

Medical Marijuana Treatment Center (MTC) - means an entity licensed under 935 CMR 501.101: Application Requirements for Medical Marijuana Treatment Centers, that acquires, cultivates, possesses, Processes (including development of related products such as Edible Marijuana or Marijuana Products, MIPs, Tinctures, aerosols, oils, or ointments), transports , sells, distributes, delivers, dispenses, or administers Marijuana, products containing Cannabis or Marijuana, related supplies, or educational materials to Registered Qualifying Patients or their Personal Caregivers for medical use. Unless otherwise specified, MTC refers to the site(s) of dispensing, cultivation, and preparation of Cannabis or Marijuana for medical use.

Craft Marijuana Cooperative – means a marijuana Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited partnership, or cooperative corporation under the laws of the Commonwealth. A cooperatives license to Cultivate, Manufacture and Transfer marijuana to Marijuana Establishments, but not to consumers

Marijuana Products - products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

Market Rate Dwelling Unit - A Dwelling Unit available for sale or rent within a project or development at an unsubsidized price commensurate with the fair market value of said dwelling unit.

Median Income - The area median income, adjusted by household size, reported by the most recent information from the U.S. Department of Housing and Urban Development and/or DHCD.

Medical Laboratories and Diagnostic Facilities - Uses, which provide an opportunity for experimentation, observation, testing, and analysis concerning the practice of medicine.

Medical Offices - A business that provides physical or mental health care or medical services, including, but not limited to, general practitioner's offices, dentists, optometrists, and medical clinics. Veterinarian offices are also allowed as medical offices.

Mobile Food Vendor – A food service operation permitted under the Retail Food Code

that is operated from a movable motor driven or propelled vehicle, portable structure, or watercraft that is able to change location.

Municipal Storm Drain System or Municipal Separate Storm Sewer System (MS4) - The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Westport.

Musical Instrument Manufacturing - (NAICS 339992) This category covers establishments primarily engaged in manufacturing musical instruments and parts and accessories for musical instruments. The primary products in this category are pianos, with or without player attachments, and organs. This industry also includes string, fretted, wind, percussion, and electronic instruments.

NAICS - The North American Industry Classification System or NAICS is used by business and government to classify business establishments according to type of economic activity (process of production) in Canada, Mexico and the United States.

Natural Gas Distribution –-(NAICS 221210) This industry comprises: (1) establishments primarily engaged in operating gas distribution systems (e.g., mains, meters); (2) establishments known as gas marketers that buy gas from the well and sell it to a distribution system; (3) establishments known as gas brokers or agents that arrange the sale of gas over gas distribution systems operated by others; and (4) establishments primarily engaged in transmitting and distributing gas to final consumers.

Net-Zero Impact Development - A building with zero net energy consumption and zero carbon emissions annually.

New Construction - Means, for floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of the first floodplain management regulation, ordinance, or standard by the authority having jurisdiction, including any subsequent improvements to such structures. New construction includes work determined to be substantial improvement. [Referenced Standard ASCE 24-24]

Newsstand - A temporary structure, manned by a vendor, which sells newspapers, magazines, and other periodicals.

Non-Conforming Use - A building or land lawfully occupied by a use that does not conform to the regulations of the district in which it is situated.

Nonpoint (NPS) Source Pollution - Pollution from any source other than from any discernible, confined, and discrete conduit or waterway, and shall include, but not be limited to, pollutants from agricultural, mining, construction, subsurface disposal and urban runoff sources.

North American Industry Classification System (NAICS) - The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing,

and publishing statistical data related to the U.S. business economy.

Office Park (a.k.a Business Park) - A large tract of land that has been planned, developed, and operated as an integrated facility for a number of separate office buildings and supporting ancillary uses with special attention to circulation, parking, utility needs, aesthetics, and compatibility.

One-Hundred-Year Flood - See Base Flood

Open Space Residential Development (OSRD) – A residential development of one-family and two-family dwellings in which the buildings and accessory uses are grouped together with reduced lot sizes into one or more areas. The land not included in the building lots shall be permanently protected as open space. The design of the development shall be in accordance with the four-step design process described in Section 8.1 of these By-Laws.

Other Marine Fishing - (NAICS 114119) This industry classification covers establishments primarily engaged in miscellaneous fishing activities, such as catching or taking of miscellaneous marine plants and animals. Plants and animals covered under this code include seaweed, sponges, sea urchins, terrapins, turtles, and frogs. Cultured pearl production also falls under this classification.

Overlay Districts - Zoning districts in which additional regulatory standards are superimposed on existing zoning. Overlay districts provide a method of placing special restrictions in addition to those required by basic zoning ordinances.

Performance Zoning - Establishes minimum criteria to be used when assessing whether a particular project is appropriate for a certain area; ensures that the end result adheres to an acceptable level of performance or compatibility. This type of zoning provides flexibility with the well-defined goals and rules found in conventional zoning.

Permeable, Pervious or Porous Pavement - is a paved surface with a higher than normal percentage of air voids to allow water to pass through it and infiltrate into the subsoil. Permeable paving techniques include porous asphalt, pervious concrete, paving stones, and manufactured "grass pavers" made of concrete or plastic.

Permit Granting Authority - Shall mean the Board of Appeals.

Private or Unaccepted Way - A street, which has not been accepted as a public way.

Professional Offices - A business that provides predominantly professional, administrative, or clerical services to a consumer, including, but not limited to, accounting, legal and real estate offices. Such services can be provided on or from the property.

Rated Nameplate Capacity - The maximum rated output of electric power production of the photovoltaic system in Direct Current (DC).

Rear Yard - A "rear yard" is a required open unoccupied space, the full width of the lot lying between the extreme rear wall of the building and the rear line of the lot or the line

of the public street or private way in case the lot borders on such street or way.

Recharge - The replenishment of water to aquifers.

Recreation Active - The refreshment of body and mind through forms of play, amusement, or relaxation, such as boating, or organized sports.

Recreation Passive - The refreshment of body and mind through forms of play, amusement, or relaxation, such as enjoying the natural beauty of the shoreline, hiking, field trails or nature study.

Recreational Vehicle – for floodplain management purposes, means a vehicle which is:

a. Built on a single chassis;
b. 400 square feet or less when measured at the largest horizontal projection;
c. Designed to be self-propelled or permanently towable by a light duty truck; and
d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Redevelopment - Any construction, alteration, or improvement exceeding one acre in area where existing land use is high-density commercial, industrial, institutional or multi-family residential.

Regulatory Floodway - See Floodway

Renewable Energy - Generation of power from naturally replenished resources such as sunlight, wind, and tides. Renewable energy technologies include solar power, wind power, hydroelectric power, geothermal, and biomass.

Research and Development Business - A business that engages in research, or research and development, of innovative ideas in technology-intensive fields. Examples include research and development of computer software, information systems, communication systems, transportation, geographic information systems, multimedia and video technology. Development and construction of prototypes may be associated with this use.

Research and Development Laboratories and Facilities - Uses which provide an opportunity for safe scientific experimentation, observation, testing and analysis, including, but not limited to, biotechnology uses.

Resource Area - Any area protected under the Massachusetts Wetlands Protection Act, Massachusetts Rivers Act, or Westport Conservation Commission regulations.

Restaurant - An establishment or part of an establishment devoted primarily to the service and consumption of food and beverages on the premises. Any such establishment shall be considered a restaurant if the service of food is its primary activity and the service of alcoholic beverages, if any, is incidental to the sale, service and consumption of food and non-alcoholic beverages.

Retail Operations - The selling of goods, wares, or merchandise directly to the ultimate consumer.

Roof-Mounted Solar Energy Installation - Solar photovoltaic arrays placed on the roof or wall of a structure.

Scenic Roads - Any road designated as a "Scenic Road," under G.L. c.40, §15C.

Scientific, Technical, and Management Services - Industries in the Professional, Scientific, and Technical Services subsector group establishments engaged in processes where human capital is the major input. These establishments make available the knowledge and skills of their employees, often on an assignment basis, where an individual or team is responsible for the delivery of services to the client. The individual industries of this subsector are defined on the basis of the particular expertise and training of the services provider. The distinguishing feature of the Professional, Scientific, and Technical Services subsector is the fact that most of the industries grouped in it have production processes that are almost wholly dependent on worker skills. In most of these industries, equipment and materials are not of major importance, unlike health care, for example, where "high tech" machines and materials are important collaborating inputs to labor skills in the production of health care. Thus, the establishments classified in this subsector sell expertise. Much of the expertise requires degrees, though not in every case. Software and Communication Services is a sub category of this group

Semiconductor and Related Device Manufacturing - (NAICS 334413) This category covers establishments primarily engaged in manufacturing semiconductors and related solid-state devices. Important products of this industry are semiconductor diodes and stacks, including rectifiers, integrated microcircuits (semiconductor networks), transistors, solar cells, and light sensing and emitting semiconductor (solid-state) devices.

Semiconductor Machinery Manufacturing - (NAICS 333295) This U.S. industry comprises establishments primarily engaged in manufacturing wafer processing equipment, semiconductor assembly and packaging equipment, and other semiconductor making machinery.

Sexually-Orientated Business - (2008 ATM, Article 45 deleted this section)

Short Term Rental - A short term rental is a dwelling that is not a hotel, motel, lodging house or bed and breakfast, where at least one room or unit is rented not to exceed 31 consecutive days. A short-term rental includes an apartment, house, cottage, and condominium. It does not include property that is rented out through tenancies at will or month-to-month leases. It also does not include time-share property or bed and breakfast (see definition of bed and breakfast).

Side Yard - A "side yard" is required open unoccupied space, within the lot within a side lot line, not a street line, and the parts of the building nearest to such lot line. Such a yard shall extend for its required width from the street line or its equivalent to the rear or its equivalent to another street.

Sign - Any letter, word, symbol, drawing, picture, design, device, article, or object that advertises, calls attention to or indicates any premises, person or activity, whatever the nature of the material and manner of composition or construction, when the same is placed out of doors in view of the general public or placed indoors for exterior

observance, except temporary indoor paper signs advertising sales, promotions or special events.

Sign - Area Of - The area of a free-standing sign includes all lettering, wording and accompanying designs and symbols, together with the background, whether open or enclosed, on which they are displayed. The supporting framework, open or enclosed, may be part of the design, but for the purposes of this By-Law shall not be considered part of the sign area unless used for lettering, wording or symbols. When the sign consists of individual letters or symbols attached to or painted on a surface, building wall or window, the area shall be considered to be that of the smallest rectangular or other regular shape which encompasses all of the letters and symbols.

Single Family Dwelling Unit (Noquochoke Overlay District Only) - A detached building containing not more than one dwelling unit.

Social Sustainability - Design of the physical environment to provide, or easily to allow future adaptation to provide, full accessibility to persons with a range of physical abilities as these may change throughout their lifetime.

Software and Communication Services - See "Scientific, Technical, and Management Services".

Soil Mottling - Redoximorphic features.

Solar Energy Systems - Large Scale - A solar photovoltaic system that is structurally mounted on the ground, not roof-mounted, and occupies more than 1,000 square feet of land.

Solar Energy Systems - Small Scale - A solar photovoltaic system that is any size roof-mounted or is structurally mounted on the ground and occupies 1,000 square feet of land or less.

Solar Photovoltaic Array - An arrangement of solar photovoltaic panels.

Special Flood Hazard Area – The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AO, A1-30, AE, A99, AR, AH, V, VO, V1-30, VE.

Special Permit Granting Authority - Shall include the Board of Selectmen, Board of Appeals, Planning Board, as designated by this By-Law for the issuance of special permits.

Start of Construction – For floodplain management purposes, the date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Stormdrain System - The conveyance system, including catchbasins, manholes, pipes and drainage ditches to transport stormwater runoff [usually to a storm water management practice(s)].

Stormwater Management Plan - A plan required to be submitted as part of this bylaw.

Stormwater Management Practice(s) - Techniques used to control the impacts (flooding, increased volume, and pollution) of stormwater runoff.

Stormwater Management System - All components associated with the management of stormwater runoff including the Stormdrain System and the Stormwater Management Practice(s).

Stormwater Pollution Prevention Plan (SWPPP): A plan required under the Environmental Protection Agency's (EPA) NPDES Construction General Permit for projects that disturb one acre or more of land (See DEP Handbook Chapter I, Volume I).

Stormwater Runoff - Water resulting from precipitation that flows overland.

Stormwater Treatment Practices - Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies

Story - That portion of a building included between the upper surface of any floor and the upper surface of the floor next above except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than six feet above grade as defined herein for more than 50 percent of the total perimeter or is more than 12 feet above grade as defined herein at any point, such as usable or unused under-floor space shall be considered as a story.

Story, First - The lowest story in a building which qualifies as a story, as defined herein, except that a floor level in a building having only one floor level shall be classified as a first story, provided such floor level is not more than four feet below grade, as defined herein, at any point.

Street - Any duly-accepted public way, any way not less than 40 feet wide shown on plan duly recorded after April 10, 1920, or any other way equivalent to a public way for the purposes of subdivision control as specified in General Laws, Chapter 41, Section 81L.

Structure

(1) Means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.
(2) Anything constructed or erected, except a boundary wall or fence, the use of which requires location on the ground or attachment to something on the ground. For the purposes of this bylaw, buildings are structures.

Subdivision Regulations: The rules and regulations of the Planning Board relative to subdivisions

Substantial Repair of a Foundation – For floodplain management purposes, when work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR.

Surgical and Medical Instrument Manufacturing - (NAICS 339112) This industry is comprised of companies primarily engaged in manufacturing a multitude of miscellaneous monitoring instruments. Major industry product segments include aircraft engine instruments; nuclear radiation detection and monitoring instruments; commercial, geophysical, meteorological, and general-purpose instruments and equipment; and physical properties testing and inspection equipment. This industry also encompasses companies that produce selected surveying and drafting supplies, such as transits, slide rules, and T-squares, as well as other measuring and controlling devices.

Tire Storage Yard – Shall include the storage of new or used rubber tires, tire casings, tire tubes, rubber scraps, and/or other products of rubber tires

Turbine and Turbine Generator Set Units Manufacturing - (NAICS 333611) This industry covers establishments primarily engaged in manufacturing steam turbines; hydraulic turbines; gas turbines, except aircraft; and complete steam, gas, and hydraulic turbine generator set units. Also included in this industry are manufacturers of wind and solar powered turbine generators and windmills for generating electric power.

Upland - Land other than land classified under the Wetlands Protection Act as freshwater wetland, beach, flat marsh or swamp and land under any water bodies such as ocean, creek, river, stream, brook, pond or lake.

Variance - for floodplain management purposes, means a grant of relief by a community from the terms of a flood plain management regulation.

Violation – for flood plain management purposes, means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3(b)(5), (c)(4), (c)(10),

(d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59]

Visitability - Dwelling units are deemed Visitable if they meet the following three criteria: zero step entrance, all doorways that are 32 inches clear, and a toilet on the first floor.

Warehouse - Facilities characterized by extensive warehousing, frequent heavy trucking activity, open storage of material, or nuisances such as dust, noise, and odors, but not involved in manufacturing or production.

Warehousing - The process of storing goods within a storage facility.

Watercourse - Any body of water, including, but not limited to, lakes, ponds, rivers and streams.

Waterway - A channel, either natural or man-made, that directs surface runoff to a watercourse or to the public storm drain.

Water Quality Volume - the volume generated by the first 1.25 inches of stormwater runoff. This first inch of runoff carries the majority of accumulated pollutants from impervious surfaces. The first flush volume in cubic feet (VwQ) is determined by the following formula:

VWQ = (1.25/12 inches) (RwQv) (Site Area in square feet);
Where: RwQv= 0.05 + 0.009(1);
I = the % impervious area.

Way – A public way or a way which the clerk certifies is maintained and used as a public way, or a way shown on a plan theretofore approved and endorsed in accordance with the subdivision control law, or a way in existence when the subdivision control became effective, having in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

Wetlands: Lands subject to the provisions of M.G.L. c. 131, ss.40 and 40A.

Wholesale Operations - An establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies. This is not considered a general commercial use.

Zero Step entrance - An entrance that has no steps and is at grade level with the exterior grounds. The zero step entrance can be at any doorway; front, side, rear.

Zone A - means an area of special flood hazard without water surface elevations determined flood plain

Zone A1-30 and Zone AE - means area of special flood hazard with water surface elevations determined flood plain

ZONE AH - means areas of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) feet, and with water surface elevations determined flood plain

ZONE AO - means area of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) ft. (Velocity flow may be evident; such flooding is characterized by ponding or sheet flow.)

Zone A99 - means area of special flood hazard where enough progress has been made on a protective system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. (Flood elevations may not be determined.)

Zones B, C, AND X - means areas of minimal or moderate flood hazards or areas of future-conditions flood hazard. (Zone X replaces Zones B and C on new and revised maps.)

Zone V - means area of special flood hazards without water surface elevations determined, and with velocity, that is inundated by tidal floods (coastal high hazard area.)

Zone V1-30 and Zone VE (For New and Revised Maps) - means area of special flood hazards, with water surface elevations determined and with velocity, that is inundated by tidal floods (coastal high hazard area.)

(2026 ATM, Articles 29, 31, 32)

SECTION 4 ZONING DISTRICTS

4.1 ZONING DISTRICTS

For the purposes of this By-Law, the Town of Westport is hereby divided into the following districts:

A. Business

B. Residence/Agriculture

C. Village Commercial

(2024 ATM, Article 36 rezoned the "Unrestricted District" to Residence/Agriculture; 2026 ATM, Article 33 created the Village Commercial Zoning District)

4.2 LOCATION OF DISTRICTS

Said districts, except flood plain and other overlay districts, are located and bounded as shown on a map entitled "Town of Westport Zoning Map" dated May 5, 2026 and on file in the office of the Town Clerk. And further described in Appendix A of this Bylaw. The

Zoning Map, with all explanatory matter thereon, is hereby made a part of this By-Law

SECTION 5 USE REGULATIONS

Except as provided in Section 5.1. hereof, no building or structure shall be constructed, and no building, structure or land, or part thereof shall be used for any purpose or in any manner other than for one or more of the uses hereinafter set forth as permitted in the district in which such building, structure or land is located, or set forth as permissible by special permit in said district and so authorized.

5.1 TABLE OF USE REGULATIONS

X = Prohibited unless allowed in Underlying District
Y = Allowed By Right
N = Prohibited
SPBA = Special Permit Board of Appeals
SPPB = Special Permit Planning Board
SPA-PB = Site Plan Approval Planning Board

USES	RESIDENTIAL/ AGRICULTURAL	BUSINESS	VILLAGE COMMERCIAL
AGRICULTURE, AQUACULTURE, CONSERVATION			
AGRI-ENTERTAINMENT, AGRI-COMMERCIAL AND AGRI-TOURISM PROVIDED THE PRIMARY USE OF THE LAND IS AGRICULTURE, THE PARCEL HAS A MINIMUM OF FIVE (5) ACRES AND THE SALES MEET THE REQUIREMENTS OF M.G.L. CHAPTER 40A, SECTION 3	Y	Y	Y
AGRICULTURAL, FORESTRY, NURSERY, GARDENING, FARM	Y	Y	Y
AGRICULTURE	Y	Y	Y
ANIMAL (EXCEPT POULTRY) SLAUGHTERING	N	Y/SPA-PB	N
FINFISH FARMING AND FISH HATCHERIES	SPBA/SPA-PB	N	N
GREENHOUSES FOR AGRICULTURAL USE ONLY	Y	Y	Y
OTHER AQUACULTURE	SPBA	N	N
OTHER MARINE FISHING	SPBA	N	N
PUBLIC OR PRIVATE FACILITIES FOR THE HATCHING AND PROPAGATION OF FINFISH AND SHELLFISH	SPBA	SPBA	N
SHELLFISH FARMING	SPBA/SPA-PB	N	N
INSTITUTIONAL / PUBLIC			
CLUB;PRIVATE: NOT FOR PROFIT	SPBA	Y/SPA-PB	SPBA
CLUB;PUBLIC CONDUCTED FOR PROFIT	N	SPBA	N
CONVALESCENT HOMES	Y/SPA-PB	Y/SPA-PB	Y/SPA-PB
EDUCATIONAL USES	Y/SPA-PB	Y/SPA-PB	Y/SPA-PB
PUBLIC OR PRIVATE GOLF COURSE	SPBA/SPA-PB	Y/SPA-PB	SPBA/SPA-PB
HOSPITALS	Y/SPA-PB	Y/SPA-PB	Y/SPA-PB
MUNICIPAL	Y/SPA-PB	Y/SPA-PB	Y/SPA-PB
NATURAL GAS DISTRIBUTION	N	N	N
NURSING HOMES	Y/SPA-PB	Y/SPA-PB	Y/SPA-PB
PUBLIC UTILITY	N	Y/SPA-PB	N

USES	RESIDENTIAL/ AGRICULTURAL	BUSINESS	VILLAGE COMMERCIAL
RECREATION ACTIVE	SPBA	Y	SPBA
RECREATION PASSIVE	Y	Y	Y
RELIGIOUS USES	Y/SPA-PB	Y/SPA-PB	Y/SPA-PB
SANITARIUMS	Y/SPA-PB	Y/SPA-PB	Y/SPA-PB
RESIDENTIAL			
ASSISTED AND INDEPENDENT LIVING FACILITIES (see Section 9.1)	SPPB	SPPB	SPPB
CONVERSION OF SINGLE-FAMILY (in existence prior to adoption of 2014 ATM, Article 30) INTO TWO-FAMILY STRUCTURE	SPBA	SPBA	SPBA
DWELLING: MULTI-FAMILY	N	N	N
DWELLING: ONE FAMILY	Y	Y	Y
DWELLING: TWO FAMILY	Y	Y	Y
INCLUSIONARY HOUSING (see Section 9.2)	SPPB	SPPB	SPPB
MOBILE HOME PARK	N	N	N
OPEN SPACE RESIDENTIAL DEVELOPMENT (see Section 8.1)	Y	Y	Y
ROOM RENTAL/BOARDING FOR NOT MORE THAN FOUR PERSONS IN A DWELLING	Y	Y	Y
BUSINESS / COMMERCIAL			
ADULT ENTERTAINMENT ESTABLISHMENT (see Section 5.4)	N	N Except SPBA & SPA-PB in AEOD	N
PLACE OF AMUSEMENT OR ASSEMBLY	N	SPBA/SPA-PB	N
AUTO BODY SHOP/AUTO REPAIR SHOP	N	Y/SPA-PB	Y/SPA-PB
AUTO SALES, TRAILER SALES, OR FARM EQUIPMENT SALES	N	Y/SPA-PB	N
AUTO SALESROOM CLASS 1 & 2	N	Y/SPA-PB	N
AUTO SERVICE STATIONS	N	Y/SPA-PB	N
AUTO STORAGE GARAGE	N	Y/SPA-PB	N
BANKS	N	Y/SPA-PB	N
BED & BREAKFAST (see Section 9.9)	SPBA	Y/SPA-PB	Y/SPA-PB
BUSINESS AND SECRETARIAL SCHOOLS	N	Y/SPA-PB	N
CAFÉ	N	Y/SPA-PB	Y/SPA-PB
CLUB CONDUCTED FOR PROFIT	N	SPBA/SPA-PB	N
COMMERCIAL & NON-COMMERCIAL KENNELS	N	Y	N
DATA PROCESSING, HOSTING AND RELATED SERVICES	N	Y	N
DRIVE-THROUGH FACILITIES	N	SPPB	N
FLEA MARKET	N	SPBA/SPA-PB	N

USES	RESIDENTIAL/ AGRICULTURAL	BUSINESS	VILLAGE COMMERCIAL
HOTEL	N	Y/SPA-PB	N
JOB PRINTING	N	Y/SPA-PB	N
MANAGEMENT CONSULTING SERVICES	N	Y/SPA-PB	N
MINIATURE GOLF AND/OR GOLF DRIVING RANGE OPERATED FOR COMMERCIAL PURPOSES AS A STANDALONE BUSINESS	N	SPBA/SPA-PB	N
MOTEL	N	Y	N
MOBILE FOOD VENDOR	N	Y	Y
NEWSPAPER	N	Y/SPA-PB	Y/SPA-PB
OFFICES: BUSINESS OR PROFESSIONAL	N	Y/SPA-PB	Y/SPA-PB
RESEARCH LABS	N	Y/SPA-PB	N
RESTAURANTS	N	Y/SPA-PB	Y/SPPB
RETAIL	N	Y/SPA-PB	Y/SPA-PB
SHORT TERM RENTAL (see Section 9.10)	Y	Y	Y
WHOLESALE BUSINESS, RESEARCH LABORATORY, SERVICE, OR PUBLIC UTILITY NOT INVOLVING MANUFACTURE ON THE PREMISES, EXCEPT FOR PRODUCTS, THE MAJOR PORTION OF WHICH IS SOLD ON THE PREMISES BY THE PRODUCER TO THE CONSUMER	N	Y/SPA-PB	N
MANUFACTURING			
ANALYTICAL LABORATORY INSTRUMENT MANUFACTURING	N	N	N
CUTTING TOOL AND MACHINE TOOL ACCESSORY MANUFACTURING	N	N	N
DENTAL EQUIPMENT AND SUPPLIES MANUFACTURING	N	Y/SPA-PB	N
DENTAL LABORATORIES	N	Y/SPA-PB	N
EARTH REMOVAL/MINING	N	N	N
ELECTROMEDICAL AND ELECTROTHERAPEUTIC APPARATUS MANUFACTURING	N	N	N
ELECTRONIC CONNECTOR MANUFACTURING	N	N	N
GLASS PRODUCT MANUFACTURING MADE OF PURCHASED GLASS	N	N	N
INSTRUMENT MANUFACTURING FOR MEASURING AND TESTING ELECTRICITY AND ELECTRICAL SIGNALS	N	N	N
INSTRUMENTS AND RELATED PRODUCTS MANUFACTURING FOR MEASURING, DISPLAYING, AND CONTROLLING INDUSTRIAL PROCESS VARIABLES	N	N	N
LIGHT MANUFACTURING	N	SPBA/SPA-PB	N
MUSICAL INSTRUMENT MANUFACTURING	N	N	N

USES	RESIDENTIAL/ AGRICULTURAL	BUSINESS	VILLAGE COMMERCIAL
SEMICONDUCTOR AND RELATED DEVICE MANUFACTURING	N	N	N
SEMICONDUCTOR MACHINERY MANUFACTURING	N	N	N
SURGICAL AND MEDICAL INSTRUMENT MANUFACTURING	N	N	N
TURBINE AND TURBINE GENERATOR SET UNITS MANUFACTURING	N	N	N
OTHER			
BATH HOUSES, BEACH CLUBS, BOAT LANDINGS, WHARVES	SPBA	Y/SPA-PB	N
BOAT YARDS FOR CONSTRUCTION, STORAGE, MAINTENANCE, REPAIR OF BOATS	SPBA	Y/SPA-PB	N
FARM MANAGEMENT SERVICES	Y	Y	Y
METEOROLOGICAL TOWER (Met Tower)	Y	Y	N
OUTDOOR ADVERTISING WITH PERMIT	N	Y/SPA-PB	N
SHARED WIND ENERGY FACILITIES	SPBA	SPBA	SPBA
SOLAR ENERGY SYSTEMS LARGE SCALE	SPPB	Y/SPA-PB	SPPB
SOLAR ENERGY SYSTEMS SMALL SCALE	Y	Y	Y
TIRE STORAGE YARDS	N	N	N
TRADESMAN Place of Business	Y/SPA-PB	Y/SPA-PB	Y/SPA-PB
WIND ENERGY FACILITY, COMMERCIAL (see Section 9.4)	N	SPBA/ SPA-PB	N
WIND ENERGY FACILITY, COMMERCIAL OVER 140 FEET IN HEIGHT (see Section 9.4)	N	SPBA/ SPA-PB	N
WIND ENERGY FACILITY, NON-COMMERCIAL (see Section 9.4)	Y	Y	Y
WIND ENERGY FACILITY, NON-COMMERCIAL OVER 140 FEET IN HEIGHT (see Section 9.4)	N	SPBA	N
WIND TURBINES, THREE OR MORE ON ONE PARCEL (see Section 9.4)	SPBA	SPBA	SPBA
MARIJUANA ESTABLISHMENTS (1)			
INDEPENDENT TESTING LABORATORY (1)	N	N	N
MEDICAL MARIJUANA TREATMENT CENTERS (1)	N	N	N
MARIJUANA CULTIVATOR (1)	N	N	N
MARIJUANA MICROBUSINESS (1)	N	N	N
MARIJUANA PRODUCT MANUFACTURER (1)	N	N	N
MARIJUANA RETAILER (1)	N	N	N
MARIJUANA TRANSPORTER (1)	N	N	N

USES	RESIDENTIAL/ AGRICULTURAL	BUSINESS	VILLAGE COMMERCIAL
CRAFT CULTIVATOR (1)	N	N	N
ACCESSORY USES			
ACCESSORY DWELLING UNIT (see section 9.5)	Y	Y	Y
THE KEEPING OF LESS THAN FIVE DOGS, THREE MONTHS OLD OR OVER EXCEPT THAT MULTI-FAMILY (HOUSES OR PREMISES CONTAINING MORE THAN THREE SEPARATE FAMILY) UNITS MAY HAVE A MAXIMUM OF ONE DOG PER SEPARATE FAMILY UNIT	Y	Y	Y
THE KEEPING OF MORE THAN FOUR DOGS, BUT LESS THAN SEVEN, THREE MONTHS OLD OR OVER FOR NON-COMMERCIAL/RECREATIONAL PURPOSES	SPBA	Y	SPBA
HOME OCCUPATION (see Section 9.7)	Y	Y	Y
HOME OFFICE (see Section 9.7)	Y	Y	Y
RESIDENT FISHERMAN USE OF THE PREMISES, POSSESSING A COMMERCIAL SHELLFISH LICENSE, FOR THE SHUCKING OR REMOVAL OF MEATS FROM SHELLFISH, CAUGHT BY SAID RESIDENT	Y	Y	Y
SIGNS (ACCESSORY see section 9.7)	Y	Y	Y
TEMPORARY TRAILER	Y/SPA-PB	Y/SPA-PB	Y/SPA-PB
YARD SALES & AUCTIONS: 3 DAYS IN 1 MONTH 0R 4 DAYS IN CALENDAR YEAR	Y	Y	Y

Table of use Regulations Notes

(1) Marijuana Establishments are permitted in the Science and Technology Overlay District and the Adult Entertainment Overlay District subject to the provisions of Section 9.9.

(2) In the event of conflicts between the Table of Use Regulations and the narrative text of this Bylaw, the text of the sections shall control.

(3) It is the intent and purpose of the Table of Use Regulations to conform with M.G.L. Chapter 40A, Section 3 (Exemptions from Zoning Regulations), and to the extent that any provisions of this table are in conflict with the exemptions of said Chapter 40A, the provisions of said Chapter 40A shall supersede and control the subject matter thereof.

(4) Any use not specifically or generally listed herein or otherwise permitted in a district shall be deemed to be prohibited.

(5) Prohibited Uses. Any use of land or building determined to be dangerous or detrimental to the public health, safety, and welfare in accordance with generally acceptable standards because of fire hazard, offensive noise, smoke, vibration, harmful radioactivity, electrical interference, dust, odor, fumes, heat, glare, or other objectionable characteristic.

5.2 NON-CONFORMING USES

5.2.0 The lawful use of any structure or land existing at the time of the enactment or subsequent amendment of this By-Law may be continued

although such structure or use does not conform with the regulations of the district in which it is located and allow the right to be sold to any equal or similar business.

5.2.1 Abandonment

A non-conforming use which has been discontinued for four years or more shall be considered to be abandoned and shall not be re-established and any future use shall conform to this By-law. The four year period may be extended prior to expiration by Special Permit from the Zoning Board of Appeals if it finds there are extenuating circumstances and such extension is not detrimental to the neighborhood or public health, safety and welfare.

5.2.2 Changes

A non-conforming use may be changed so as to conform to this By-Law but once changed to a conforming use, no structure or land shall be permitted to revert to a non-conforming use. A non-conforming use or structure may be changed provided there is a finding by the Board of Appeals that such change shall not be substantially more detrimental than the existing non-conforming use to the neighborhood.

5.2.3 Alteration

Pre-existing non-conforming structures or uses may be altered provided there is a finding by the Board of Appeals that such alteration shall not be substantially more detrimental than the existing non-conforming use to the neighborhood.

5.2.4 Restoration

A non-conforming structure damaged or destroyed by fire or other causes may be repaired or rebuilt.

5.2.5 Signs

The above provisions shall not apply to billboards, signs, or other advertising devices subject to the provisions of Section 29-33, inclusive of, Chapter 93 and to Chapter 93D of the General Laws.

(1963 ATM, Article 38; 1973 STM, Article 16; 1978 ATM, Article 21; 2008 ATM, Article 45; 2022 ATM, Article 30; 2026 ATM, Articles 30, 32, 33)

5.3 COMPLIANCE WITH M.G.L CHAPTER 40A

It is the intent and purpose of these By-Laws to conform with M.G.L. Chapter 40A and amendments thereto, and to the extent that any provisions hereof are in conflict with the provisions of said Chapter 40A, the provisions of Chapter 40A shall supersede and control the subject matter thereof. Additionally, all matters of procedure regarding Zoning

By-Laws and provisions thereof are specifically incorporated herein by reference thereto.

SECTION 6 OVERLAY DISTRICTS

A. Flood Plain

B. Aquifer Protection

C. Telecommunication Facilities Overlay

D. Adult Entertainment Overlay District

E. Noquochoke Overlay District

F. Science and Technology Overlay District

6.1 FLOOD PLAIN DISTRICT

6.1.1 STATEMENT OF PURPOSE

The purposes of the Flood Plain District are to:

i. Ensure public safety through reducing the threats to life and personal injury;
ii. Eliminate new hazards to emergency response officials;
iii. Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding;
iv. Avoid the loss of utility services, which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding;
v. Eliminate costs associated with the response and cleanup of flooding conditions;
vi. Reduce damage to public and private property resulting from flooding waters.

The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes.

The degree of flood protection required by this bylaw is considered reasonable but does not imply total flood protection.

6.1.2 FLOODPLAIN ADMINISTRATOR

The Town of Westport hereby designates the position of Building Commissioner to be the official floodplain administrator for the Town.

6.1.3 FLOODPLAIN DISTRICT BOUNDARIES

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Westport designated as Zone A, AE,

AH, AO, A99, V, or VE on the Bristol County Flood Insurance Rate Map (FIRM) dated July 6, 2021 issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the District shall be defined by the 1%-chance base flood elevations shown on the FIRM and further defined by the Bristol County Flood Insurance Study (FIS) report dated July 6, 2021. The effective FIRM, and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, and Conservation Commission.

6.1.4 NOTIFICATION

If the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town will, within 6 months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s.) Notification shall be submitted to:

- FEMA Region I Risk Analysis Branch Chief
- Massachusetts NFIP State Coordinator

6.1.5 WATERCOURSE ALTERATIONS OR RELOCATIONS IN RIVERINE AREAS

In a riverine situation, the Building Commissioner shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities, especially upstream and downstream
- Bordering States, if affected
- NFIP State Coordinator
  Massachusetts Department of Conservation and Recreation
- NFIP Program Specialist
  Federal Emergency Management Agency, Region I

6.1.6 ADMINISTRATION

Variances: The Town will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance, and will maintain this record in the community's files. The Town shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that:

a. the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage and
b. such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

A variance from these floodplain bylaws must meet the requirements set out by State law, and may only be granted if:

a. Good and sufficient cause and exceptional non-financial hardship exist;
b. The variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and
c. The variance is the minimum action necessary to afford relief.

Permits: The Town of Westport requires a permit for all proposed construction or other development in the floodplain overlay district, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.

Westport's permit review process includes the use of a checklist of all local, state and federal permits that will be necessary in order to carry out the proposed development in the floodplain overlay district. The proponent must acquire all necessary permits, and must submit the completed checklist demonstrating that all necessary permits have been acquired.

Subdivisions: All subdivision proposals and development proposals in the floodplain overlay district shall be reviewed to assure that:

a. Such proposals minimize flood damage.
b. Public utilities and facilities are located & constructed so as to minimize flood damage.
c. Adequate drainage is provided.

When proposing subdivisions or other developments greater than 50 lots or 5 acres (whichever is less), the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans.

Recreational vehicles: In A, AH, AE Zones, VE, and V Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.

Protection of dunes: Alteration of sand dunes is prohibited when the alteration would increase potential flood damage.

AO and AH zones drainage requirements
Within Zones AO and AH on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

6.1.7 UNNUMBERED A ZONES

In A Zones, in the absence of FEMA BFE data and floodway data, the building department will obtain, review and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A as the basis for elevating residential structures to or above base flood level, for flood proofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.

6.1.8 FLOODWAY ENCROACHMENT

In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

In Zone AE, along watercourses that have a regulatory floodway designated on the Town's FIRM, encroachments are prohibited, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(1975 STM, Article 11; 1978 ATM, Article 22; 1982 STM, Article 21; 1985 ATM, Article 48; 1985 STM; Article 11; 2006 ATM, Article 8; 2009 ATM, Article 31, 2021 ATM, Article 26; 2026 ATM, Article 31)

(Editorial Note): The original Flood Plain Zoning was inserted into the By-Law by Article 11, of a 1975 Special Town Meeting, and consisted of seven sections. In 1978, sentences were added to 6, sections 6.0.3 and 6.0.5 and 6.0.6. The original section 6, 6.0.8 submitted at that meeting did not pass. A new section, 6.0.9 was added. The 1981 Annual Town Meeting passed over Article 52, which attempted to add 6, sections 6.0.10 and 6.0.11 to allow trailers in the flood plain on a year-round basis. The revised Section 6, 6.6.11 was adopted at the adjourned Special Town Meeting held August 25, 1982. At the Annual Town Meeting, April 3, 1985, Section 6, 6.0.1 was replaced to conform to the Revised Flood Insurance Rate Map, effective retroactively to March 18, 1985. A new section 6, 6.0.8 was added at the June 11, 1985 Special Town Meeting. See Appendix for original 1975 flood zoning. Article 40 at the 5/23/96 ATM amended the Flood Insurance Rate Map effective date from 3/18/85 to 7/15/92. At the Annual Town Meeting, May 3, 2006, Sections 6, 6.0.1, 6.0.4 & 6.0.5 were replaced to conform to the Westport Flood Insurance Rate Map, and 6.0.10 & 6.0.12 were added. Article 31 at the 2009 Annual Town Meeting replaced the existing language of Article 6 with language required by the Federal Emergency Management Agency to be in compliance with Title 44, Chapter I, Part 67, Code of Federal Regulation (see Appendix for original) Article 35 of the 2010 ATM revised two sections for the purpose of the acceptance of the official Flood Insurance rate Map (FIRM) from the Federal Emergency management Agency.

6.2 AQUIFER PROTECTION DISTRICT

6.2.1 PURPOSE OF DISTRICT

The purpose of this Aquifer Protection District is:

A. To protect, preserve and maintain the groundwater supply and the major groundwater recharge areas within the Town.

B. To preserve and protect the sources of water supply for the public health and safety.

C. To conserve the natural resources of the Town.

D. To protect the groundwater and the major groundwater recharge areas of the Town from adverse land use practices.

6.2.2 SCOPE

The Aquifer Protection District encompasses those areas of the Town where groundwater flow rates equal 1400 gallons per minute (G.P.M.) or greater, as delineated on a map on file at the office of the Town Clerk, which map reflects the best USGS hydro-geologic information as of the date of enactment hereof. The boundaries encompass the aquifer, and the aquifer's most significant recharge areas. The Aquifer Protection District overlays all other zoning districts.

6.2.3 ESTABLISHMENT AND DELINEATION OF AQUIFER PROTECTION DISTRICT

There is hereby established within the Town an Aquifer Protection District, consisting of aquifers and/or aquifer recharge areas. Aquifers and aquifer recharge areas are defined by USGS standard geologic and hydrologic investigations which may include drilling observation wells, utilizing existing boring data and stratigraphic profiles, conducting seismic surveys or other geophysical techniques, performing pumping tests, water sampling and geologic mapping.
The boundaries of this District are delineated on a map at a scale of 1 inch to 1,000 feet entitled "Aquifer Protection District, Town of Westport" on file in the office of the Town Clerk. These boundaries reflect the best USGS hydro-geologic information available as of the date of the map.

6.2.4 USE REGULATIONS

A The following uses, if allowed within the underlying District, are allowed within the Aquifer Protection District.

1. All primary uses permitted by the underlying District where the land is located, except those expressly prohibited under Section 6.2.4.B or requiring a special permit under Section 6.2.4.C below, and subject to the following:

a. Pesticides and fertilizers shall not be stored in amounts exceeding what is necessary for household or business use on the premises for a period of twelve (12) months.

b. Storage of home or business fuel intended to be consumed on-site for space heating, hot water heating and cooking purposes shall be in tanks not exceeding 660 gallons for residential use and 2,000 gallons for commercial use, whose design and installation is reviewed and approved by the Fire Department in accordance with applicable safety regulations, 527 CMR 9.0. Storage must be above ground, either in a freestanding container within a building or outdoors with protection adequate to contain a spill the size of the container's total storage capacity.

2. Existing non-conforming prohibited uses in conformance with any applicable state and local regulations.

B The following uses are **PROHIBITED** within the Aquifer Protection District:

1. The manufacture, use, storage or disposal of toxic materials or hazardous wastes.

2. Car washes, laundromats, automotive service and repair facilities, sanitary landfills, dumps, junk yards, storage or disposal of solid waste. Sludge or septage may only be stored in compliance with 310 CMR 32.30 and 32.31.

3. Storage of animal manures, unless such storage is covered or contained, or in accordance with the specifications of the National Resource Conservation Service (NRCS).

4. Storage of commercial fertilizers as defined in M.G.L. c. 182, §64, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.

5. The removal of soil, loam, sand, gravel or any other mineral substances within four (4) feet of the historical high groundwater table elevation (as determined from monitoring wells and historical water table fluctuation data compiled by the United States geological survey), unless the original substances removed are redeposited within forty-five (45) days of removal on site to achieve a final grading greater than four (4) feet above the historical high water mark and except for excavations for the construction of building foundations or the installation of utility works and roadway construction.

6. Impervious cover on any lot, including buildings, structures, driveways, parking areas, gravel areas, patios, storage areas or any other impermeable surfaces that exceed fifteen (15) per cent of land area or 2,500 square feet, whichever is greater, unless a system for artificial recharge of precipitation is provided that will not result in

the degradation of groundwater quality and exempting land primarily used for Agricultural or Horticultural purposes.

7. Sewage treatment facilities with the exception of:

a. Individual sewage disposal systems; and

b. Decentralized Innovative/Alternative (I/A) Treatment System(s) or Localized Enhanced Treat System(s), approved by the Westport Board of Health, that significantly reduce bacterial and nutrient discharge levels to the environment (as compared with conventional on-site septic systems).

8. Stockpiling and disposal of snow or ice removed from highways and streets located outside of the Aquifer Protection District that contains sodium chloride, calcium chloride, chemically treated abrasives or other chemicals used for snow and ice removal.

9. Truck or bus terminals.

10. Disposal of solid wastes with the exception of brush and stumps.

11. Storage of liquid hazardous materials, as defined in M.G.L. c.21E, unless such storage is either in a free-standing container within a building or in a free-standing covered container above ground level with protection adequate to contain a spill one and one half the size of the container's total storage capacity.

12. Storage of liquid petroleum products of any kind, except those incidental to normal household use and outdoor maintenance or the heating of a structure.

13. Industrial uses that discharge process wastewater to the ground.

14. Floor drainage systems discharging to the environment in any facility managing hazardous materials and wastes.

15. Storage of road salt or deicing chemicals.

C. The uses set forth below are permitted within the Aquifer Protection District by **SPECIAL PERMIT** only and are subject to the approval of the Granting Authority with such conditions as they may attach to their approval and subject to Section 5.2.4. The Special Permit Granting Authority shall be the Zoning Board of Appeals.

1. All commercial and industrial activities permitted in the underlying district, after site plan review that demonstrates compliance with the requirements of this section:

All such commercial and industrial uses may be constructed and operated in such a manner as to discharge no wastewater except normal sanitary waste to subsurface disposal systems.

2. Replacement, rehabilitation and modification of pre-existing non-conforming uses, in accordance with section 5`.2 of Westport's Zoning By-Laws. The Special Permit Granting Authority shall not grant such approval unless it shall find that such expansion shall not increase the risk of contamination of groundwater.

6.2.5 AQUIFER PROTECTION SITE PLAN SUBMISSION REQUIREMENTS

A. General

Eight copies of a site plan including all the information required below shall be submitted at a scale no smaller than one inch (1") equals forty feet (40'). The site plan shall have been prepared, stamped and signed by a registered professional engineer, registered land surveyor or registered architect for each pertinent design element.

B. Legal

1. Name and address of the applicant and authorization of the owner, if different from the applicant.

2. Name and address of the owner(s) of record, if different from the applicant.

3. Name and address of person and firm preparing the plan.

4. Assessor's plat and lot number.

5. Existing zoning classification of the property, including the location of any zoning district boundary. All setbacks shall be clearly shown on each parcel.

6. Real property boundary of the parcel. All distances, angles, and total parcel area to be shown. Tie lines shall be used, if necessary to provide closure.

7. North arrow, scale and date of plan preparation. Benchmark data to be referenced. Dates of field surveys and dates of revisions to the plan, including purpose of each revision, shall be shown.

8. Location, width and purpose of all existing easements, reservations, restricted development areas, and areas dedicated to public use within and adjoining the parcel.

9. Description of all existing deed restrictions or covenants applying

to the property, and their depiction on the plan if they apply to less than the entire parcel.

C. Physical Features

1. Geologic features, such as depth to bedrock, rock outcrops, depth to groundwater.

2. Existing topography at a two-foot (2') contour interval.

3. Vegetative cover, including existing wooded areas, significant isolated trees, meadows, cultivated fields, orchards, vineyards and similar features. A recent aerial photograph at a scale no smaller than the scale of the site plan may be submitted to illustrate these features, provided that the parcel boundaries are superimposed thereon.

4. USDA-NRCS (Natural Resources Conservation Service).

5. Wetlands, streams, drainage swales, waterbodies, shorelines with mean high-water reference, flood hazard areas.

6. Location, right-of-way and pavement width and location, and name of existing streets, roads, or ways bounding or intersecting the parcel.

7. Location of all existing structures including stonewalls, culverts, and drain pipes on the parcel.

8. Location of all wells, water mains, and other underground utilities and storage facilities.

9. Location of all septic tanks and leaching fields with appurtenant approval references noted.

10. Location of all uses not requiring structures, including outdoor storage, vehicular or equipment parking or repair areas.

D. Proposed Development

1. Grading and drainage plan showing proposed topography at two-foot (2') intervals. This information may be combined with the map showing existing conditions if it can be clearly depicted.

2. Location and proposed use of buildings and other structures, such as retaining walls, fences, and outdoor storage tanks.

3. Location and arrangement of site access and egress, including all paths for pedestrian and vehicular travel within the site. Cross-

sections and profiles shall be supplied as necessary.

4. Location and size of well, water lines, sewage lines including septic tanks and leaching fields.

5. Proposed alterations to any of the physical features shown in Section D, item 2 above.

6. Location of all proposed uses not requiring structures, as in Section D, item 2 above.

7. Additional information or detail as the SPGA may deem necessary to review the plan.

E. Procedures for Issuance of Special Permit

The Special Permit Granting Authority shall grant a special permit only upon findings that (I) the proposed use does not pose an actual or potential threat of material damage to groundwater quality, and (ii) that all adverse impacts to groundwater and disturbance of natural vegetation have been avoided or minimized to the maximum extent reasonably practicable, giving due regard to the economic scope of the project, and the public benefits to be secured from the project.

(1998 ATM, Article 63)

6.3 TELECOMMUNICATIONS FACILITIES OVERLAY DISTRICT

6.3.1 Establishment of District

This section establishes a Telecommunication Facilities Overlay District in addition to the zoning districts described in Section 4 and other overlay districts described herein. The District is established as a special district, which may overlay any other zoning district. The provisions of this Section shall apply in addition to the requirements of the underlying zoning district.

6.3.2 Purpose

The Telecommunications Facilities Overlay District is established for the purpose of permitting wireless communications towers and related facilities in specific areas of Westport, in order to minimize visual impacts from such towers and facilities on the Town's rural, residential and village areas.

6.3.3 Location

The Telecommunications Facilities Overlay District consists of all areas of the Town zoned as "Business," and any other areas that may be added thereto by amendment to the Zoning Map duly adopted in accordance with law.

6.3.4 Use Regulations

Land within the Telecommunications Facilities Overlay District may be used for all the purposes permitted in the underlying zoning district, as modified by any other overlay district, and for telecommunications facilities subject to the provisions of Section 5.3. All development shall be subject to the regulations of the underlying zoning district, and of

any applicable overlay district that are not specifically modified by the provisions of Section 5.3.

6.3.5 Telecommunications Facilities

General Provisions for Wireless Communications Facilities

Special Permit Requirement: Wireless communications towers and facilities (including antennas and accessory structures, if any) may be erected only in a Telecommunications Facilities Overlay District upon the issuance of a special permit with site plan approval by the Board of Appeals, subject to the condition herein.

Applicability: The provisions of this Section 6.3 (except all network interconnections from the communications lot shall be via landlines) shall apply to any wireless communication tower or facility except an antenna structure used by a federally licensed amateur radio operator, provided that the (1) tower shall be set back from property lines a distance at least equal to its height, and (2) the tower must be removed if the use is discontinued for six months.

Standards for Towers

Construction of wireless communication towers shall be subject to all the following conditions:

a. Only self-supporting towers shall be permitted. Guyed towers are specifically prohibited.

b. Tower height shall not exceed 190 feet above the existing terrain.

c. A tower shall not be erected nearer to any property line than a distance equal to the vertical height of the tower (inclusive of any appurtenant devices), measured at the mean finished grade of the tower base.

d. A tower shall be set back from any public way, except interstate highways, a distance at least equal to one and one-half times the vertical height of the tower, measured at the mean finished grade of the tower base.

e. Towers shall be designed to accommodate facilities for at least three separate carriers, and the owners shall allow co-location by such carriers, on terms and conditions prevailing in the market place.

f. Towers shall not include facilities for microwave transmission.

g. All network interconnections from the communications lot shall be via landlines.

h. One telecommunications facility accessory building, not to exceed in the aggregate 300 square feet gross floor area per carrier may be constructed, provided that the building is similar in architectural style and materials to other structures in the neighborhood.

i. Any electrical generators shall be shielded to prevent unreasonable

noise impacts on neighboring properties.

j. Tower lighting shall not be permitted. If the FAA would require lighting of proposed tower because of its height, the height should be reduced to eliminate the need for lighting.

k. Existing on-site vegetation shall be preserved to the maximum extent practicable.

6.3.6 Special Permit Procedures

Submittal Requirements: An application for a permit for a wireless communications tower or other exterior wireless communications facility shall include seven copies of a site plan prepared by a professional engineer or land surveyor registered to do business in the Commonwealth of Massachusetts, which shall show the following at minimum:

a. The applicant shall completely evaluate a minimum of two (2) alternate sites including projected coverage for each site. The applicant shall identify the rationale for the selected site and the rationale for dismissing all alternate sites;

b. Ownership, zoning, use, the general location of structures and topography within two hundred feet of the property line of the lot; and

c. All major site features; including:

i. Driveways, including widths;

ii. Parking areas;

iii. Street line, including widths;

iv. Roadways, including widths;

v. Pedestrian walks, including widths;

vi. Wetlands;

vii. Drainage, including detail design data, pipe sizing, etc.; and

viii. Stone walls.

The applicant shall also describe the capacity of the tower, including the number and types of antennas that it can accommodate and the basis for the calculation of capacity, and any accessory structures.

Required Findings: The Board of Appeals may grant a special permit for a tower only if it makes all of the following findings:

a. Existing or approved towers available for use by the applicant cannot accommodate the wireless communications equipment planned for the proposed tower.

b. The design of the tower and supporting facilities will minimize adverse visual effects on the environment to the extent feasible.

c. Traffic associated with the tower and accessory facilities and structures shall not adversely affect abutting ways.

d. The applicant has demonstrated that all alternate sites are not acceptable.

Conditions: The Board of Appeals may impose reasonable conditions on a special permit granted under this section, including fencing requirements and painting and lighting standards.

6.3.7 Modification of Approved Facility

A. Additional antennas and equipment may be added to a facility that has received a special permit under this section, unless specifically prohibited in the special permit decision. The Zoning Enforcement Officer must be notified at least 30 days prior to any such modification.

B. Any modifications to approved facilities must be consistent with the requirements of this Section 6.3.

6.3.8 Non-Use

Any wireless communications tower, facility or accessory structure, which has not been used for two years shall be dismantled and removed at the owner's expense.

(1998 ATM, Article 65; 2001 ATM, Article 50; 2022 ATM, Article 29)

6.4 ADULT ENTERTAINMENT OVERLAY DISTRICT

6.4.1 PURPOSE AND INTENT

It has been documented in numerous other towns and cities throughout the Commonwealth of Massachusetts and elsewhere in the United States that Adult Entertainment Establishments are distinguishable from other business uses and that the location of adult entertainment uses degrades the quality of life in the areas of a community where they are located. Studies have shown secondary impacts such as increased levels of crime, increased demands on police, fire departments and other municipal resources, decreased tax base, and blight resulting from the clustering and concentration of adult entertainment uses. Late night noise and traffic also increase due to the late hours of operation of many of these establishments. This by-law is enacted pursuant to Massachusetts General Law Chapter 40A, Section 9A and the Massachusetts Home Rule Amendment with the purpose and intent of regulating and limiting the location of Adult Entertainment Establishments (as defined within 1, Section 3 of these By-Laws) so as to prevent or minimize the secondary effects associated with these establishments, and to protect the health, safety, and general welfare of the present and future inhabitants of the Town of Westport.

The provisions of Section 6.4 have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative matter or materials, including sexually-oriented matter or materials. Similarly, it is not the intent or effect of this Article to restrict or deny access by adults to sexually-oriented matter or materials protected by the Constitution of the United States or of the Commonwealth of Massachusetts, nor restrict nor deny rights that distributors or exhibitors of such matters may have to sell,

distribute, or exhibit such matter or materials. Nor is it the intent or effect of this Article 16 to legalize the distribution of obscene matter or materials.

6.4.3 APPLICABILITY

Section 6.4 shall apply to all Adult Entertainment Establishments, as defined in Section 3, Definitions of these By-Laws. Any existing Adult Entertainment Establishment shall apply for an Adult Entertainment Special Permit within 90 days of the effective date of this By-Law. This By-law shall not be construed so as to be more permissive than G.L. c.40A, §§6 and 9A.

6.4.3 ESTABLISHMENT OF ADULT ENTERTAINMENT OVERLAY DISTRICT (AEOD) & RELATIONSHIP TO UNDERLYING DISTRICTS

The AEOD is established as a district that overlays the underlying district(s), such that any parcel of land lying in the AEOD shall also lie in one or more of the other zoning districts in which it was previously classified, as provided for in these Zoning By-Laws.

6.4.4 PERMITTING AUTHORITY

The Special Permit Granting Authority (SPGA) shall be the Zoning Board of Appeals.

6.4.5 SPECIAL PERMIT USES

All Adult Entertainment Establishments shall require a Special Permit from the Zoning Board of Appeals with Site Plan Approval under Section 2.8 from the Planning Board.

6.4.6 SPECIAL PERMIT SUBMITTAL REQUIREMENTS

Special Permit applications for approval by the Zoning Board of Appeals under this Section shall contain, without limit, the following information:

a. Name of the proposed business;

b. A copy of the lease for the business premises;

c. A full description of the intended nature of the business;

d. The proposed days and hours of operation;

e. Name and address of each person who has or will have a legal or beneficial interest in the business. If a corporation has such interest, the names and addresses of the officers and directors of same; if such corporation is not publicly owned, the names of the stockholders; if a partnership has such a legal or beneficial interest, the names and addresses of all general and limited partners and all persons with a beneficial interest in the partnership.

f. Name and address of each person who will have management

responsibility for the proposed business and specification of the days and times at which each such person will be present at the business premises. The application shall include the names and addresses of each person with management responsibility that shall be authorized and available to respond promptly to complaints at any time when a manager is not present at the business premises and shall specify how each such person can be contacted without delay at any such time.

g. A certification that none of the persons named in the previous two subparagraphs has ever been convicted of violating the provisions of General Laws Chapter 119, Section 63 or General Laws Chapter 272 Section 28.

h. A plan to scale showing the lot on which the proposed business will be located, including all buildings, parking spaces, driveways, abutting streets and lots and any proposed landscaping; a floor plan to scale showing the proposed layout of the business premises; exterior elevation drawings to scale showing the proposed exterior appearance of the business premises, including each proposed sign and its content and the treatment of doors and windows. Should the special permit be granted, the Planning Board will require additional plans and information as specified under Section 2.8 Site Plan Approval and its regulations for same. In the interest of efficiency, the applicant is advised to prepare plans, drawings and reports such that they are consistent with the Planning Board's requirements or may be augmented with additional information to meet those standards.

i. A traffic study prepared by a Massachusetts Registered Professional Civil Engineer reliably determining the effect on traffic likely to be caused by the proposed business and setting out all measures proposed to be taken to mitigate any adverse traffic impact. The traffic study shall reliably determine any parking needs of the proposed business and shall specify how these needs will be met without adverse impact on- or off-site.

j. Total number of employees and hours they are expected to work;

k. Proposed security precautions including, without limit, a security plan ensuring that minors in no event be exposed to sexually explicit material or performances except as authorized by law.

l. A proposed plan for ensuring that the stock in trade of the business or any performance presented shall include no obscene material, as defined in General Laws Chapter 272, Section 31.

m. If the application is for renewal of a special permit for an Adult Entertainment Establishment, it shall contain a certification that the establishment has complied with the terms and conditions of the special permit for which renewal is sought and shall specify any and all proposed changes to the extent, nature and location of the use.

6.4.7 RULES AND REGULATIONS

The Zoning Board of Appeals shall promulgate rules and regulations governing the issuance of special permits for Adult Entertainment Establishments and shall file a copy of said rules and regulations with the office of the Town Clerk, as required by General Laws Chapter 40A, Section 9A. The Board may assess reasonable fees for administration and review of such applications, including, but not limited to, consultant review fees, including legal fees incurred by the Zoning Board of Appeals in reviewing the application, as provided in G.L. c.40, §53G.

6.4.8 SPECIAL PERMIT STANDARDS FOR ADULT ENTERTAINMENT

A Special Permit shall be granted, subject to such reasonable conditions relative to time, place and manner of the operation as the Zoning Board of Appeals may deem necessary or appropriate, for an Adult Entertainment Establishment unless one or more of the following conditions is not satisfied:

a. Submission Standards:

An application containing inaccurate or incomplete information shall be cause for denying a special permit. If a special permit is issued and information in the application is later found to be false, this shall be cause for revoking, denying renewal of or modifying the special permit. An application for a renewed special permit shall be determined in the same manner as the original application except that failure to comply with the conditions of the original perm it or to follow the approved plans shall be cause for denial of a renewal and for revocation of the original permit.

b. Location and Site Standards:

No Adult Entertainment Establishment may be located outside of an AEOD.

Maximum lot coverage, including but not limited to structures, parking and driveway areas, shall be less than fifty percent (50%), including parking and driveway areas.

c. Display Standards:

No signs, graphics, pictures, publications, videotapes, movies, covers, merchandise, or other implements, items or advertising, depicting, describing or relating to sexual conduct or sexual excitement as defined in Massachusetts General Law Chapter 272, Section 31 shall be displayed in the windows of, or on the exterior of the building of, any Adult Entertainment Establishment, or be visible to the public from the pedestrian sidewalks or walkways or from other areas outside such establishments.

d. Screening Standards:

All building openings, entries and windows shall be screened in such a manner as to prevent visual access to the interior of the Adult Entertainment Establishment by the public.

e. **Minors:**

No Adult Entertainment Establishment shall be allowed to disseminate adult matters to minors, to cause Adult Entertainment Establishment displays to be viewed by minors, or to allow minors to linger on the premises.

f. **Applicant Standards:**

No Special Permit shall be issued absent compliance with the provisions of Section 6.4.6 (e), (f) and (g) and confirmation of the truthfulness of the information provided by the applicant in this regard.

g. **Parking and Access Standards:**

Parking shall comply with the requirements of Section 8.3 of these By-Laws governing off-street parking, except that off-site parking shall not be allowed, and with recommendations of traffic and engineering consultants including those made during the Site Plan Approval process. Drive-through facilities are prohibited at all Adult Entertainment Establishments.

h. **Security Standards:**

The applicant may be required to provide and pay for a police security detail at any time when, in the opinion of the Chief of Police, conditions warrant additional security.

6.4.9 **LAPSE OF SPECIAL PERMIT**

A special permit issued under this Section 16 shall lapse upon anyone of the following occurrences:

a. A change in or expansion of the location(s) of the adult use, including but not limited to access, parking, and areas for performance or sales;

b. Sale, transfer or assignment of the business or the business and/or premises;

c. Change in ownership or management.

d. Failure to commence a permitted Adult Entertainment Establishment, within the term of the special permit as established in Section 16.8(e),

except for good cause, including such time as is required to pursue or await the determination of an appeal to the court from the grant thereof.

e. Any special permit issued for an Adult Entertainment Establishment shall be for a term specified by the Board of Appeals not to exceed two (2) years.

6.5 NOQUOCHOKE OVERLAY DISTRICT (NOD)

6.5.1 PURPOSE

The purpose of the NOD By-Law is to provide a mechanism for the approval of:

- A range of housing choices, including but not limited to, moderate-density, multi-family dwellings;
- Housing suitable for households of varying ages, sizes, and income levels;
- Dwelling units that shall be eligible for inclusion on Westport's Subsidized Housing Inventory under the Local Initiative Program of M.G.L. Ch. 40B, as administered by the Department of Housing and Community Development (DHCD);
- Development in a manner that conserves natural features, such as wetland resources, open space, areas of scenic beauty, and vegetated buffers along public ways and adjacent residential properties;
- Development that groups buildings to preserve open space; facilitate efficient provision of utilities; and create a sense of neighborhood and community;
- Development in accordance with a site plan demonstrating a design that is both technically functional and in harmony with both the site and surrounding land uses.
- Development that, by means of site planning and building design, promotes social sustainability.

6.5.2 DEFINITIONS

Development: Any project applied for and/or approved pursuant to Section 6.5 of the Zoning By-Laws.

6.5.3 POWERS AND ADMINISTRATIVE PROCEDURE

This By-Law shall apply to developments in the Noquochoke Overlay District (NOD) as defined in Section 5 of the Westport Zoning By-Laws. Any such development shall require, without limit, a special permit under Section 2.6 of the Zoning By-Laws and G.L. c. 40A, §9; Site Plan Review under Section 2.8; and an Inclusionary Housing Special Permit under Section 9.2. For the purposes of this Section 6.5, the Planning Board of the

Town of Westport (the "Board") is hereby designated as the Special Permit Granting Authority (SPGA). As such, the Board may adopt any additional regulations, forms, fees, design guidelines, and design and construction standards it deems necessary to administer this By-Law, provided that it shall not regulate or restrict the use of materials or methods of construction of structures that are regulated by the State Building Code. In granting a special permit, the Board may, without limit, impose controls on the dimensions, and bulk of buildings to enhance architectural compatibility with the surrounding neighborhood, and on locations of buildings and site improvements to enhance a sense of community and to ensure public health, safety and convenience and the protection of natural and cultural resources.

6.5.3.1 PROCEDURES

The Board shall act on all special permit applications as provided by the Rules and Regulations of the Planning Board as a Special Permit Granting Authority.

6.5.3.2 CONSOLIDATION OF PERMITS AND PROCEDURES

When approval is sought under this Section for a project that requires special permit relief from the Planning Board pursuant to multiple Sections of the Zoning By-Laws such as, but not limited to, Section 9.2 Inclusionary Housing, and requiring Site Plan Approval where the Board serves as the reviewing authority, the applicant is strongly encouraged to simultaneously apply to the Board for all of the relief and submit all materials and fees initially required by those articles with the application made under this article. Whenever possible and practicable, the Board may consolidate the multiple special permits and site plan approval proceedings, with regard to conducting the public hearings and issuing decisions. If a decision is granted under this Section and other relief is addressed as well, whenever possible, the Board will issue an integrated decision for the entire project. Notices for public hearings should reference the Zoning By-Law sections under which relief is sought.

6.5.4 PERMITTED AND PROHIBITED USES

Permitted Uses

Uses allowed by right pursuant to the Table of Use Regulations in the underlying district shall also be allowed by right in this overlay district. The following uses in the Noquochoke Overlay District shall require a special permit:

a. Developments including Single-family, Two-, and/or Multi-family dwellings with up to 12 dwelling units per building, including structures and facilities accessory thereto,

b. Community uses accessory to the residential uses,

c. Projects containing a combination of uses allowed by right and the aforementioned uses.

Prohibited Uses

Those uses prohibited in the underlying district pursuant to the Table of Use Regulations (Section6) or not expressly allowed in this overlay district shall be prohibited.

6.5.5. APPLICATION FOR A SPECIAL PERMIT APPROVAL

An application for a Noquochoke Overlay District Special Permit shall adhere to the Rules and Regulations of the Planning Board as Special Permit Granting Authority.

6.5.6 RELATIONSHIP TO OTHER REGULATORY REQUIREMENTS

The submittals and permits under this Section shall be in addition to any other requirements of the applicable sections of the Rules and Regulations governing the Subdivision of Land in Westport, MA, Rules and Regulations of the Westport Planning Board for Site Plan Approval, and the Rules and Regulations of the Westport Planning Board for Inclusionary Housing Special Permits. Where such requirements conflict, the more stringent requirement shall control unless the Board determines that requirement to be unnecessary to protect the public interest and/or inconsistent with the intent of this Section.

6.5.7 DENSITY

The maximum number of dwelling units allowed shall be established by calculations based upon a Net Usable Land Area (NULA) plan for the overall property, submitted by the applicant as part of the initial submission. The NULA acreage shall be established by subtracting all water bodies and any wetland resource area subject to protection under M.G.L. Ch. 131 s. 40 (the "Wetland Protection Act") and 310 CMR 10.00 (the "Wetland Protection Regulations") from the gross acreage of the site. The remaining upland area shall be the NULA for the purposes of establishing the number of units allowed in a development. The total number of proposed units within the development shall not exceed eight (8) dwelling units per NULA acre with a maximum of fifty-four (54) total dwelling units in the district. These may be in one-bedroom, two-bedroom, or three-bedroom dwelling units. The percentages of unit types shall be dispersed equally among market-rate units and affordable units. The distribution of unit types shall conform with Westport's Housing Plan and/or Needs Assessment.

6.5.8 AREA AND DIMENSIONAL REQUIREMENTS

There shall be no minimum lot area, frontage, floor area ratio, lot width or yard requirements within the NOD, or for any lot or building within the NOD, except as provided in this section; however, all developments with the NOD shall comply with the applicable requirements of the Aquifer Protection and Flood Plain Overlay Districts. The Board may impose appropriate conditions on the layout, location and size of buildings, structures and open spaces. Nothing contained herein shall relieve the owner of a proposed Development from receiving final approval of a definitive subdivision plan in accordance with the Town's Subdivision Regulations if the Development proposes subdividing or re-subdividing the development site. In this case, the Special Permit application shall be accompanied by such other data as is required by the Rules and

Regulations Governing the Subdivision of Land.

Building Height, Bulk and Setback Requirements

Building Height and Bulk

The maximum height of any building in the NOD shall be 35 feet. Building height shall be measured as the vertical distance from the Average Natural Grade under the footprint of the building, to the highest point of the roof assembly. Architectural elements that do not add interior or exterior floor area to a building, such as chimneys, and vents, are not considered part of the height of the building. Average Natural Grade shall be derived from the average elevation of the natural grade along the exterior of the building facing the front lot line or street line and the average elevation of the natural grade along the exterior of the rear or opposite side of the building.
The livable floor area of the third level or floor of a building shall be 50 percent or less of the livable floor area of the second level or floor of that building.

Setbacks from NOD Boundary

All buildings, structures and facilities within the NOD shall maintain a minimum setback of 30 feet from the NOD boundary where that boundary coincides with the sideline of American Legion Highway.

The setback of all buildings from the NOD boundary in all other instances shall be at least 1.5 multiplied by the height of the intersection of building wall and roof on the side of the building nearest the NOD boundary.

Other major structures, and major stormwater management facilities, such as retention/detention basins, shall be set back at least 20 feet from the NOD boundary. Other utilities, roads and access driveways, swales, and minor improvements such as accessory buildings shall be set back at least 10 feet from the NOD boundary unless otherwise specified by the Board. All buildings, structures and major facilities within the NOD shall be shielded from adjacent properties by a buffer, adequate in the Board's opinion, which shall contain landscape elements.

Separation of Buildings

The minimum separation of buildings within the NOD shall be 20 feet. The Board may require greater separation of between larger buildings or may permit lesser separations if it finds that separation of less than 20 feet meets the purpose and intent of the NOD.

Front Yard Setbacks

The minimum front yard setback from the street or access drive within the NOD shall be 20 feet for a single-family or two-family dwelling, and 30 feet for a multi-family dwelling.

6.5.9 BUILDING REQUIREMENTS FOR MULTI-FAMILY DWELLINGS

In the NOD, there shall be no more than 12 dwelling units and two garage spaces per dwelling unit in any residential building. The maximum length of any residential building shall be not more than 120 feet.

6.5.10 OPEN SPACE REQUIREMENTS

The development shall meet the Open Space Requirements as delineated in Section 8.1 Open Space Residential Development (OSRD). Any special permit granted shall contain, as a condition of approval, that the required open space shall be protected by a permanent conservation restriction which shall be recorded before the conveyance of any unit occurs. Said restriction shall be held by the Conservation Commission, a non-profit conservation organization, or an organization or trust representing homeowners in the development, at the option of the Planning Board. The open space shall allow walking paths and other passive recreational uses, but shall not be use for the siting of any structure, building, septic system, well (drinking water or geothermal) or utilities or pipes.

6.5.11 ARCHITECTURAL DESIGN, COMMUNITY OPEN SPACES AND AMENITIES, AND NON-VEHICULAR CIRCULATION

A. Community and Private Open Spaces and Amenities

In addition to the contiguous open space required to be restricted to conservation and passive recreational use, the design of the site shall incorporate small private and community outdoor spaces, designed as "outdoor rooms", such as greens or other landscaped areas, and a system of pathways or sidewalks designed to provide for internal pedestrian circulation among dwellings and other facilities. The open spaces surrounding buildings and within neighborhoods shall provide for plantings and outdoor sitting areas, as well as small gathering and recreational areas for the use of the residents of the development. Outdoor areas for the use of inhabitants of each building shall be provided contiguous to each building with attention being paid to the delineation of public versus private outdoor spaces. Amenities such as porches and landscaped sitting areas may be used to fulfill this requirement. Areas or facilities designed for use by all members of the Noquochoke community or neighborhood shall be distributed in such a manner as to allow easy, non-vehicular, access for all the Noquochoke residents they are designed to serve, as well as vehicular access, where appropriate.

B. Non-Vehicular Circulation

Sidewalks shall be provided along at least one side of all streets and/or access driveways within the development unless waived by the Board in favor of equivalent, alternative pathways providing convenient access among all buildings and community amenities. A pedestrian connection shall be provided to American Legion Highway.

C **Architectural Design**

Building design shall be consistent in scale, bulk, materials, color and typology with the architecture of the South Coast of Massachusetts. Private, ground floor entries for each dwelling unit, located on the front of residential buildings are preferred. Window area equivalent to a minimum of twenty-five percent of the first-floor wall area of the primary facade of residential buildings is preferred. For larger buildings, variation in roof shape and building form, articulation of the facade, variation of street setback, and other means to enhance architectural interest are encouraged. In granting a Special Permit, the Board may impose conditions to ensure architectural compatibility with the character of the region and/or neighborhood.

6.5.12 SOCIAL SUSTAINABILITY, ACCESSIBILITY, AND VISITABILITY

Social sustainability is design that acknowledges that a person's abilities may change over his or her lifetime and allows their home and neighborhood to accommodate the changing needs. Principles of social sustainability should be applied throughout the development – to the buildings, landscapes and amenities. The design can provide full accessibility or can be easily adapted to meet changing needs. For people to fully participate in community life, in homes they may visit, as well as in public spaces, the design shall meet the following standards/guidelines.

A. **Goals**

- To create socially equitable homes and communities that includes persons with a range of abilities.
- To minimize the economic and social costs of expensive renovations or the need to move from one's home.
- To avoid the structural barriers that can prevent older adults and persons with disabilities from leading independent lives and participating fully in their communities.

B **Accessible Dwelling Units**

A minimum of 30 percent of the total dwelling units in the Development shall be Visitable in accordance with the criteria in Section 6.5.12.C.

C. **Performance Criteria for Social Sustainability and Visitability**

Dwellings in the NOD shall meet the following criteria for visitability unless explicitly waived by the Planning Board. Visitability increases the supply of accessible housing through the inclusion of three basic structural features at the time of home construction:

- A zero-step entrance;
- Doorways (both interior and exterior) with at least 32 inches of clear width, but shall not conflict with any requirement of the State Building Code;
- At least a half bath on the main floor of the home.

D. Additional Guideline

Reinforcement in the bathtub area of bathroom walls of all dwelling units to allow easy addition of grab bars is suggested.

6.5.13 OFF-STREET PARKING

Off-Street Parking shall, in general, adhere to the design and dimensional requirements of Section 8. Off-Street Parking; however, the minimum requirements for parking spaces shall be as follows:

Residential dwelling units:	2 spaces per unit
Visitor Parking:	1 space for every 3 residential dwelling units
Community Buildings:	3 spaces per 1000 square feet of gross floor area
Recreational uses:	To be determined during the review process. Where feasible the ITE Parking Generation Manual in effect during January 2009 shall be used.

6.5.14 ACCESS WAY CONSTRUCTION

Construction of access ways within the NOD shall conform to the applicable requirements of the Rules and Regulations Governing the Subdivision of Land. The Board may waive any requirements of the Rules and Regulations it deems to be unnecessary either to meet the intent of this by-law or to ensure public safety. The minimum paved width shall not be less than 20 feet and the minimum right-of-way width shall be 32 feet. A sidewalk on at least one side of each access way shall be required.

6.5.15 CONDOMINIUM ASSOCIATION

In cases of sale of individual units as condominiums, there shall be included in the deed a requirement obligating the purchasers to join in an organization of unit owners incorporated under Chapter 183A as amended, of the General Laws of the Commonwealth. If any unit is sold separately, there shall be a deed restriction that shall require mandatory membership in a homeowner's association, which shall satisfy all the same requirements. No conveyance of an individual unit shall take place until this

requirement has been satisfied. The organization shall file a written report, including the names of officers, with the Town Clerk by February 15 of each year. Such report may be the same written report rendered to all unit owners referred to in G.L. c. 183A, § 10, par. D.

The Condominium or Homeowners Association (the "Association") shall provide for the maintenance of common open space, drainage facilities, community water and sewage disposal systems, the access ways, parking areas, recreational facilities or any other commonly held property or facility. The Association shall be a permanent agreement, either through a non-profit homeowner's and/or condominium association and be recorded by a covenant or other agreement in the Bristol County Registry of Deeds before the conveyance of any unit or dwelling. Drafts of the proposed agreements shall be submitted to the Board with the development plan and shall be subject to approval by the Board and by Town Counsel, at the applicant's expense, as a condition of approval of the special permit relief.

a. The agreement shall provide for the maintenance of all common land and facilities and specify the required methods of maintenance

b. Membership in the Association shall be compulsory as a requirement of ownership of any lot or unit in the development.

c. The agreement shall require compulsory assessment upon the individual owners for the cost of maintenance and the creation of a lien on any unit that is assessed for failure to pay such assessment.

d. The agreement shall mandate that the Association shall not be dissolved without the consent of the Board; and any other specifications deemed necessary by the Board.

e. The agreement shall provide that, in the event the Association or any successor organization, fails to maintain the common open space or any commonly owned facility in reasonable order and condition in accordance with the development plan, the Town shall have the right but not the obligation enforce the provisions of the agreement and shall be provided with an easement that shall allow the Town and its agents to enter onto such portions of the land in the development as are necessary to perform the required maintenance in order to preserve the taxable values of the properties within the development and to prevent the common land or facility from becoming a hazard or nuisance. If the Town performs any maintenance or repair work, the Association and its members shall be jointly and severally liable to reimburse the Town for its costs and the cost, if unpaid, shall become a lien upon the properties in the development until said cost has been paid in full.

f. The developer shall turn over such Association to the homeowners at such time as 51 percent of the units or lots have been leased or sold. The agreement shall provide that the developer shall bear the responsibility for installation and/or maintenance of common open space, community water and sewage disposal systems, private ways, recreational facilities or any other commonly held property

or facility until (1) such time as these facilities are completed to the satisfaction of the Board and (2) at least 51 percent of the units or lots have been sold, at which time the homeowner's or condominium association shall bear the responsibility of maintaining these areas and facilities.

6.5.16 HOUSING AFFORDABILITY

Marketing Plan

Applicants under this by-law shall submit a marketing plan as outlined in **Section 9.2.8, Marketing Plan for Affordable Units**, of these By-Laws.

Required Affordable Units

Not less than 30% of the total dwelling units constructed in each development shall be designated as Affordable Units as defined in Section 3 of these By-Laws and shall be eligibility for inclusion in the SHI maintained by DHCD and the applicant shall provide written evidence of such eligibility from DHCD. For purposes of calculating the number of units of affordable housing required within a development, any fraction of a unit shall be deemed to constitute a whole unit.

Design and Construction

Affordable Units shall be finished housing units; the exterior shall be comparable in initial construction, quality and exterior design to Market Rate Units in the development.

Affordable Housing Restrictions

Each Affordable Unit shall be subject to a permanent Affordable Housing Restriction which shall be approved by the Board and Town Counsel and duly recorded, before any Affordable Unit is sold, with the appropriate registry of deeds or district registry of the Land Court and which contains the following:

a. Specification of the term of the Affordable Housing Restriction which shall be the maximum period allowed by law but not less than ninety-nine years;

b. The name and address of an administering agency with a designation of its power to monitor and enforce the affordable housing restriction;

c. Reference to a housing marketing and resident selection plan, to which the Affordable Unit is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. The housing marketing and selection plan for the Affordable Units may provide for preferences in resident selection to the extent consistent with applicable law; the plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that the preference for such Unit shall be given to a household of the appropriate size;

d. A requirement that residents shall be selected at the initial sale or initial rental and

upon all subsequent sales and rentals from a list of Eligible Households compiled in accordance with the housing marketing and selection plan;

e. A description of the Affordable Unit by address and number of bedrooms;

f. Reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership shall be set;

g. Designation of the priority of the Affordable Housing Restriction over other mortgages and restrictions;

h. A requirement that only an Eligible Household may reside in an Affordable Unit and that notice of any lease or sublease of any Affordable Unit shall be given to the administering agency;

i. Provision for effective monitoring and enforcement of the terms and provisions of the Affordable Housing Restriction by the administering agency;

j. Provision that the restriction on an Affordable Homeownership Unit shall run in favor of the administering agency and the Town of Westport, and shall limit initial sale and resale to and occupancy by an Eligible Household;

k. Provision that the restriction on an Affordable Rental Unit shall run in favor of the administering agency and The Town of Westport, and shall limit rental and occupancy to an Eligible Household;

l. Provision that the owner (s) or manager(s) of Affordable Rental Unit(s) shall file an annual report to the administering agency in a form specified by that agency certifying compliance with the affordability provisions of this By-Law and containing such other information as may be reasonably requested in order to ensure affordability.

m. A requirement that residents in Affordable Housing provide such information as the administering agency may reasonably request in order to ensure affordability.

Affordable Housing Administering Agency

An administering agency for affordable units, which may be the Westport Housing Authority, or other qualified housing entity shall be designated in the special permit. In a case where the administering agency cannot adequately carry out its administrative duties, such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the Board or, in the absence of such timely designation, by an entity designated by the DHCD. In any event, such agency shall ensure the following:

a. Prices of Affordable Homeownership Units are properly computed, rental amounts of Affordable Rental Units are properly computed;

b. Income eligibility of households is properly and reliably determined;

c. The housing marketing and resident selection plan conforms to all requirements and is properly administered;

d. Sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given;

e. Affordable Housing Restrictions meeting the requirements of this section are recorded with the proper registry of deeds;

f. All payments to the Town of Westport and their assigns are made in a timely manner pursuant to the requirements of the deed restrictions for the Market Rate Units.

Housing Marketing and Selection Plan

The housing marketing and selection plan shall make provision for payment by the Development applicant or successor in title of reasonable costs to the administering agency to develop, advertise, and maintain the list of Eligible Households, and to monitor and enforce compliance with affordability requirements. Such payment as determined by the SPGA shall not exceed one-half (1/2%) percent of the amount of rents received for each Affordable Rental Unit (payable annually by the Owner of said Affordable Rental Unit) and/or one (1%) percent of the sale or resale prices of Affordable Homeownership Units (payable upon each such sale or resale), as applicable.

Payment in Lieu of Eligible Buyer

The Board may allow a developer of non-rental housing units to make a cash payment to the Town through its Affordable Housing Trust Fund for each affordable low-or moderate-income unit, if after one-year, a buyer cannot be found for an affordable unit. The cash payment shall be equal either to (1) the difference between the fair market value for a typical market-rate housing unit in the proposed development, as determined by the Board, and the price of a housing unit affordable to a low- or moderate-income household; or (2) the difference the between the actual fair market price paid for the unit and the price of an affordable unit, whichever is greater.

6.5.17 DECISION

The Board may approve or approve with conditions an application for a NOD Special Permit, if the Board determines that the Development better promotes the objectives herein, than a conventional development would and that the Development is in compliance with applicable sections of the Rules and Regulations governing the Subdivision of Land in Westport, MA, Rules and Regulations of the Westport Planning Board for Site Plan Approval, and the Rules and Regulations of the Westport Planning Board for Inclusionary Housing Special Permits.

6.5.18 ISSUANCE OF OCCUPANCY PERMITS

The Building Inspector shall not issue an occupancy permit for a unit without prior receipt of evidence that all restrictions and covenants required as set forth hereunder have been duly recorded at the Registry of Deeds and that the low-and moderate-income units have

been approved for listing by DHCD for Westport's SHI.

6.5.19 FURTHER CONDITIONS

No lot shown on a plan for which relief is granted under this section may be further subdivided, and a restrictive covenant imposing this condition shall be recorded against the subject land before any building permit issues and a note regarding this condition shall be placed on the approved plan and it shall be recorded as a condition of the special permit taking effect. Subsequent to granting relief, the Board may permit minor adjustments of lot lines within the development that do not result in the creation of additional lots. However, any change in overall density, street layout, or open space layout shall require a modification of the special permit and full public hearing, with notice.

(2009 ATM, Article 28)

6.6 SCIENCE AND TECHNOLOGY OVERLAY DISTRICT

6.6.1 PURPOSE AND INTENT

The purpose of the Science and Technology Overlay District (STOD) special permit is to: allow better utilization of land adjacent to the Route 6 and 88 interchange, assure attractive and efficient arrangement of office and research buildings and the harmonious integration of the uses allowed in this district into the surrounding neighborhood and the community at large. The intent of the STOD By-law is to:

A. Promote professional and technically skilled employment;

B. Promote a maximum number of jobs to built-floor space ratio;

C. Promote high value buildings and equipment that maximize tax revenues;

D. Promote growth where investments have been made in infrastructure;

E. Encourage the permanent preservation of open space, forestry lands, wildlife habitat, aquifers, wetlands and water bodies;

F. Minimize the total amount of disturbance on the site by sensitive siting of buildings and parking;

G. Protect drinking water and surface water resources and quality;

H. Protect adjacent residential property values through effective and year-round screening and buffering of the commercial uses from the residential uses;

I. Minimize traffic impacts in residential areas;

J. Mitigate impacts to the transportation infrastructure;

K. Maximize energy conservation and on-site harvesting of energy; and

L. Encourage net-zero impact development within each development.

6.6.2 APPLICABILITY

The STOD is hereby established as a district that overlays the Business and Residential/Agricultural Districts shown on the supplemental zoning map entitled Town of Westport Science and Technology Overlay District (STOD), dated February 1, 2012.

6.6.3 ADMINISTRATION

The Planning Board shall be the Special Permit Granting Authority (SPGA) for a Science and Technology Overlay District special permit. The SPGA shall follow the procedural requirements for special permits as set forth in Section 9 of MGL Chapter 40A. After notice and public hearing and consideration of application materials, consultant reviews, public comments, and the recommendations of other town boards and/or departments, the SPGA may grant such a permit. The SPGA shall impose conditions reasonably appropriate to improve site design, traffic flow and safety, and protect water quality, air quality, and significant environmental resources, and/or otherwise serve the purpose of this section.

6.6.4 PROCEDURES

An applicant for a Science and Technology Overlay District special permit shall submit an application to the Planning Board. Where applicable, and to the extent permitted by law, the Planning Board shall coordinate the review procedures and public hearing required for any application for a STOD special permit with the review procedures and public hearing required for Site Plan approval (Section 2.8), Low Impact Development (Section 8.2) or if necessary, a definitive subdivision plan.

6.6.5 USES ALLOWED BY SPECIAL PERMIT

No use shall be allowed which creates a nuisance to abutters or to the surrounding area, or which creates any hazard, including but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive noise or vibration, flashes, glare, objectionable effluent or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area.

No building or premises shall be used, and no building shall be erected in the STOD, other than as is already allowed in the underlying district, except for the following additional uses, which shall be allowed by special permit:

A. Professional or Corporate Office building for business and professional services, which shall include insurance, banking and other financial business uses and businesses with similar purposes in connection with such uses;

B. Scientific, Technical, and Management Service uses, as defined hereunder;

C. Software and Communication Service uses, as defined hereunder;

D. Clinics for outpatient care, as well as outpatient medical offices and services including, but not limited to, imaging, physical therapy, laboratory and diagnostics;

E. Telemarketing and telephone-based services;

F. Electronic data processing areas;

G. Light industry, as defined hereunder;

H. Light manufacturing, as defined hereunder;

I. Assembly line operations, as defined hereunder, for any use allowed in the Table of Uses;

J. Publishing and printing uses;

K. Research and Development Laboratories and Facilities, as defined hereunder;

L. Private athletic and/or health club and day spa uses, provided that no overnight accommodations are provided;

M. Municipal buildings and uses, including, but not limited to town offices, police stations, fire stations, ambulance stations, public works buildings and storage areas and such garages and other outbuildings that are incidental thereto;

N. Advanced Materials Operations, as defined hereunder;

O. Multiple uses that are otherwise allowed individually in the underlying district or by special permit hereunder may be allowed under an STOD special permit, provided that specific findings are made that the site contains sufficient area, setbacks, stormwater controls, parking and buffers to manage the combined uses;

P. Marijuana Establishments (*pursuant to Section 9.9 of this By-Law*)

Q. Accessory Uses shall be allowed by special permit, including the following uses that are accessory to a principal use on the premises, provided that the uses are not open to the general public and are available only to on site employees and their guests and there is no external evidence of the use (unless the use is itself separately allowed as a principal use under a special permit that has issued):

1. Day care center;

2. Health club;

3. Branch bank;

4. Newsstand; and

5. Food Service for on premise employees and their guests.

R. Any other uses not listed above in Section 6.6.5 or in the Table of Uses shall be expressly prohibited.

6.6.6 LOT REQUIREMENTS FOR ISSUANCE OF A STOD SPECIAL PERMIT

Minimum Lot Size	10 acres; If a commercial subdivision is proposed, the lots may be of varying size, with a minimum of 5 acres per lot, providing that an average lot size of 10 acres is maintained for the subdivision as a whole. Lots so created that are larger than 10 acres shall not be further subdivided.
Minimum Lot Frontage	150 feet on a way in existence when this provision is adopted and, 50 feet on a subdivision way approved and constructed as part of a new subdivision way that is created in the STOD, provided that an STOD special permit is granted at the same time that definitive subdivision approval is granted.
Minimum Lot Width (at front building line)	400 feet
Minimum Front Setback	150 feet from a way in existence, as defined under G.L. c.41, §81L, when this provision is adopted and 40 feet from a new subdivision way that is created in the STOD, provided that an STOD special permit is granted at the same time that definitive subdivision approval is granted.
Minimum Side Setback	50 feet, except 150 feet if abutting a Res/Ag district.
Minimum Rear Setback	50 feet, except 150 feet if abutting a Res/Ag district.t
Maximum % Lot Coverage	60% (includes buildings, parking lots, roadways and all impervious surfaces)
Maximum Height	3 stories or 45 feet, whichever is greater. Heights may be increased by 1 story or 15 feet for every additional 200 feet of setback provided, with a maximum height of 5 stories or 75 feet, whichever is greater.
Upland Requirement	50%

6.6.7 PERFORMANCE STANDARDS

In addition to the performance standards of Site Plan Approval (Section 2.8),

development within the STOD shall conform to the following additional performance standards:

A. **<u>Master Plan Approach to Development</u>** – The use and buildings shall incorporate sustainable development techniques, using recognized principles such as Low Impact Development and Smart Growth. Each project shall follow the Four-Step Design Process, as described below. From the beginning of the submittal and review process, an applicant shall demonstrate to the Planning Board, through schematic drawings, that the four design steps were followed in determining the layout of proposed way, dwelling lots, business lots and open space.

1. Identify the Proposed Open Space. The proposed the open space shall be clearly identified on the plan, with the square footage specifically identified and with the upland and non-upland areas separate quantified. The open space shall include, to the maximum extent feasible, the most sensitive and noteworthy natural, scenic, historic, and cultural resources on the property. Such resources shall include without limitation: specimen trees, rare species, stonewalls, archaeological features, unique habitats, plant communities, distinctive vistas, wetlands and riverine areas and other resources of special natural, cultural or recreational interest.

2. Identify the Proposed Building Site Locations. Potential building sites shall be shown on the plan and include the square footage of each footprint and overall square footage and the all applicable dimensional setbacks.

3. Identify the Proposed Street/Way and Lot Layout. The proposed street/way and lot layouts shall be shown on the plan. The proposed streets/way shall be aligned to as to provide vehicular access to each building in the most reasonable and economical way, in conformance with existing natural landforms. When lots and access streets are laid out, they shall be located in a way that avoids or at least minimizes adverse impacts on open space. Wetland crossings and ways traversing existing slopes with a grade in excess of 15% shall be strongly discouraged.

4. Identify Proposed Lot Lines. The Plan shall identify the proposed lot lines and the square footage of each proposed lot and its proposed use and the setbacks, including buffers.

B. **<u>Interior Infrastructure</u>** - All streets, ways and drainage facilities shall be designed and constructed in compliance with the Westport Rules and Regulations Governing the Subdivision of Land, except such as may be waived by the Planning Board upon request of an applicant, whether or not the proposed STOD use involves a subdivision of land. The stormwater drainage infrastructure for the project shall be designed and constructed and maintained so as to control all stormwater on site and so

that it shall not result in any increase, post construction, in rate or volume of stormwater released, when compared to pre-construction conditions, based upon drainage calculations that take existing conditions on the site and the relevant area watersheds into account. All infrastructure improvements shall be private, under the ownership and control of a single property owner or a property owner's association shall be established and recorded before any conveyance of land is made.

Any and all streets and ways shall be designed and located in such a manner to maintain and preserve natural topography, significant landmarks, and trees and to minimize cut and fill and to preserve and enhance views and vistas on or off the subject parcel. Any and all proposed grade changes shall be in keeping with the general appearance of the neighboring developed areas.

C. **Utilities** - Developers in the STOD shall ensure that buildings constructed within its boundaries are served by underground utilities. Universal Utility Planning (UUP) ensures that all essential utility infrastructure is placed as part of the construction project to each building. Sewer, water, gas, electric, and telecommunications infrastructure must be viewed as a single process of infrastructure development. Design and installation of water, sewer, stormwater and gas lines and other utilities shall be consistent with Westport's Rules and Regulations Governing the Subdivision of Land, Title V, the regulations of the Board of Health and any other applicable requirements.

High speed competitively priced fiber optic connectivity to the Internet with redundant and diverse paths is an essential service within the STOD and is strongly encouraged. Companies that seek to locate in the STOD often require multiple paths to the Internet for the exchange of high volumes of data via high capacity fiber optics. Several telecommunications conduits with inner-ducts should be placed within the STOD roadway right of ways and utility easements, and each building within the STOD should have conduit with inner-duct installed to permit multiple providers access to the building to deliver metering and communications services.

Developers in the STOD should consider providing aggregation services to future STOD businesses. The Developer may seek to own and maintain the conduit and lease it to telecommunications providers or own and maintain both the conduit and fiber that is leased to telecommunications providers and utilities. Developers in the STOD should also ensure that there is out-facing fiber optic connectivity.

D. **Lighting** - Exterior area lighting, including but not limited to lighting for parking lots, recreational areas, walks, drives and outside building walls, shall be designed and installed and maintained to direct light away from abutting property and abutting ways. Exterior, standalone lighting fixtures shall have a maximum height of 30 feet above the ground. Exterior

lighting fixtures located on a building shall also not exceed a maximum height of 30 feet.

E. **Buffer Area** - There shall be a 100' Buffer Area adjacent to residence/agriculture uses within or abutting the STOD district boundary. The purpose of this Buffer Area shall be to eliminate or mitigate negative impacts on existing abutters. The Buffer Area shall consist of existing natural vegetation and /or new plantings or combinations of vegetation and earthen berms and /or sound barriers, which shall form a year-round dense screen that reach at least six feet in height within three years of issuance of the first building permit.

There shall be a minimum natural buffer of 100 feet between wetlands and areas altered for development. There shall be no parking or buildings or impervious surfaces within the 100' buffer zone.

F. **Access Roadways** – Access streets/roadways may be constructed within the minimum buffer and, furthermore, mitigation measures may be required for light and sound impacts from access roadways, particularly if residential uses exist nearby.

General access from a STOD development over the following existing residential streets, which are public ways, shall be strongly discouraged: Heritage Drive, J Drive, B Drive, O Drive, R Drive, D Drive, Summer Ave, Conserve Ave, Register Ave, Banner Ave, Milk Ave, Velvet Ave, Sunset Ave East. Access over the following existing private ways shall also be strongly discouraged: Lepire Avenue and Franklin Avenue.
Gated emergency access shall be allowed provided that a knox box is used to which emergency personnel shall have access.

G. **Landscaping** – All landscaping shall be consistent with Section 2.8 Site Plan Review. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. Individual building sites shall be designed to maintain existing topography and cover. Topography, tree cover, and natural drainage ways shall be treated as fixed determinants of road and lot configuration rather than as malleable elements that can be changed to follow a preferred development scheme.

H. **Open Land** - Adequate pedestrian access shall be provided to undisturbed land which may be used for outdoor active or passive recreational purposes for use by owners and employees of the premises and, if granted, to the public.

I. **Queue** - As determined by the Traffic Study required in Section 6.6.9, adequate infrastructure shall be designed and constructed to avoid unsafe queuing and idling of vehicles during hours of peak traffic demand.

J. **Parking** - No parking shall be placed within the minimum front yard setback. Shared parking on the sides and rear of buildings is encouraged.

K. **Off-Street Parking** - Within the STOD, off-street parking shall be provided sufficient to serve the needs of the various uses, based upon the nature of the use and the number of persons occupying and using the facilities. To that end the maximum number of off-street parking spaces shall be determined as follows:

At the choice of the applicant, either

1. One and one half (1.5) spaces for each 1,000 gross square feet of building floor area devoted to manufacturing uses and two (2) spaces for each 1,000 gross square feet of building used for research and development uses shall be provided; or

2. One space for each two persons included in the offices, staff and employees within the STOD of each organization conducting such use, plus visitor spaces of one additional space for each twenty-five (25) spaces so determined shall be provided. Staff shall be calculated based on building use and type as well as occupancy limitations.

L. **Loading Areas** - Within the STOD, any building which has one or more uses which will require delivery of materials in trucks of gross vehicle weight of 60,000 pounds or more shall have at least one loading area for each 75,000 square feet of net floor area for which such delivery is required. Buildings or portions of buildings having functions which will require delivery of materials in small size trucks, in smaller quantities or on infrequent occasions shall be served by appropriate smaller loading areas or facilities which are adapted to the particular need and consistent with pedestrian and vehicular traffic and safety.

M. **Outside Storage** – Designated temporary storage of registered vehicles is permitted. All outdoor storage of materials and equipment shall be screened from public view, from public ways and abutting residential districts.

Provision shall be made for storage, collection and removal of all trash and other solid waste. All necessary facilities for utilities and trash, including but not limited to boxes, equipment sheds and dumpsters, shall be screened appropriately.

N. **Signage** - Within the STOD signs shall be allowed as follows:

1. At each public street entrance to the STOD a sign shall be permitted to identify the STOD development as a whole. No such sign shall be located closer than twenty (20) feet from the street line.

2. At an appropriate location within the STOD, signage shall be permitted to identify each individual organization and enterprise. With the approval of the Planning Board additional directory signs may be permitted. No such sign shall exceed three hundred (300) square feet in size, nor twelve (12) feet in height, nor shall any lettering thereon exceed eight (8) inches in height. If such sign includes a locator map, at least two adjacent parking spaces shall be provided.

3. Each principal building shall be permitted to have one identifying sign designating the names and/or logos of the organizations or enterprises occupying the same. No such sign shall exceed sixty (60) square feet in size.

4. Traffic direction and control signs as required or authorized by state and municipal officials having jurisdiction with respect thereto are permitted.

5. Temporary signs to identify construction, financing, sale, leasing, pending tenancy and the like, with respect to buildings, or the occurrence of a special event, a hazard or a restriction or limitation of access or use.

6. No sign shall be moving or flashing, but a sign may be illuminated by non-flashing, non-blinking, fully-shielded and downward-facing lights.

O. **Noise** - Noise levels emanating from air conditioning equipment, fans, vents, loading areas, machinery, or normal operations and other noise causing operations on the premises (including persons) shall not exceed the thresholds described in Article XL (Noise Pollution Control) in the Town of Westport Town Bylaws and the Massachusetts Department of Environmental Protection noise regulation (310 CMR 7.10).

P. **Hours of Operations** - The Planning Board may limit the allowed hours of operation based on type of use proposed within the special permit conditions.

6.6.8 ARCHITECTURAL STANDARDS

The building design and construction drawings and documents shall be prepared by a registered architect. It is strongly encouraged that the building design and construction be LEED certified or be LEED certifiable for the purpose of energy efficiency, material durability, healthy interior and exterior building environment.

A. **Buildings** – It is strongly encouraged that the exterior walls of structures and buildings shall be constructed of brick, stone, concrete or other similar durable materials to have an attractive appearance and maintain architectural integrity.

Buildings with a footprint larger than 2,000 square feet constructed in the STOD shall meet the following requirements:

1. In order to avoid long blank outside walls, walls shall not be longer than thirty (30) feet without an articulation such as, but not limited to: a window, a footprint offset, a siding change, a pilaster. Whatever articulation is chosen, the same articulation shall not be repeated for more than 1/3 the length of the wall.

2. No outside wall longer than one hundred (100) feet shall meet the roof without a change in height, which is significant enough to visually break the long straight line.

3. All roof units, such as, but not limited to HVAC units, elevator overruns, vent pipes, or other such paraphernalia shall not be visible when standing at ground level at the same elevation as the building.

4. Covered entryways/porches shall be provided for public entrances into the building before entry doors.

6.6.9 TRAFFIC STUDY

The Board may require the applicant to do a traffic impact study, at the applicant's expense. The traffic study shall evaluate and provide projected traffic generation from the development onto state highways and local roads; traffic service for the development; capacity of the road network, including roads and intersections; and, safety issues using egress and ingress of the development. Mitigation may be required of the applicant/developer.

A. An initial traffic impact assessment report should include the projected a.m. and p.m. peak traffic, the average daily traffic and the hourly distribution of vehicles, including with respect to gross vehicle weight, and future no-build conditions on adjacent state or local roads for the proposed project. This report shall also include a review of any existing master plans relating to traffic in the vicinity of the proposed project, an assessment of the impact of that project upon the implementation of the master plan, and an analysis of that project's impact on proposed takings for roadway improvements. Finally, this report shall include a designation and review of the possible locations of curb cuts on nearby parcels, demonstrating consistency with the master plan.

B. The Planning Board may engage the services of a consultant, paid for by the applicant under G.L. c.44, §53A or §53G, to conduct an independent analysis of the factual assertions and conclusions of the traffic impact assessment report.

C. If either the initial traffic impact assessment report or the independent analysis thereof, using recent traffic counts and the latest edition of the

ITE Trip Generation Handbook, indicate that the proposed facility would increase the traffic volume of nearby roads and intersections by at least 10% over the future no-build scenario, a Level of Service ("LOS") analysis for pre and post-development conditions is required.

D. The LOS analysis shall be provided by the applicant. It shall then be reviewed by a consultant again chosen by the Planning Board, and again paid for by the applicant. If either this analysis, or the review thereof, indicates that the proposed facility will result in either:

1. A reduction in service of two or more levels (e.g. from level A to level C); or

2. A reduction in service to level D or lower (i.e. intersection failure), then e proposed facility is subject to subsection E below. If the analysis, and the review thereof, indicate that the proposed facility will result only in a reduction in service by one level, so long as the reduction is not to level D or lower (e.g. from level B to level C), then a permit may be issued.

E. The applicant of any proposed facility whose anticipated traffic impact subjects it to this subsection shall be required to submit a traffic mitigation plan to the Planning Board, who shall engage the services of a consultant, again paid for by the applicant, in reviewing it. The Planning Board shall also consult with the Highway Department and Massachusetts Department of Transportation in reviewing this plan. The mitigation plan shall be sufficient to create the following conditions:

1. Prevent a reduction in service of more than one level; and

2. Prevent a reduction in service to level D or lower.

Only if the above requirements and criteria are satisfied shall a special permit be issued.

6.6.10 CONSULTANT REVIEW

The Board may engage a professional engineer and/or other technical consultant to advise the Planning Board, and to review application plans and documents in application phase and the construction phase. The applicant shall pay for the cost of the consultant review pursuant to the procedures specified in M.G.L. c. 44, §53G or §53A. Further, the Building Inspector may engage to inspect to confirm compliance with special permit requirements. Refusal to pay the necessary fees shall be a basis to deny the special permit relief.

6.6.11 REVIEW CRITERIA

A STOD special permit may be granted by the SPGA only if it makes a written determination that the benefits of the proposed development will outweigh the detrimental impacts on the neighborhood and the town, after using the review criteria set

forth below. The SPGA shall review and make all required determinations for each special permit application and, to approve a special permit, the SPGA shall first make a positive finding on each of the following criteria:

A. The development complies with the town's currently approved plans or reports;

B. The development provides water, wastewater and stormwater infrastructure that satisfies the criteria identified in this by-law and DEP standards including low impact development methods, Title V, board of health and planning board drainage requirements for subdivisions;

C. The development provides permanent preservation of open space, forestry lands, wildlife habitat, aquifers, wetlands and water bodies as required in this by-law;

D. The design and construction of the development minimizes the total amount of disturbance on the site by sensitive siting of buildings, parking, roadway and other impervious surfaces;

E. The design and construction of the development protect drinking water and surface water quality and quantity;

F. The design and construction of the development protects the quiet enjoyment of adjacent residential properties and protects the property values of such land by completely buffering the high-quality office and research uses from adjacent residential properties;

G. The development minimizes traffic impacts in residential areas and mitigates impacts to the road network;

H. The development maximizes energy conservation to a satisfactory and allowable extent.

(2012 ATM, Article 35)

SECTION 7 INTENSITY REGULATIONS

7.1 MINIMUM RESIDENTIAL LOT AREA AND FRONTAGE

Except as is otherwise permitted under the provision of Section 6 of Chapter 40A of the General Laws, a dwelling hereafter erected or placed in any district shall be located on a lot having not less than 60,000 square feet of area and 150 feet of frontage. At least 30,000 square feet of that area must be contiguous upland. No existing lot shall be changed as to size or shape to result in the violation of such area or frontage requirements. And no more than one dwelling shall be built on any such lot. Provisions of this Section shall not apply to any existing lot, which complies with previously approved intensity regulations as to area and frontage if such lot was recorded in the Registry of Deeds at the effective date of this regulation.

(1957 ATM, Article 36; 1959 ATM, Article 25; 1963 ATM, Article 38; 1970 ATM, Article 50; 1973 STM, Article 17; 1978 ATM, Article 21; 1995 ATM, Article 43; 2000 ATM, Article 50)

(Editorial Note): See Appendix for earlier versions. Article 17 of 1973 Special Town Meeting deleted all prior sections. Article 21 in 1978 inserted "section 6 of Chapter 40A" in place of "Section 5A or Section 7A of Chapter 40A".

7.2 MAXIMUM HEIGHT

A dwelling hereafter erected or placed in the Residence/ Agriculture District, Village Commercial, or in the Business District shall not exceed either 2 1/2 stories or 40 feet in height.

(1957 ATM, Article 36; 1970 ATM, Article 50; 1973 STM, Article 17; 2026 ATM, Article 33)

(Editorial Note): See Appendix for earlier versions.

7.3 MINIMUM AREA AND FRONTAGE FOR MULTIPLE DWELLINGS USES

No dwelling for occupancy by two families shall hereafter be erected or located on a lot having an area of less than 80,000 square feet and 200 feet frontage. For each additional 20,000 square feet of area and 50 feet of frontage in the lot, the size of the dwelling may be increased to accommodate one additional family or dwelling unit. A lot to contain a dwelling for occupancy by more than one family must contain not less than 30,000 square feet of contiguous upland, plus 15,000 additional square feet of contiguous upland for each family in excess of one.

(1970 ATM, Article 50; 1973 STM, Article 17; 1995 ATM, Article 43; 2000 ATM, Article 50)

(Editorial Note): See Appendix for 1970 version.

7.4 LOT COVERAGE

No dwelling hereafter erected shall occupy, either alone or with other buildings, more than 65% of a corner lot nor more than 50% of any other lot, the measurements to be taken at ground level.

(1983 STM, Article 21)

7.5 NON-RESIDENTIAL MINIMUM LOT AREA AND FRONTAGE

Any lot hereafter created for any non-residential purpose in the Business or Residence/Agriculture district must conform to the minimum standards stated above of 150 feet of frontage and 60,000 square feet of area. At least 30,000 square feet of that area must be contiguous upland. Any lot created in the Village Commercial district must conform to the minimum standards of 75 feet of frontage and 30,000 square feet of area with at least 15,000 square feet of contiguous upland.

Existing lots or parcels of land shall not be changed as to size or shape to result in the violation of such minimums and lots containing less than such minimums shall not be

changed to further decrease the area or frontage but may be added to.

(1975 ATM, Article 39; 1995 ATM, Article 43; 2000 ATM, Article 50; 2026 ATM, Article 33)

7.6 PRE-EXISITNG NON-CONFORMING LOTS

The current provisions of Section 7 Intensity Regulations pertaining to frontage and/or area requirements shall not apply to a lot for single family residential use which at the effective date (August 24, 1982) of this By-Law amendment was not held in common ownership with any adjoining land and had less than the current requirement, but at least 20,000 square feet of area and 100 feet of frontage. This By-Law shall apply only to such land a recorded in the Registry of Deeds as of (August 24, 1982).

(1982 STM, Article 22; 2014 ATM, Article 30)

7.7 YARD OR SET-BACK REQUIREMENTS

7.7.1 Front Yards

Every building or structure shall be built or placed on a lot so that there shall be a front yard at least 25 feet clear depth from the street line or lines to be part of such building or structure closest to the street line; provided that no building or structure need be set back more than the average of the setbacks of the building next thereto within 250 feet on both sides of the lot in question.

7.7.1.1 Front Yard Width

7.7.1.1.1 Purpose

The purpose of this By-Law is convenient access to buildings; and to discourage irregularly configured front yards and lots, which create difficulties in assigning addresses, in public safety response, and in maintenance.

7.7.1.1.2 Minimum Width

The minimum front yard width, as measured between the side lot lines, shall be fifty (50) feet. The minimum front yard width shall be maintained from the street line (street layout line/sideline) to the street setback line (front building line). Lot Width shall be determined by measuring the diameter of the largest circle that can be located along a continuous, but not necessarily straight line from the lot frontage to the principal structure on the lot

without the circumference intersecting the side lot lines.

7.7.1.1.3 **Corner Lots**

For corner lots, the minimum width requirement shall apply to yards on all streets bounding the lot and shall be maintained from the street line (street layout line/sideline) to the street setback line (side or rear building line) of the nearest corresponding side of the building.

7.7.1.1.4 **Waiver**

In order to accommodate constraints posed by existing irregular lots and streets, such as lots fronting on existing streets with small sideline radii (tight curves) and existing lots with environmental, agricultural and topographic constraints, or historical significance, this requirement may be waived or modified by the grant of a special permit by the Planning Board, upon findings by that Board that waiving this requirement will not detract from the public health, safety, welfare and convenience and that such waiver is not inconsistent with the intentions of this By-Law. In such cases, the lot shall comply to the greatest extent practicable with this provision.

7.7.1.1.5 **Applicability**

The minimum front yard width requirements of Section **7.8.1.1.2** requirement shall apply to all subdivision or re-subdivision of land into new lots, by whatever process, with the exception of creation of lots measuring 7 acres or more. The re-configuration of lawfully pre-existing non-conforming lots shall not increase the degree of non-conformity of the front yard width.

(2006 ATM, Article 5)

7.7.2 **Side Yards**

At each side of every building or structure, there shall be a side yard not less than ten feet in clear width between side of the building or structure and the side lot lines. However, in the case of corner lots, there shall be a setback requirement of 25 feet from the street line to the side of any building or structure; provided that no building or structure need be set back more than the average of the setbacks of the buildings next thereto within 250 feet of said lot in question.

7.7.3 **Rear Yards**

Behind every building or structure there shall be a back yard between the rear line of a building or structure and the rear lot line not less than six feet in depth and/or 25 feet from a rear street line.

(1982 STM, Article 19)
(Editorial Note): The 1982 article rescinded existing By-Laws and/or regulations concerning setbacks and inserted the above setback requirements into the Zoning By-Law. Article 5 of the 2006 ATM added 7.6.1.1 "Front Yard Width" and sections 7.6.1.1.1. through 7.6.1.1.5.

7.7.4 Whenever a property line, road layout or street line cannot be determined with certainty, and there is a clearly defined traveled portion of the street or way consisting of pavement, gravel or other road surface material, a building or structure shall be set back a minimum of fifty (50) feet from the edge of the traveled portion of such way, in lieu of twenty-five (25) feet from the line of the layout.

(1987 ATM, Article 74)

7.8 SEPARATE LOT PROTECTION

Any lot shown on a recorded plan which was endorsed by the Planning Board under General Laws, Chapter 41, Section 81P because the plan depicted a division of land on which two or more substantial buildings were standing on October 27, 1971, when the Subdivision control law went into effect in the Town, into separate lots, on each of which one of such buildings remained standing on the date the plan was endorsed, shall hereafter be treated for all purposes hereunder as a lawful, pre-existing non-conforming lot. No such lot shall hereafter be changed to create a new violation of any provision of these By-Laws or increase or change an existing non-conformity with these By-Laws.

(1998 ATM, Article 74)

SECTION 8 GENERAL REGULATIONS

8.1 OPEN SPACE RESIDENTIAL DEVELOPMENT (OSRD)

8.1.1 PURPOSE AND INTENT

The purpose of Section18 of the Westport Zoning By-Law is to allow Open Space Residential Development (OSRD) upon review and approval of the Planning Board ("the

Board") pursuant to Sections 81K to 81GG of Mass. General Law Ch. 41 The Subdivision Control Law), and in accordance with the Board's Rules and Regulations Governing the Subdivision of Land, as a flexible alternative to conventional subdivision.

The intent of Westport's OSRD By-Law is to:

a. Encourage the permanent preservation and efficient stewardship of open space, agricultural land, forestry land, wildlife habitat, and other natural resources, including aquifers, water bodies, riverine areas and wetlands, historical and archeological resources, passive recreational areas, and scenic areas;

b. Protect drinking water supplies;

c. Facilitate the siting and construction of innovative and shared septic systems that will provide more effective treatment and cleaner effluent;

d. Minimize the total amount of disturbance on the site;

e. Encourage a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional or grid subdivision;

f. Perpetuate the appearance of Westport's traditional New England landscape;

g. Allow for greater flexibility and creativity in the design of residential developments;

h. Promote more sensitive siting of buildings and better overall site planning;

i. Protect the value of real property;

j. Allow landowners a reasonable return on their investment; and

k. Facilitate the construction and maintenance of streets and utilities, and the provision of public services in a more economical and efficient manner.

l. Generally, encourage more sustainable development using recognized principles such as low Impact Development and Smart Growth.

8.1.2 APPLICABILITY AND ELIGIBILITY

In order to be eligible for consideration as an OSRD, the tract to be subdivided must meet all the following criteria.

Minimum Size of Tract:

The tract to be subdivided (which may consist of more than one contiguous parcel) shall contain a minimum of five (5) total acres.

Location:

The Zoning Districts in which OSRD's may be permitted by the Board are noted in the Table of Use Regulations of these Zoning By-Laws.

The entire tract shall be located within the Town of Westport.

The Board may, in its sole discretion, permit lots on directly opposite sides of a street to qualify as a single tract of land for OSRD purposes only. In order to allow such qualification of a tract of land divided by a street, the Board must find that this action is consistent with and enhances the purpose and intent of the OSRD By-Law and would not result in any more dwelling units than would be allowable under the Westport Zoning By-Law and the Board's Rules and Regulations Governing the Subdivision of Land if the lots on either side of the street were developed separately.

Land Division:

The tract may be a subdivision or a division of land pursuant to Mass. General Law c.41, section 81-P.

Dwelling Type:

The proposed dwelling types shall be single-family or two-family dwellings, or a mix thereof.

8.1.3 ADMINISTRATIVE PROCEDURE

All applications for OSRD Approval shall be submitted to the Board and shall be reviewed by the Board following normal procedures as established by Chapter 41, Sections 81K-81GG "The Subdivision Control Law" and the Board's Rules and Regulations Governing the Subdivision of Land, as each may be amended from time to time. The Board may approve, with conditions, or deny an application for an OSRD after assessing whether the OSRD better promotes the intent of this By-Law than a conventional subdivision.

8.1.4 PRE-APPLICATION

The applicant is encouraged to request a pre-application review at a regular meeting of the Board. The Board may invite representatives from other boards and commissions, such as the Conservation Commission and Board of Health to attend. The purpose of a pre-application review is to minimize the applicant's costs of engineering and other technical expenses by commencing discussion with the Board at the earliest possible stage in the development. At the pre-application review, the applicant may outline the proposed OSRD and seek preliminary, but not binding, feedback from the Board and other Town bodies and staff. This process will streamline administration of the application, enhance communication and coordination among Town departments, and save the Town time and money.

8.1.5 DESIGN PROCESS

Schematic Drawings from the Four-Step Design Process.

Each development plan shall follow a Four-Step Design Process, as described below. From the beginning of the submittal and review process, applicants shall demonstrate to the Planning Board, through schematic drawings, that these four design steps were followed by their site designers in determining the layout of their proposed streets, house lots, and open space.

a. **Designating the Open Space**. First, the open space is identified. The open space shall include, to the extent feasible, the most sensitive and noteworthy natural, scenic, and cultural resources on the property. Such items may include without limit: specimen trees, stonewalls, archaeological features, unique habitats, plant communities, distinctive vistas, wetlands and riverine areas, or other areas of special natural, cultural or recreational interest.

b. **Location of House Sites.** Second, potential house sites are tentatively located. House sites should be located not closer than 100 feet to wetlands areas, but may be situated within 50 feet of open space areas, in order to enjoy views of the latter without negatively impacting the former.

c. **Street and Lot Layout**. Third, align the proposed streets to provide vehicular access to each house in the most reasonable and economical way, in conformance with existing natural landforms. When lots and access streets are laid out, they shall be located in a way that avoids or at least minimizes adverse impacts on open space. To the greatest extent practicable, wetland crossings and streets traversing existing slopes over 15% shall be strongly discouraged.

d. **Lot Lines**. Fourth, draw in the lot lines. These are generally drawn midway between house locations, in a manner that meets the lot requirements below.

8.1.6 GENERAL APPLICATION REQUIREMENTS

a. **Application Form**

Applications for OSRD's shall be submitted on a form provided by the Board.

b. **Concept Plan**

In addition to the requirements set forth in the Board's Rules and Regulations Governing the Subdivision of Land, an application shall include a Concept Plan and a Yield Plan. The Concept Plan shall address the general features of the land; give approximate configurations of the lots, open space and roadways; and include the information required for a preliminary plan in the Board's Rules and Regulations Governing the

Subdivision of Land. The concept plan shall incorporate the Four-Step Design Process above, and the Design Standards below, to propose a conceptual design for the development. Production of the Concept Plan by a Registered Landscape Architect is strongly encouraged.

c. Yield Plan

The basic number of units shall be determined by the number of lots shown on a preliminary subdivision plan conforming to the requirements of the Rules and Regulations Governing the Subdivision of Land. Such preliminary plan shall include a perimeter survey prepared by a Registered Professional Land Surveyor, location of wetlands delineated by a wetland scientist, and topography based, at a minimum, on the most recent USGS topography map. The applicant shall demonstrate to the satisfaction of the Board and its consulting engineer that the preliminary plan is buildable without reliance on waivers of the subdivision regulations, without multiple wetlands crossings, and without extraordinary engineering techniques.

d. Other Information

The submittals required by this By-Law are in addition to any other requirements of the Rules and Regulations Governing the Subdivision of Land or by other sections of the Westport Zoning By-Laws.

8.1.7 SITE VISIT

The Board and/or its agents may conduct site visits either at the pre-application stage or during the public hearing. The applicant and/or his agents are encouraged to attend.

8.1.8 REDUCTION OF DIMENSIONAL REQUIREMENTS

The Board may authorize modification of lot size, shape, width, and other dimensional requirements for lots within an OSRD, subject to the following limitations:

	Zoning District	
Dimensional Requirements	**Residence/ Agricultural, Business**	**Residence/ Agricultural, Business**
	Single-Family	Two-Family
Minimum Lot Area (sq.ft.)	20,000	30,000
Minimum Lot Area of Upland (sq.ft.)	20,000	30,000
Minimum Lot Frontage (ft.)	80	120
Minimum Front Yard Width (ft.)	50	50
Minimum Front Setback (ft.)*	25	25

Minimum Side Setback (ft.)	10	10
Minimum Rear Setback (ft.)	25	25
Maximum Lot Coverage		

The Board may, in its sole discretion, allow one (1) additional building lot where the applicant proposes to use decentralized Innovative/Alternative (I/A) Treatment system(s), or decentralized "localized" treatment system(s) (typically for flows over 10,000 gallons per day),that significantly reduce bacterial and nutrient discharge to the environment (as compared with conventional onsite septic systems), and that are acceptable to the Westport Board of Health and to Massachusetts Department of Environmental Protection.

There shall be a minimum building location area on each lot where a circle having a diameter equal to the required lot frontage in feet can be placed. Such circle shall contain an area of land that, in the opinion of the Board, provides a suitable dwelling site.

Lots having reduced area or frontage in accordance with the above table shall not have frontage on a street other than a street created through the OSRD application; provided, however, that the Board may waive this requirement where it is determined that such reduced lot(s) are consistent with existing development patterns in the neighborhood.

8.1.9 OPEN SPACE REQUIREMENTS

a. Area Requirements

A minimum of fifty percent (50%) of the parcel shown on the development plan shall be open space and shall exclude required yards. No more than 30% of such open space shall be wetland resource areas, as defined pursuant to Mass. General Law Ch. 131, section 40.

The open space shall be contiguous. Contiguous shall be defined as being connected. Such open space may, however, be separated by the roadways or accessory amenities constructed within the OSRD. The Planning Board may waive this requirement for all or part of the required open space if it determines that allowing non-contiguous open space will promote the goals of this By-Law.

b. Uses and Restrictions

The required open space shall be used for conservation, historic preservation, environmental education, passive recreation, aquifer recharge, park purposes, agriculture, horticulture, forestry, or for a combination of these uses, and shall be served by suitable access if necessary for such purposes. No commercial use shall be made of the required open space. The open space shall be arranged to achieve the preservation or other objective for which it is intended. Based on the resources identified in step one of the four-step design process, the Board may restrict the use of open space to one or more of the above uses, in order to meet the intent of this By-Law. Where open space is used for

shared wastewater treatment facilities, the use of said open space is subject to Title V restrictions. The Board may permit up to 10% of the open space to be paved or built upon for structures accessory to the dedicated use or uses of such open space (e.g. pedestrian walks and bike paths).

Any proposed open space shall be subject to a recorded restriction enforceable by the Town or a non-profit organization the principal purpose of which is the conservation of open space, providing that such land shall perpetually be kept in an open state, that it shall be preserved exclusively for the purposes set forth herein, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes. Where common open space and/or other shared facilities, including without limit septic systems and trails are to be owned by the homeowners in an OSRD, they shall be subject to a Homeowner's Agreement and deed restrictions as deemed necessary by, and recommended and/or approved by Town Counsel and to ensure their maintenance.

The Board may allow stormwater management systems serving the OSRD to be located within the open space, where care is taken to avoid placing them near sensitive natural or cultural resources. Surface systems, such as retention and detention ponds shall not qualify towards the minimum open space required.

Wastewater shall be managed in accordance with Title V, Town By-Laws, and the regulations of the Westport Board of Health. Where town sewer is available nearby, the OSRD shall be connected at the applicant's expense to that system. Where town sewer is not available, septic systems may be installed on individually owned lots. Where this arrangement cannot be met, alternatives such as shared septic designs may be proposed in consultation with the Board of Health. In the case of shared systems, the wastewater system may be located in the open space, when the Planning Board finds such arrangement will enhance the purpose and intent of the OSRD.

For on-site and shared systems, decentralized Innovative/Alternative (I/A) Treatment system(s), or decentralized "localized" treatment system(s) (typically for flows over 10,000 gallons per day), that significantly reduce bacterial and nutrient discharge to the environment (as compared with conventional onsite septic systems), and that are acceptable to the Westport Board of Health and to Massachusetts Department of Environmental Protection are preferred.

c. **<u>Ownership of Open Space</u>**

The open space shall, at the Board's election, be conveyed to:

- The Town or its Conservation Commission;
- A non-profit organization, the principal purpose of which is the

conservation of open space and any of the purposes for such open space set forth above;

- A corporation or trust owned jointly or in common by the owners of lots within the OSRD. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of the open space and facilities shall be permanently guaranteed by such corporation or trust that shall provide for mandatory assessments for maintenance expenses to each lot. Each such trust or corporation shall be deemed to have assented to allow the Town to perform maintenance of the open space and facilities, if the trust or corporation fails to provide adequate maintenance and shall grant the town an easement for this purpose. In such event, the town shall first provide fourteen (14) days written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the town may perform it. The owner of each lot shall be deemed to have assented to the town filing a lien against each lot in the development for the full cost of such maintenance, which liens shall be released upon payment to the town of same. Each individual deed, and the deed or trust or articles of incorporation, shall include the aforementioned provisions. Documents creating such trust or corporation shall be submitted to the Planning Board for approval and shall thereafter be recorded in the Registry of Deeds.

8.1.10 DESIGN STANDARDS

The following design standards shall apply to all OSRD's and shall govern the design and development process.

a. The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas. Individual building sites shall be designed to maintain existing topography and cover. Topography, tree cover, and natural drainage ways shall be treated as fixed determinants of road and lot configuration rather than as malleable elements that can be changed to follow a preferred development scheme.

b. Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject parcel.

c. The removal or disruption of significant historic, archaeological, or traditional uses, structures, or architectural elements shall be avoided or minimized insofar as practicable, whether these exist on the site or on adjacent properties.

d. A buffer area of 50 feet shall normally be provided at the perimeter of the property where it abuts residentially zoned and occupied properties. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance of structures and landscapes approved as part of the project. Where the Planning Board determines that a smaller buffer (or no buffer) will suffice to accomplish the objectives set forth herein, the 50-foot buffer is not required. Where the development abuts or includes a body of water or wetlands, these areas and the 100-foot buffer to such areas shall be incorporated into the open space.

e. Drainage. The Planning Board shall encourage the use of "soft" (non-structural) stormwater management techniques (such as vegetated swales) and other low-impact drainage techniques that reduce impervious surface and enable infiltration where appropriate and are consistent with the drainage standards of the Board's Rules and Regulations Governing the Subdivision of Land and other Town by-laws.

f. Streets and Utilities. All streets and ways, whether public or private, and utilities shall be designed and constructed in compliance with the Board's Rules and Regulations Governing the Subdivision of Land. Variations shall be permitted by the Board on a finding that the objectives of this section are better served with such variations.

8.1.11 REVIEW & DECISION OF THE PLANNING BOARD

The Board shall review and process an OSRD application consistent with the procedures of Mass. General Law c. 41, Sections K - GG, and the Board's Rules and Regulations Governing the Subdivision of Land. The Board may approve, approve with conditions, or deny an application for an OSRD, after assessing whether the OSRD better promotes the objectives of this section than a conventional subdivision development.

8.1.12 RELATION TO OTHER REQUIREMENTS

The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning By-Law. The Planning Board shall coordinate the review procedures and public hearing required for any application for an OSRD with the review procedures and public hearing required for approval of a conventional subdivision plan.

(2007 ATM, Article 20)

8.2 LOW IMPACT DEVELOPMENT (LID)

8.2.1 PURPOSE

The purpose of this bylaw is to establish minimum requirements and controls to protect and safeguard the environment, natural resources, general health, safety, and welfare of

the public residing in watersheds within the Town's jurisdiction from the adverse impacts of soil erosion, sedimentation, and stormwater runoff. This section seeks to meet that purpose through the following objectives:

a. To eliminate or reduce the adverse effects of soil erosion and sedimentation;

b. To minimize stormwater runoff from any development;

c. To minimize nonpoint source pollution caused by stormwater runoff from development;

d. To provide for groundwater recharge where appropriate; and

e. To ensure controls are in place to respond to objectives in Subsections 8.2.1.a and 8.2.1.b and that these controls are properly operated and maintained.

8.2.2 APPLICABILITY

This bylaw shall apply to all activities that result in a land disturbance activity of 40,000 sq. ft. of land, or that will disturb less than 40,000 sq. ft. of land but is part of a larger common plan of development or sale that will ultimately disturb equal to or greater than 40,000 sq. ft. of land. No person shall perform any activity that results in a land disturbance activity of 40,000 sq. ft. or more of land without site plan approval by the Planning Board, by majority vote, following review at a duly posted meeting, but without a formal public hearing, of soil erosion and sediment control plan and a stormwater management plan. Normal maintenance and/or improvement of land in agricultural or aquaculture use, as defined by the Wetland Protection Act Regulation 310 CMR 10.4, shall be exempt from this by-law. In addition, as authorized in the Phase II Small MS4 General Permit for Massachusetts, stormwater discharges resulting from the above activities that are subject to jurisdiction under the Wetland Protection Act and demonstrate compliance with the Massachusetts Stormwater Management Policy as reflected in an Order of Conditions or Request for Determination of Applicability (RDA) issued by the Town of Westport Conservation Commission shall be deemed to be in compliance with this bylaw.

8.2.3 AUTHORITY

This stormwater site plan review bylaw is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution, G.L. c.40 and G.L. c.40A, and the Federal Clean Water Act and applicable regulations, including 40 CFR 122.34.

8.2.4 RESPONSIBILITY

The Planning Board shall administer, implement and enforce this bylaw as part of the Site Plan Review (Section 2.8) process. The Planning Board may distribute plans to other boards, commissions, departments, and outside technical and legal consultants and agencies for their review and recommendations.

8.2.5 DESIGN STANDARDS

The applicant shall submit a plan to the Planning Board that illustrates how the following LID site design standards were utilized to the maximum extent feasible and explains any site and financial constraints which limited application of items a through j below and how items k and l were considered for implementation:

a. Preservation of the site's natural features and environmentally sensitive areas such as wetlands, existing vegetation, slopes, drainage ways, permeable soils, flood plains, woodlands and soils to the greatest extent possible;

b. Minimization of grading and clearing;

c. Clustering of buildings and a reduction in size of building footprints;

d. Use of stormwater management components that provide filtration, treatment and infiltration such as vegetated areas that slow down runoff; maximizing infiltration and reducing contact with paved surfaces;

e. Creation of sub watersheds to treat and micromanage runoff in smaller, decentralized, innovative stormwater management techniques to treat and recharge stormwater close to the source;

f. Lengthen flow paths and maximize sheet flow;

g. Emphasis on simple, nonstructural, innovative, low-cost methods including open drainage systems, recharging of roof runoff, parking areas and/or roadways, to recharge on site as close to the source as possible.

h. A maintenance program including information on regular street and parking lot sweeping shall be provided to the Planning Board for approval;

i. Reduction of impervious surfaces wherever possible through alternative street design, such as omission of curbs and use of narrower streets, the use of porous pavement or permeable pavers, shared driveways and through the use of shared parking areas;

j. Reduction of the heat island effect;

k. Use of vegetation in buffer strips and in rain filter runoff);

l. Techniques integrated into every part of site design to create a hydrologically functional lot or development site, including but not limited to the following:

1. Grass swales along roads;

2. Rain gardens;

3. Buffer areas;

4. Use of roof gardens where practicable;

5. Use of amended soils that will store, filter and infiltrate runoff;

6. Bioretention areas;

7. Use of rain barrels and other cisterns to provide additional stormwater storage;

8. Use of permeable pavement and/or pavers in driveways, overflow parking, outside sales areas, etc.

9. Use of native plants and grasses

8.2.6 LID PLAN CONTENTS

The LID Management Plan shall contain sufficient information for the Planning Board to evaluate the environmental impact, effectiveness, and acceptability of the site planning process and the measures proposed by the applicant for reducing adverse impacts from stormwater runoff. This plan shall be in accordance with the criteria established in these Bylaws and must be submitted with the stamp and signature of a Professional Engineer (PE) licensed in the Commonwealth of Massachusetts. The LID Management Plan shall fully describe the project in drawings, narrative, and calculations. It shall include:

a. Contact Information. The name, address, and telephone number of all persons having a legal interest in the property and the tax reference number and parcel number of the property or properties affected;

b. A locus map;

c. Existing site plan (for comparison to 8.2.6.o below);

d. The existing zoning, and land use at the site;

e. The proposed land use;

f. The location(s) of existing and proposed easements;

g. The location of existing and proposed utilities;

h. The site's existing & proposed topography with contours at 2-foot intervals,

i. The existing site hydrology (both groundwater recharge and surface runoff);

j. A description and delineation of existing stormwater conveyances,

impoundments, wetlands, drinking water resource areas, shellfishing areas, swimming beaches or other critical environmental resource areas, on or adjacent to the site or into which stormwater flows;

k. A delineation of 100-year flood plains, if applicable;

l. Estimated seasonal high groundwater elevation in areas to be used for stormwater retention, detention, or infiltration;

m. The existing and proposed vegetation and ground surfaces with runoff coefficients for each;

n. A drainage area map showing pre and post construction watershed boundaries, drainage area and stormwater flow paths, including municipal drainage system flows;

o. A recharge area analysis that calculates pre-and post-project annual groundwater recharge rates on the parcel;

p. A description and drawings of all components of the proposed LID Management system including:

1. Locations, cross sections, and profiles of all brooks, streams, drainage swales and their method of stabilization;

2. All measures for the detention, retention or infiltration of water;

3. Description of non-structural BMPs;

4. All measures for the protection of water quality;

5. The structural details for all components of the proposed drainage systems and LID Management facilities;

6. Notes on drawings specifying materials to be used, construction specifications, and expected hydrology with supporting calculations;

7. Proposed site plan including location of buildings or other structures, impervious surfaces, and drainage facilities, if applicable;

8. Any other information requested by the Planning Board.

q. Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in this Bylaw. Such calculations shall include:

1. Description of the design storm frequency, intensity and duration;

2. Time of concentration;

3. Soil Runoff Curve Number (RCN) based on land use and soil hydrologic group;

4. Peak runoff rates and total runoff volumes for each watershed area;

5. Information on construction measures used to maintain the infiltration capacity of the soil where any kind of infiltration is proposed;

6. Infiltration rates, where applicable;

7. Culvert capacities;

8. Flow velocities;

9. Data on the increase in rate and volume of runoff for the specified design storms; and

10. Documentation of sources for all computation methods and field test results.

r. Post-Development downstream analysis if deemed necessary by the Planning Board;

s. Soils Information from test pits performed at the location of proposed LID Management facilities, including but not limited to soil descriptions, depth to seasonal high groundwater, depth to bedrock, and percolation rates. Soils information will be based on site test pits logged by a Massachusetts Registered Soil Evaluator, or a Massachusetts Registered Professional Engineer;

t. Landscaping plan describing the woody and herbaceous vegetative stabilization and management techniques to be used within and adjacent to the stormwater practice.

8.2.7 OWNERS ASSOCIATION

As a condition of approval of a LID Management Plan the Applicant shall create and properly fund an Owners Association and all purchasers of land within the project shall be required to belong to the Owners Association. The Owners Association shall be responsible for the perpetual operations and maintenance of the components of the approved LID management Plan. The Owners Association shall maintain permanent ownership of any drainage basins or ponds in the subdivision, including all pipes and other appurtenant devices, and shall have the permanent responsibility of maintaining, repairing and replacing said drainage systems, as necessary. The Owners Association documents shall be reviewed and approved by the Planning Board, in consultation with Town Counsel, and the Owners Association shall have an initial fund that is deemed satisfactory to the Planning Board, in consultation with the Planning Board's technical

consultant. The Owners Association shall send correspondence to all members of the Association twice a year, once during March and once during September, to advise each member of the Association's duties and responsibilities to: (1) operate and maintain the components of the approved LID management Plan; and (2) maintain, repair and replace the drainage systems. At the same time, the Owners Association shall provide a written reminder to each individual member to maintain any portion of the systems on each member's property, including the mowing and clearing of drainage swales and berms.

8.2.8 CONNECTIONS TO MUNICIPAL SYSTEMS

There shall be no connections to the Town of Westport Municipal Storm Drain Systems (MS4) unless the stormwater has been pretreated to comply with DEP stormwater standards

8.2.9 PROMULGATION OF RULES AND REGULATIONS

The Planning Board may promulgate rules and regulations to effectuate the purpose of this bylaw. Failure by the Planning Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this bylaw.

8.2.10 INSPECTIONS, SUBMISSION OF FINAL PLANS, MAINTENANCE

a. The Planning Board, or designated agent, shall make inspections as hereinafter required and either shall approve that portion of the work completed in accordance with the approved plans or shall notify the owner or person responsible for the implementation of the plans wherein the work fails to comply with the approved soil erosion and sediment control plan, or the approved stormwater management plan as described in Planning Board's Rules and Regulations. Plans for grading, removal, stripping, excavating, and filling work approved by the Planning Board and shall be stored on site during the progress of the work. To obtain inspections, the permittee shall notify the Planning Board agent at least two working days before each of the following:

1. Installation of sediment and erosion control measures.

2. Start of construction.

3. Completion of site clearing.

4. Completion of rough grading.

5. Installation of stormwater controls.

6. Close of the construction season.

7. Completion of final landscaping.

b. The person responsible for the implementation of the approved plans shall

make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved soil erosion and sediment control plan(s). The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures. All inspections shall be documented in written form and submitted to the Planning Board Agent at the time interval specified in the approved permit.

c. The Planning Board, or designated agent, shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed as noted above.

d. The applicant shall submit an "as-built" plan for the stormwater controls after the final construction is completed. The plan must show the final design and specifications of all stormwater management systems and must be prepared by a professional land surveyor.

e. An Operation and Maintenance plan (O&M Plan) is required at the time of application for all projects. The maintenance plan shall be designed to ensure compliance with the Permit and this Bylaw during all seasons and throughout the life of the system. The Operation and Maintenance Plan shall remain on file with the Planning Board and shall be an ongoing and enforceable requirement. The O&M Plan shall include:

1. The name(s) of the owner(s) for all components of the system;

2. A map showing the location of the systems and facilities including catch basins, manholes/access lids, main, and stormwater devices;

3. Maintenance agreements that specify:

a. The names and addresses of the person(s) responsible for operation and maintenance;

b. The person(s) responsible for financing maintenance and emergency repairs;

c. An Inspection and Maintenance Schedule for all LID Management facilities including routine and non-routine maintenance tasks to be performed;

d. A list of easements with the purpose and location of each;

e. The signature(s) of the owner(s).

4. LID Management Easement(s)

a. LID Management easements shall be provided by the property owner(s) as necessary for:

1. Access for facility inspections and maintenance;

2. Preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the 100-year storm event;

3. Direct maintenance access by heavy equipment to structures requiring regular maintenance.

b. The purpose of each easement shall be specified in the maintenance agreement signed by the property owner.

c. Stormwater Management easements are required for all areas used for off-site stormwater control, unless a waiver is granted by the Planning Board.

d. Easements shall be recorded with the County Registry of Deeds prior to issuance of a Certificate of Completion by the Planning Board.

5. Changes to Operation and Maintenance Plans

a. The owner(s) of the LID Management system shall notify the Planning Board of changes in ownership or assignment of financial responsibility.

b. The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of this Bylaw by mutual agreement of the Planning Board and the Responsible Parties. Amendments shall be in writing and signed by all Responsible Parties. Responsible Parties shall include owner(s), persons with financial responsibility, and persons with operational responsibility.

8.2.11 PROJECT CHANGE

The permittee, or his or her agent, shall notify the Planning Board in writing of any change or alteration of a land-disturbing activity authorized in either the soil erosion and sediment control plan or the stormwater management plan before any change or alteration occurs. If the Planning Board determines that the change or alteration is significant, based on the design requirements listed in this bylaw and accepted construction practices, the Planning Board may require that an amended soil erosion and sediment control plan and/or stormwater management plan application be filed. If any change or deviation from these plans occurs during a project, the Planning Board may require the installation of interim measures before approving the change.

8.2.12 FEES

The appropriate application fee as established by the Planning Board shall accompany each application. Applicants shall pay review fees, as determined by the Planning Board,

sufficient to cover any expenses connected with any public hearing, review of the soil erosion and sediment control plan, and site inspection.

8.2.13 APPEAL

The appeal of any decision of the Planning Board hereunder shall be made in accordance with the provisions of Mass. General Law Ch. 40A or other such provision of the General Laws.

(2011 ATM, Article 36)

8.3 PARKING REGULATIONS

8.3.1 OFF-STREET PARKING

Parking facilities off the street right-of-way on any lot which is hereafter developed for new construction shall be provided on the same lot as the building for each use within the district or within a radius of 500 feet of any part of the building which it is intended to serve. Off-street parking shall be designed to prevent the necessity of any vehicles backing into a public way. No parking shall be less than 5 feet from a road or property line. Each parking space shall have a usable area of at least 180 square feet and be served by a two-way access lane at least 24 feet wide, except that if parking stalls are angled at 60 degrees or less, a one-way access lane may be used with a minimum of 20 feet. The 24-foot two-way access lane shall not be required for dwellings of up to four units. In such cases a 12 foot back up shall be sufficient. Joint use of off-street parking facilities is permitted provided that the area of such facilities shall be not less than the sum of the requirements of the various users computed in accordance with the schedule. The number of spaces required for each use shall be determined by the Building Inspector based upon the following criteria:

Use	Minimum Requirements
Residence - housekeeping, rooms For roomers or boarders, apartments, multi-family	1.5 spaces per unit.
Accessory Dwelling Unit	1 Parking Space (only if all portions of the Lot are located outside a 0.5 mile radius of a Transit Station, as defined by 760 CMR 71.02).
Customary Home Occupation or	1 space for each home occupation or profession in recognized profession addition to residential requirements.
Retail stores, Financial Institutions, Consumer Services, Professional or Business Services and similar businesses, and municipal buildings except schools.	1 space for each 200 square feet floor space

Wholesale showrooms and operations, warehouses and storage areas	1 space for each 1,000 sq. ft. plus one additional space for each 2 employees actively engaged at any one time.
Bed and Breakfast	1 space per guest room, plus two spaces for the residence, in a location normal for residential use, and on the premises.
Hotels and Motels	1 space per room and 1 space for every three seats in restaurants and meeting rooms and 1 space for each two employees.
Restaurants, clubs, theaters,	1 space for every 3 seats, churches or other places of public 50 square feet of gross assembly floor area and 1 space for every 2 employees.
Barber shops and beauty parlor	3 spaces for each operator
Bowling alley and Tennis Courts	4 spaces for each alley or court.
For any use not specifically listed	1.5 spaces for each 1,000 square feet of floor space and 1 space for each 2 employees.

8.3.2 Other uses conducted for profit on premises within or without a building such as flea markets, auction houses, churches and fairs shall provide for off-street parking in accordance with use schedule.

The Board of Appeals may grant a special permit to any person or organization to allow for sporadic or intermittent use of a premises without complying with the requirements of this section.

8.3.3 Industrial and Commercial buildings shall provide adequate parking, maneuvering, and loading space on premises for freight and delivery trucks in addition to the minimum requirements for spaces in paragraph 8.3.1 above.

(1984 ATM, Article 35)

(Editorial Note): The 1984 Article rescinded the off-street parking regulation adopted at the Sept. 13, 1983 STM, Article 19, and substituted the above section therefore. (See Appendix for original).

8.4 SIGNS

8.4.1 The provisions of Section 29-33, Chapter 93 G.L., (relating to outdoor advertising), and the Rules and Regulations adopted thereunder by the Outdoor Advertising Division of the Massachusetts Highway Department.

8.4.2 Nothing in this By-Law shall be construed to abrogate:

A. The Town's control under Ch. 87, Section 9, governing signs

placed on shade trees, enforceable by the Tree Warden;

B. The Town's control under Ch. 85, Section 8, over signs placed within a public way, enforceable by the Selectmen;

C. The Town's control under Ch. 111, Section 123 to 125, governing Board of Health action against nuisances.

8.5 COMMON DRIVEWAYS

8.5.1 PURPOSE

In an effort to preserve, protect and enhance environmentally sensitive land that might otherwise be cleared, excavated, filled and/or covered with impervious surface this bylaw seeks to minimize negative impacts on community character and improve safety and emergency access. The purpose of allowing access to no more than three (3) lots in any zoning district, except in an Open Space Residential Development, over a common driveway is:

(2012 ATM, Article 42)

A. To enhance public safety by reducing the number and frequency of points at which vehicles may enter upon the ways used by the public;

B. To preserve, protect, and enhance environmentally sensitive land, such as well discharge areas, wetlands and flood plains, by reducing the area of land that is cleared, excavated, filled and/or covered with impervious material;

C. To encourage the protection and preservation of significant features and vistas.

8.5.2 APPLICABILITY AND REQUIREMENTS

The Planning Board may grant a Special Permit for a Common Driveways that serves no more than three (3) lots, provided that each lot shall have the required frontage on a public way or a way approved by the Planning Board, except for the greater benefits that may be provided for in Open Space Residential Development (Section 8.1) and Flexible Frontage (Section 8.6). An application for a special permit shall include a site plan prepared by a registered engineer and registered land surveyor that provides satisfactory evidence that such Driveway or Common Driveway meets the following requirements: A Special Permit will not be required when the common driveway is approved as part of the definitive subdivision process. For existing common driveways: a Special Permit shall be required when alterations are proposed to the common driveway.

(2012 ATM, Article 42)

A. The common portion of the common driveway shall not be in excess of five hundred (500) feet in length or as allowed by the Rules and Regulations;

B. Driveway/Curb Cut Spacing: Separation between access connections on all collectors and arterials shall be based on the posted speed limit in accordance with the following table:

Posted Speed Limit (MPH)	Access Connection Spacing (Feet)
20	85
25	105
30	125
35	150
40	185
45	230
50	275

C. The integrity of the edge of the public roadway pavement shall be protected and stormwater, sand, silt, mulch, and other debris shall be kept off the road and out of town drainage systems.

D. Upon completion of the project, the applicant shall insure that the edge of the paved road is supported and not undermined. Any construction damage to the edge of town road shall be repaired by the applicant.

E. The radius of the driveway at the intersection of the street shall be designed to accommodate public safety & emergency vehicles.

F. Compliance with Emergency 911 requirements shall be maintained by the lots served by the common driveway. Permanent signs indicating the street number address assigned to each lot served by the common driveway shall be installed within ten (10) feet of the intersection of the common driveway with the street, as well as within ten (10) feet of the intersection of an individual lot driveway with the common driveway. Numbered signs shall be placed in a manner so that they shall not be blocked during heavy snow pack;

G. The common driveway shall access the property over the frontage of one of the lots served by the driveway;

H. The applicant shall provide evidence to the Planning Board that the owners of the properties to be served by the common driveway have a deeded right to the common portions of the common driveway;

I. The common driveway shall meet the Secondary Road standard found in Table A of the Planning Board's Subdivision Rules & Regulations. The traveled way width requirement shall apply only to that portion of a driveway, which is used in common by more than one (1) lot. The maximum grade shall be 10%. The minimum grade shall be 1%, with a 3% maximum grade within fifty (50) feet of its intersection with a street right of way. The driveway right-of-way (or easement for a single

driveway) shall be calculated as the width of the traveled way, plus 4' on either side, or at least 20' for a common driveway.

J. No common driveway shall be accepted as a public road nor shall the Town under any circumstances be held liable for construction, reconstruction, maintenance, or snow removal on any common driveway.

K. The presence of a common driveway accessing an undevelopable lot does not imply that the lot is buildable.

L. A lot may be served by a common driveway only if the ownership of the lot provides mandatory membership in an owners' association responsible for annual and long-term maintenance, including, but not limited to, removal of ice and snow from the common drive. The plan shall identify all land that is to be held and administered by the mandatory owners' association. It shall bear restrictions satisfactory to the Planning Board and the Town Counsel, to run with the land, restricting the way shown to remain private property and not to be extended, and any other restrictions and easements that are required for common driveway development by these by-laws. It shall incorporate by reference the document(s), satisfactory to the Planning Board and the Town Counsel, creating the mandatory owners' association and setting forth restrictive covenants and easements binding present and future owners of all the lots served by the common driveway. Such document(s) shall include, at a minimum the following:

1. Specific standards for the maintenance of all structures designed to be requirements of a common driveway Special Permit, including, but not limited to, the travel way, drainage system, and signage;

2. Provisions for allocating responsibility for snow removal, maintenance, repair, or reconstruction of the common driveway, drainage system, and signage;

3. Text of proposed easement including the metes and bounds description;

4. A procedure for the resolution of disagreements. Said document(s) shall be recorded along with the site plan and public utility and drainage easements in the Bristol County Registry of Deeds and shall also be recited in and attached to every deed to every lot served by the common driveway.

8.5.3 ADOPTION OF RULES AND REGULATIONS

The Planning Board shall adopt an application form and rules and regulations in accordance with the provisions of this by-law. Rules and regulations shall specify the application process, type and number of required plans, and general requirements in order to assist the developer in complying with the intent of this by-law. Pursuant to M.G.L.

Chapter 44, Section 53G, the Planning Board may accept and expend funds to engage peer review services, including engineering and legal services.

8.5.4 FEES AND CONCURRENT HEARING PROCESS

The appropriate application fee as established by the Planning Board must accompany each application. Applicants shall pay review fees, as determined by the Planning Board, sufficient to cover any expenses connected with any public hearing and review of the plan.

8.5.5 WAIVER OF COMPLIANCE

The Planning Board, under this section, may waive strict compliance with dimensional requirements (for grade, length and width) of this section, where such action is in the public interest and not inconsistent with the purpose and intent of the Zoning Act or this section.

(2014 ATM, Article 30)

8.5.6 APPEAL

The appeal of any decision of the Planning Board hereunder shall be made in accordance with the provisions of Mass. Gen. L. Ch. 40A, §17 or other such provision of the General Laws.

(2011 ATM, Article 38)

8.6 FLEXIBLE FRONTAGE

8.6.1 PURPOSE AND INTENT

The purpose and intent of this Section is to encourage increased lot size and upland while reducing future vehicular trips, road congestion, demand for public services and the number of curb cuts onto Town roadways; preserve the natural and cultural resources visible along these roadways; facilitate the movement of wildlife; protect traditional access to "backland" open space; and improve the design and site planning of smaller residential neighborhoods. To achieve this, the Planning Board may issue a special permit to allow a reduction in the otherwise applicable frontage requirements on a public way, a way approved by the Planning Board under the subdivision control law or a private way that the Planning Board votes to determine has been in existence since prior to the effective date of the Subdivision Control Law in the Town of Westport and has adequate, width, grade and construction within the meaning of G.L. c. 41, §81L for the proposed development, for one or more of the lots proposed, in exchange for a corresponding increase in lot size and upland and reliance upon common driveways, if applicable.

(2014 ATM, Article 31; 2023 ATM, Article 30)

8.6.2 METHODS OF APPLICATION

In order to obtain a special permit under this by-law provision, an applicant shall file a yield plan showing the basic number of lots that could be created under a traditional subdivision meeting the requirements of the Town's Rules and Regulations Governing the Subdivision of Land and all other applicable regulations.

(2014 ATM, Article 31)

8.6.3 DESIGN STANDARDS

The Planning Board may grant a reduced frontage special permit if the Planning Board determines that that the design standards set forth below will be better achieved by the reduced frontage special permit than using standard frontage and the other dimensional requirements contained in Section7.

A. Retain Existing Roads and Laneways

The project shall retain, reuse and/or enhance existing farm/woods roads and laneways rather than construct new roads or driveways, in order to minimize clearing and disruption of the landscape and shall take advantage of existing lanes and shall foster the use of low impact development techniques and shall minimize loss of significant large trees or stone walls and shall lessen the disturbance to existing topography.

B. Reduce Potential Number of Driveways

The project shall reduce the number of individual driveways and shall wherever and whenever feasible use a common driveway.

C. Preserve Stone Walls and Edge-Of-Field Vegetation

The project shall preserve existing stonewalls and edge-of-field vegetation as these traditional landscape features define open space edges in a natural way and maintain corridors useful for wildlife. Using these features as property lines may also be appropriate to establish lot line boundaries, if this does not require constructing buildings in otherwise sensitive locations.

D. Site Buildings Carefully

The project shall site buildings either at the edges of fields or in a wooded area; however, septic systems and leach fields may be located in fields. Buildings and clearing of land shall be designed and performed to minimize tree canopy penetration and to avoid crest-lines of hills as seen from public places and public and private roads. Wherever practicable, the project shall open up views to serve a building only through the selective cutting of small trees and pruning lower branches of large trees, to create a filtered view and shall not use clear cutting involving the removal of large areas of growth or the removal of mature trees (e.g. exceeding 24" dbh).

E. **Use Existing Vegetation and Topography to Buffer and Screen New Buildings**

The project shall design and locate building envelopes in relation to the road or driveway in a manner historically or visually appropriate to the neighborhood. The project shall use vegetation as a backdrop to reduce the prominence of the structure. If vegetative buffers are used, a minimum depth of fifty (50) feet of mixed indigenous ground covers, shrubs, and trees shall be provided. The principal structure and any accessory structures shall be grouped on each lot in a cluster or they shall be placed behind tree lines or knolls rather than spreading them out across the open landscape in a "sprawl" pattern.

F. **Minimize Clearing of Vegetation**

The project shall be designed so as to minimize clearing of vegetation particularly at the edge of the road that provides access, or any other adjacent road and clearing shall be limited only to as much clearing as is necessary to create a driveway entrance with adequate sight distance and width to safely accommodate residential and emergency vehicles. For example, the project shall use curves in the driveway to increase the screening of buildings from the road.

G. **Minimize Slope Disturbance**

The project shall minimize crossing of slopes that exceed ten (10) percent with roads and driveways. If necessary, to build on a slope, the project shall take advantage of the topography by building multi-level structures with entrances on more than one level (e.g., walk-out basements, garages under buildings), rather than grading the entire site flat and by using the flattest portions of the site for parking areas.

H. **Keep Traditional Access Open**

The project shall site buildings and develop other areas so as not to block trails or paths traditionally used as access to back land or that are established wildlife corridors. This provision shall not be construed to create any access rights.

8.6.4 FRONTAGE REDUCTION

A special permit may be issued so that the required lot frontage is decreased as a function of average lot size and upland increase in equal proportions, to a minimum of fifty (50) feet of frontage, based on the following formulas:
Minimum Lot Size = 60,000 x (150 /proposed frontage)
Minimum Upland = .5 x Minimum Lot size

. These examples are illustrated in the table below:

Residential Lot Size (SF)	Minimum Upland (SF)	Frontage (Feet)
60,000 Std. Min.	30,000	150
120,000	60,000	75
180,000	90,000	50

At no point shall the new lot lines create a width narrower than 50 feet, the width shall also be equal to or greater than the required frontage from the street line to the proposed dwelling. The width shall be measured in accordance with Section 7.8.1.1.2. If the Board determines that reducing the width improves the overall design of the project, the board may waive the width requirement.

The lots so benefiting from reduced frontage under this Section shall be indicated on the endorsed plan and the plan shall be recorded with the special permit decision which shall contain conditions that the lots shown on the plan shall not be further subdivided and that the clearing and building locations shall not be changed from what is shown on the plan without a modification of the special permit. The following notes shall also be placed on the plan:

A. "Lots shown on this plan benefiting from reduced frontage under Zoning By-law Section 8.6 shall not be further subdivided and no modification of the clearing restrictions and building locations shall occur without a corresponding modification of the special permit and recorded plan. and;

B. "No lot clearing shall begin, and no building permit shall be issued for lots shown on this plan benefiting from reduced frontage under Zoning By-law Section 8.6 until the Special Permit has been duly approved, executed and recorded and evidence of the recording has been filed with the Inspector of Buildings."

(2012 ATM, Article 41; 2014 ATM, Article 31; 2023 ATM, Article 30)

8.7 SITE PLAN REVIEW

8.7.1 PURPOSE

The purpose of Site Plan Review is to protect the health, safety, convenience, property values, and general welfare of the inhabitants of the Town of Westport by providing for review of plans for uses and structures which may have significant impacts on traffic; municipal and public services and utilities; environmental and design quality; and community character.

8.7.2 POWERS AND ADMINISTRATIVE PROCEDURE

All applications for Site Plan Review shall be submitted to the Planning Board prior to the issuance of a building permit. In exercising its jurisdiction under this section, the Planning Board shall, unless otherwise provided, follow the procedural requirements for special permits as set forth in Section 9 of M.G.L. Chapter 40A; however, a motion to approve, approve with conditions, or disapprove a Site Plan shall require only a majority vote of the members present. The Board shall adopt Rules and Regulations relative to

Site Plan Review, a copy of which shall be filed with the Town Clerk. After notice and public hearing and after due consideration of the reports and recommendations of outside consultants and other town boards, commissions and/or departments, the Planning Board may approve a Site Plan. The Planning Board may impose, in addition to any applicable conditions specified in this section, such conditions as reasonably appropriate to improve the site design and/or mitigate the impacts of the proposed development. Such conditions shall be imposed in writing; the applicant may be required to post a bond or other surety for compliance with said conditions in an amount satisfactory to the Planning Board.

8.7.3 APPLICABILITY

For specific uses requiring Site Plan Approval, see the Table of Use Regulations. The following types of activities and uses require Site Plan Review by the Planning Board:

1. Construction with a gross floor area (GFA) of over 1,000 square feet of a municipal, institutional, commercial, or industrial building, or a multi-family building with three or more dwelling units;

2. Exterior expansion by more than 1,000 square feet GFA of a municipal, institutional, commercial, or industrial building, or a multi-family building with three or more dwelling units;

3. Change of use within a municipal, institutional, commercial, or industrial building, or a multi-family building with three or more dwelling units, that requires either:

- More than 5 additional parking spaces; or
- Increased impervious surfaces other than building footprint (for example, additional loading areas, access driveways, paved parking spaces, sidewalks) totaling more than 1000 square feet;

4. Construction or expansion of a parking lot proposing more than 5 new parking spaces for a municipal, institutional, commercial, or industrial building, or a multi-family building with three or more dwelling units.

For the purposes of computing the total gross floor area and total external changes and increases in parking spaces of a site plan, the Planning Board shall aggregate all such applications for building/special permits and/or site plan approval made within the five (5) previous calendar years.

5. Applicable activities as described in Section 8.2 (Low Impact Development) of this By-law.

Where provisions for site plan review of specific uses and buildings exist elsewhere in the Westport Zoning By-Laws, the provisions of the pertinent section shall supersede the provisions of this section.

Site Plan Review shall not be construed to supersede the exemptions granted by Section 3 of Mass. Gen. Laws Ch. 40A.

8.7.4 WAIVER OF TECHNICAL COMPLIANCE

The Planning Board may, upon written request of the applicant, waive any of the technical requirements of Westport's Site Plan Review Rules and Regulations and the procedures of this By-Law provided that the Board determines that such waiver is not inconsistent with the provisions of the Zoning By-Law, or with the intent of Site Plan Review.

(2007 ATM, Article 19)

8.7.5 PERFORMANCE STANDARDS

All Site Plans presented for approval shall be prepared in compliance with applicable Westport Zoning Bylaws; the Rules and Regulations Governing the Subdivision of Land, to the extent applicable; and the explicit standards of the Rules and Regulations for Site Plan Review. In evaluating and rendering a decision on a Site Plan Review application the Planning Board shall consider whether the proposal will achieve the objectives listed below and may require conditions and safeguards deemed necessary to realize, within reason, these performance standards:

1. Provide convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent streets, properties, buildings, structures, and other improvements.

2. Buffer and protect adjoining premises against detrimental or offensive uses.

3. Provide adequate and functional off-street loading and unloading of vehicles, goods, products, materials and equipment incidental to the normal operation of the establishment.

4. Provide adequate access to each structure for fire and service equipment and adequate provision for utilities and stormwater drainage consistent with the functional requirements of the Planning Board's Subdivision Rules and Regulations to the extent applicable, and all applicable local, state and federal codes, statutes, By-Laws, policies, standards and regulations.

5. Minimize negative impacts to the environment by limiting or eliminating: volumes of cut and fill; removal of trees 6" caliper or larger and other vegetation; removal of stone walls; impact on wetland resources, wildlife habitat and other areas of environmental sensitivity; flooding and other impacts of stormwater flow both on- and off-site; soil erosion; and air, water, noise and light pollution.

6. Prevent contamination of groundwater and surface water from onsite wastewater disposal systems or operations on the premises involving the

use, storage, handling, or containment of hazardous substances by utilizing Best Management Practices in accordance with all statutes, By-Laws, regulations and policies governing these activities;

7. Promote compatibility among uses by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or from premises residentially used or zoned;

8. Divide large expanses of parking with landscaping and shade trees and minimize lighting intrusion and the glare from headlights.

9. Screen service facilities located near the perimeter of the site, including but not limited to: garbage collection, recycling containers, refrigeration units, and utility areas.

10. Relate buildings and structures to the natural and built environment by attention to appropriate scale, massing, height and other factors necessary to achieve harmony with the surrounding natural environment, neighborhood, and Town as a whole.

11. Minimize obstruction of scenic views from publicly accessible locations.

12. Ensure compliance with the provisions of the Board of Health Regulations for Stormwater Quality and Quantity Control Regulations and this Zoning Ordinance including but limited to, Low Impact Development Regulations, stormwater management, parking, loading and signage.

(2011 ATM, Article 40)

8.7.6 <u>ADMINISTRATION</u>

1. The Planning Board may adopt reasonable fees for administration, technical review, and construction inspection for site plan review proposals. All expenses for use of outside consultants, ancillary reports or reviews, supplemental studies, advertising, publication of notices, postage and mailings and all other expenses in connection with the site plan including without limitation, sampling and/or testing, shall be borne by the applicant.

2. The Planning Board shall adopt reasonable Rules and Regulations governing Site Plan Review including administrative procedures and requirements, and design and construction standards.

(2010 ATM, Article 38)

3. The Planning Board may distribute plans to other Boards, Commissions, departments, and outside technical and legal consultants and agencies for their review and comments.

4. The Planning Board may require narrative assessments and/or quantitative

studies of the on-site and off-site impacts of the proposed project, including: traffic, drainage, noise, lighting and other environmental factors.

8.7.7 ENFORCEMENT

The Building Inspector shall have enforcement powers over any Site Plan Approval. The Building Inspector shall inspect and enforce any and all stipulations and/or conditions placed upon the approval of any Site Plan. Failure to satisfy the conditions of any Site Plan Approval will result in the withholding of the Certificate of Occupancy.

8.7.8 REVIEW AND DECISION

The Planning Board shall ensure the use of the site consistent with the uses permitted in the district in which the site is located and shall give due consideration to the reports received. Prior to the approval of any Site Plan, the Planning Board shall find that the site plan:

1. Protects adjoining premises by avoiding adverse effects on the natural environment and abutters.

2. Provides for convenient and safe vehicular and pedestrian movement and that the locations of driveway openings are convenient and safe in relation to vehicular and pedestrian traffic circulation, including emergency vehicles, on or adjoining the site;

3. Provides an adequate arrangement of parking and loading spaces in relation to proposed uses of the premises;

4. Provides adequate methods of disposal of refuse or other wastes resulting from the uses permitted on the site;

5. Complies with all applicable requirements of this By-Law, the Rules and Regulations of Site Plan Review, and the Rules and Regulations Governing the Subdivision of Land (to the extent applicable), unless explicitly waived by the Planning Board.

8.7.9 APPEAL

The appeal of any decision of the Planning Board hereunder shall be made in accordance with the provisions of Mass. Gen. L. Ch. 40A, §17 or other such provision of the General Laws pertaining to site plan review/ as they may be amended from time to time. Appeal of a decision on a Site Plan for a by-right use shall be by appeal (to the Zoning Board of Appeals) of the action of the Building Inspector in granting or denying a building and/or occupancy permit.

8.7.10 EXPIRATION

Approval of a Site Plan shall lapse after two (2) years from the date of approval, or the date of resolution of any appeal of the decision, if substantial use thereof or construction has not

begun, except for good cause. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant.

SECTION 9 SPECIAL REGULATIONS

9.1 ASSISTED AND INDEPENDENT LIVING FACILITIES

9.1.1 PURPOSE

The purpose of this Assisted and Independent Living Facility By-Law is to provide a mechanism for the approval of:

A. Assisted Living Facilities (ALFs) within a residential environment that offers supportive services to individuals who are unable to live independently in the community by offering supervision and/or assistance with basic activities of daily life, such as, but not limited to, dressing, bathing, toileting, and nutrition; and

B. Independent Living Facilities (ILFs) that offer congregate living arrangements to persons over the age of fifty-five;

C. The development of ALFs and ILFs in a manner that conserves environmental features, woodlands, wet areas, open space, areas of scenic beauty, views and vistas as well as encouraging the renovation and rehabilitation of older, existing buildings; and

D. The development of ALFs and ILFs in a manner that is harmonious with the surrounding land uses while protecting natural resources and open space.

DEFINITIONS

Within this Section, the following terms shall have the following meanings:

Dwelling Unit: A residence, including studio units. Each residence shall contain a living area, bathroom and, except in studio units, one or more bedrooms, and may contain a kitchen area or combination kitchen/living area.
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9.1.2 USE RESTRICTIONS

An ALF and/or an ILF may be constructed, subject to the requirements set forth herein, upon the issuance of a special permit by the Planning Board.

A. No other use or structures shall be permitted, except as specifically provided herein.

B. An ALF or an ILF may consist of a single building or multiple buildings.

C. Structures and uses accessory to the ALF or ILF may also be provided within the same building, including, but not limited to, the following:

beauty and barber salons; recreational, physical fitness and therapy services; nondenominational chapel; library; bank automated teller machine; management offices; adult day care or adult health care facility; hospice residence; food service; laundry and covered parking areas; provided, however, that such accessory uses and structures shall be designed for the primary use of the residents and staff of the ALF or ILF. Such accessory uses may not be designed for or used as a general business by the general public. Such accessory uses shall be wholly within a structure containing residential units and shall have no exterior advertising display.

9.1.3 SUBMISSION REQUIREMENTS

An application for special permit shall be on forms furnished by the Planning Board and accompanied by a special permit filing fee determined by the Planning Board. The Planning Board may waive the submittal of technical information or documents otherwise required hereunder where the applicant demonstrates that, due to the simplicity of the proposal, such information is not necessary for or applicable to the Planning Board's decision pursuant to this section. Unless so waived, an application for a special permit shall consist of the following:

A. Plans:

1. A plan at a scale of 1" = 40', or other scale acceptable to the Planning Board, showing existing conditions, including: the topography of the site at a minimum of two foot intervals; vegetation and unique features, including wetlands, perennial streams and ponds, trees of more than 8" caliper, stonewalls, and rock outcroppings; slopes in excess of 15%; existing trails, paths and ways; open vistas; structures of historical importance; wildlife habitats, and existing easements and restricted areas;

2. A plan depicting the horizontal layout of the site, including types, location and layout of buildings, parking areas, vehicular and pedestrian circulation, stormwater facilities, lighting, signage, trash disposal areas, loading areas, etc.

3. Elevation drawings of buildings and other major structures;

4. A grading plan depicting stormwater management provisions;

5. A landscape plan with planting schedule showing types, number and characteristics of proposed plantings;

6. Detail drawings of drainage structures, signage, lighting, tree plantings, and other site features, as necessary.

7. Perspective drawings or 3-D models may be subsequently required by the Planning Board;

8. The Planning Board may describe the required content of the above plans in greater detail in regulations promulgated under this By-Law.

B. Narrative Reports and Data:

1. A proposed development schedule showing the beginning of construction, the rate of construction and development, including stages, if applicable, and the estimated date of completion;

2. A development impact statement prepared impact of the development on the Town's capacity to furnish services including, but not limited to, roads, police, fire, emergency services, water and sewage treatment;

3. Information pertaining to any organization which the Applicant proposes to form where the development is to be a condominium development, including forms and plans to be used to organize and manage the same, for approval as to form by Town Counsel;

4. Copies of all proposed covenants, easements, and other restrictions which the Applicant proposes to grant to the Town, the Conservation Commission, utility companies, any condominium organization and the owners thereof, including plans of land to which they are intended to apply, for approval as to form by Town Counsel;

5. A stormwater management plan complying with all local, state, and federal requirements, including drainage calculations, erosion and sedimentation control provisions during and after construction, and on-going maintenance plan.

6. Any and all other information that the Planning Board may reasonably require in an acceptable form to assist in determining whether the Applicant's proposed development plan meets the objectives of this Section.

7. The Planning Board may describe the required content of the above plans in greater detail in regulations promulgated under this By-Law.

C. Each such application shall be accompanied, if applicable, by a definitive plan of land pursuant to the provisions of Massachusetts General Law Chapter 41, sections 81-0 and 81-T, as the same may be from time to time

amended and the Subdivision Regulations as well as a filing fee determined in accordance with the Subdivision Regulations. Approval of a special permit under this section shall not substitute for compliance with Subdivision Control Law, G. L. c. 41, ss81k et seq. A definitive subdivision plan submitted in connection with an approved special permit for an ALF or ILF shall substantially conform with plans upon which the special permit approval was based.

9.1.4 STANDARDS

In order to be eligible for consideration for a special permit pursuant to this Section, the proposed development shall meet all of the following standards:

A. Assisted Living Dimensional Requirements

Notwithstanding any contrary provisions in the requirements of Sections 7.2 and 7.3, or in the requirements of Section 7.7, the following dimensional and density requirements shall be applicable to Assisted Living Facilities and Independent Living Facilities authorized under Section 9.1 of this By-Law.

	Residence/ Agricultural	**Business**
Minimum land area per unit*	5,500 sq. ft.	5,500 sq. ft.
Minimum front setback	100 ft.	100 ft.
Minimum side and back yard setback/buffer	60 ft.	60 ft.
Minimum setback from surface water or wetlands	80 ft.	80 ft.
Minimum open space	50%	30%
Maximum height	40 ft.	40 ft.
Minimum frontage	200 ft.	200 ft.

Exclusive of wetland resource areas, water bodies, and required open space. For projects proposing more than 10 dwelling units, either assisted or independent living units, with more than 50% of these being rental units, the Planning Board may increase the total number of units allowed by 10%. At least 50% of the bonus units must be maintained as affordable units.

(2004 ATM, Article 18)

All age-qualified Assisted and Independent Living developments for the elderly must comply with the provisions of M.G.L. Chapter151B, Section 4.

(2005 ATM, Article 26)

B. **Affordability**

At least fifteen percent (15%) of the total number of dwelling units in an Independent Living Facility (ILF), which proposes more than ten units shall meet the definition of Affordable Units as defined in Section3, of the Westport Zoning By-Law. These affordable units shall be marketed and administered through the Westport Housing Authority with resale restrictions to assure continued affordability. Dwelling units reserved for occupancy by persons or families of low to moderate income, or for occupancy by a single individual, shall not be segregated from market rate or larger dwelling units in the development.

C. **Open Space Requirement for ALFs and ILFs**:

In the Residence/Agriculture districts a minimum of fifty (50) percent of the parcel shown on the Development Plan shall be contiguous open space. In the Business districts a minimum of thirty (30) percent of the parcel shown on the Development Plan shall be contiguous open space. Such open space may be separated by road(s) constructed within the development. Said contiguous open space shall have at any point the minimum width of 125 feet.

The required open space shall be used for conservation, historic preservation and education, outdoor education, park purposes, existing agriculture, existing horticulture, forestry, or for a combination of these uses, and shall be served by suitable access for such purposes.

The required open space shall remain unbuilt upon, provided that five percent (5%) of such open space may be paved or built upon for structures accessory to the dedicated use or uses of such open space, community center, pedestrian walks, bike paths, and existing agriculture.

The required open space shall be conveyed in conformance to the requirements provided in the Subdivision Regulations.

Any proposed open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a recorded restriction enforceable by the Town, providing that such land shall be perpetually kept in an open state, that it shall be preserved for exclusively existing agricultural, horticultural, educational or recreational purposes, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.

D. **Buffer Areas and Building Setbacks**

All dwellings and structures shall be located a minimum of sixty (60) feet from adjacent properties, and eighty (80) feet from adjacent surface waters or wetlands. All buildings shall be set back a minimum of 100 feet from

the street except that, in the Business District this setback requirement may be modified at the discretion of the Planning Board. Buffer areas shall be retained in their natural vegetative state to the maximum extent feasible, where the 60-foot buffer of natural vegetation is not adequate (in the Planning Board's opinion) to screen the development from adjacent properties the Board may require additional plantings, earthen berms and/or fencing.

The Planning Board may waive the buffer requirement (i) where the land abutting the site is the subject of a permanent restriction for conservation or recreation so long as a buffer is established of at least fifty (50') feet in depth which may include such restricted land area within such buffer area calculation; or (ii) where the land abutting the site is held by the Town for conservation or recreation purposes; or (iii) the site is a mixed-use area or a downtown area where providing a buffer is infeasible or is inconsistent with the Town's planning goals for the area; or (iv) the Planning Board determines that a smaller buffer will suffice to accomplish the objectives set forth herein.

E. **Removal and Replacement of Vegetation**

Within the site, no clear cutting shall be permitted, except incidental to construction of buildings, roads, trails and parking areas.

F. **Roadways**

The principal roadway(s) serving the site shall be designed to conform with the standards of the Subdivision Regulations as they apply to Residential Streets, or the roadways may be designed to comply with the Town's Secondary Road construction standards, but must be paved with asphalt. Gravel paving or any other non-asphaltic material may not be used as a finished pavement.

G. **Parking**

Notwithstanding any other provisions in this By-Law to the contrary, the applicant shall provide adequate parking to serve all anticipated uses on the property and shall provide information detailing the method of computation of parking spaces. The minimum number of parking spaces provided on the site shall be 0.3 parking space per dwelling unit in an ALF and 1.0 parking space per dwelling unit in an ILF. For both ALFs and ILFs one (1) additional parking space shall be provided for every three (3) employees during the largest shift. The Planning Board may increase the required parking by up to 10% to serve the needs of employees, visitors and service vehicles. All parking areas shall be screened from view from adjacent residentially zoned or occupied premises located outside the site, including public ways, by a landscaped border at least ten (10) feet in width. Parking lots in front setbacks in residential zones, and in buffer areas in all zones, with the exception of necessary access driveways, are

prohibited. Parking areas in residential districts shall be located to the side or rear of all buildings. Parking lot layout shall be planned to permit landscaping, buffering, or screening to prevent direct views of parked vehicles from adjacent streets. The use of traditional picket fencing, hedges, walls, or landscape berms to define parking areas is encouraged. In parking areas of eleven or more parking stalls, at least one tree of three inch or greater caliper shall be planted for every six parking places. Adequate tree wells and irrigation shall be provided for all parking lot landscaping. Pedestrian access is to be taken into consideration in parking lot design. The use of separate walkways is encouraged.

H. **Loading**

Loading areas, if required, must be at least 20 X 9 feet, and have a minimum overhead clearance of 10 feet. Screening and landscaping shall be provided to block all views of loading areas (except those specifically designated for emergency vehicles) from the public right-of-way and adjacent properties.

I. **Stormwater Management**

Drainage provisions shall be provided to ensure compliance with all local, state and federal requirements regarding stormwater management including; Section 8.2, Low Impact Development and the Board of Health's Stormwater Quality and Quantity Control Regulations dated April 15, 2009 effective on August 1, 2009 or as amended and shall be subject to review by the Planning Board's engineering consultant at the expense of the applicant. Drainage shall be designed so that the rate of run-off shall not be increased, groundwater recharge is maximized, surface and ground water quality is maintained or improved, and neighboring properties will not be adversely affected. The Board may require that existing drainage problems on/or adjacent to the site be mitigated as a condition of approval of the special permit under this section. Drainage facilities shall not be allowed in the required open space areas.

(2011 ATM, Article 39)

J. **Utilities**

All electric, gas, telephone, water distribution lines, and other utilities shall be placed underground except upon a demonstration of exceptional circumstances.

K. **Paths**

Paths for the use of residents shall be attractively designed with proper regard for convenience, separation of vehicular, bicycle and pedestrian traffic, adequate connectivity, completeness of access to the various amenities and facilities on the site and to pathways on adjacent sites.

L. **Paving and Curbing**

Curbing is to be sloped or cut to provide a barrier free transition at road crossings and building entrances. Paving should be textured or of different materials at pedestrian crossings and walkways. The use of stone, brick or cultured stone pavers for entrance walkway borders is encouraged. The use of textured materials for walkway borders is encouraged.

M. **Design and Architectural Character**

Architectural style shall be in harmony with the historical design elements that are contextually consistent with regional New England architecture.

N. ALF or ILF shall have an integrated emergency call, Telephone and other communications system to provide monitoring for its residents. There shall be sufficient site access for public safety vehicles. A plan shall be approved by the Fire Department for the emergency evacuation of the residents with emphasis on ensuring the safety of residents with physical impairments.

O. No building/structure shall be floodlit. Drives, walkways, entryways, and parking areas shall not be illuminated by lights higher than fifteen (15) feet, which shall be shielded to have a total cutoff of all light at less than ninety (90) degrees and a beam cutoff less than seventy-five (75) degrees. The total cutoff of all light shall occur within the property lines of the parcel to be developed.

P. In order to be eligible for consideration for a Special Permit pursuant to this section, the ALF or ILF shall comply with all Federal and State access requirements.

9.1.5 **INCENTIVES FOR CONVERSION OF STRUCTURES**

It is the intent of this subsection to encourage the appropriate reuse of land and buildings that are no longer needed or suitable for their original use. Such building conversions shall:

A. Be compatible with the character of the neighborhood; and

B. Minimize removal or disruption of historic existing building features or architectural elements, whether these exist on the site or on adjacent properties.

C. Notwithstanding other sections of this bylaw, the buffer requirements, minimum open space requirements, and building height requirements for the ALF or ILF shall be those physically existing on the ground as of the date of enactment of this bylaw.

D. The Planning Board may permit expansion of the structure to the degree reasonably necessary to construct entryways and features to comply with Federal and State access requirements and fire escape and fire protection features.

9.1.6 ACTION BY THE PLANNING BOARD

The Planning Board may approve, approve with conditions, or deny an application for an ALF or an application for an ILF, after assessing whether the proposed development complies with the requirements of this By-Law and serves the purpose of the By-Law as expressed in section 9.1.1.

9.1.7 RELATION TO OTHER REQUIREMENTS

The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning By-Law.

(2004 ATM, Article 15)

9.2 INCLUSIONARY HOUSING

9.2.1 PURPOSE AND INTENT

The purpose of this By-Law is to outline and implement a coherent set of policies and objectives for the development of affordable housing in compliance with the Town of Westport Master Plan, The Westport Planned Production Plan, or any superseding Westport Housing Production Plan and MGL c.40B sec. 20-23, and in tandem with on-going Town of Westport programs to promote a reasonable percentage of housing that is affordable to low and moderate-income households. It is intended that the affordable housing units that result from a special permit issued under this By-Law be considered as Local Initiative Program (LIP) dwelling units in compliance with the requirements for the same as specified by the Massachusetts Department of Housing and Community Development (DHCD) and that said units count toward the Town's requirements under MGL c.40B, sec 20-23. It is intended that this By-Law provide a mechanism to compensate for those decreases in the town's percentage of affordable housing that are directly caused by increases in the Town's overall housing stock.

9.2.2 APPLICABILITY

A. **Division of Land**: This By-Law shall apply to the division of land held in single ownership as of June 1, 2005 or anytime thereafter into ten (10) or more lots, whether said ten (10) or more lots are created at one time or are the accumulation of ten (10) or more lots created from said land held in single ownership as of June 1, 2005. This By-Law shall apply to Town of Westport Open Space Residential Development, "conventional" or "grid" divisions allowed by M.G.L. Chapter 41, Section 81-L and Section 81-U, as well as those divisions of land that do not require subdivision approval per G.L. c. 41, §81P.

B. **Multi-Family Dwelling Units and Duplexes**: This By-Law shall apply to

the construction of ten (10) or more multi-family dwelling units or duplexes, whether on one or more contiguous parcels in existence as of June 1, 2005.

C. **Exemption:** The provisions of Section 9.2 hereof shall not apply to the construction of ten (10) or more single-family dwelling units on individual lots, if said ten (10) or more lots were in existence prior to June 1, 2005 nor to Assisted and Independent Living Facilities.

(2011 ATM, Article 41)

D. **Administration:** The Planning Board shall be the Special Permit Granting Authority (SPGA) for all special permits under this By-Law.

9.2.3 MANDATORY PROVISION OF AFFORDABLE UNITS

The SPGA shall, as a condition of approval of any development referred to in Section 9.2,2 require that the applicant for special permit approval comply with the obligation to provide affordable housing pursuant to this By-Law and more fully described in Section 9.2.4. Any special permit granted hereunder shall contain a condition that a regulatory agreement, executed by DHCD, the Town of Westport, and the applicant is recorded at the Registry of Deeds and a copy provided to the Inspector of Buildings and the Planning Board prior to issuance of a building permit, except as provided through special permit in accordance with Section 9.2.5.

9.2.4 PROVISION OF AFFORDABLE UNITS

The SPGA shall grant any application for a special permit if the application satisfies the following minimum affordable housing requirements:

A. At least 10% of the units in any residential development and any division of land subject to this By-Law shall be established as affordable housing units. Fractions of a lot or dwelling unit shall be rounded up to the nearest whole number, such that a development proposing ten (10) dwelling units shall require one affordable unit, a development proposing eleven (11) dwelling units shall require two (2) affordable units, and so on, except as provided through Section 9.2.5.

B. The affordable unit(s) shall be constructed or rehabilitated on the locus property, except as provided through Section 9.2.5.

9.2.5 ALTERNATIVES AND INCENTIVES

The SPGA is authorized, by grant of a Special Permit, to allow the following alternatives and incentives to the provisions of 9.2.3 and 9.2.4.

A. **Off-Site Alternative**: An applicant subject to this By-Law may develop, construct or otherwise provide affordable units equivalent to those required by Section 9.2.4 off-site. All requirements of this By-Law that

apply to on-site provision of affordable units, shall apply to provision of off-site affordable units. In addition, the location and design of the off-site units to be provided shall be approved by the Special Permit Granting Authority as an integral element of the special permit review and approval process.

B. **Cash Contribution:** As an alternative to the requirements of Section 9.2.4, and as allowed by law, an applicant may contribute funds to the Westport Affordable Housing Trust Fund to be used for the creation of affordable housing in lieu of construction and offering affordable units within the locus of the proposed development. For the purposes of this Bylaw, the cash payment per affordable unit required shall be equal to the difference between the median single-family home sales price in Westport for the most recent calendar year as determined by the SPGA and the price affordable to a qualified purchaser as determined by the SPGA, based on applicable guidelines of the DHCD, Local Initiative Program (LIP). Where the calculation of affordable units results in fractional units, a cash payment may be made as provided in this section on a pro rata basis. The cash payment formula and timetable may be adjusted by the SPGA from time to time through the issuance of guidelines or regulations. If the SPGA issues a Special Permit to authorize a cash payment in lieu of units and the Board of Trustees of the Westport Affordable Housing Trust Fund votes to accept said contributions, the payment shall be paid to the Westport Affordable Housing Trust Fund prior to the issuance of any building permits for the development or prior to the sale of any lots, if applicable. Alternatively, the SPGA may allow payment of said contributions according to a specified timetable in proportion to the rate of development or sale of lots. This cash contribution alternative shall apply only to homeownership developments and division of land and shall not apply to rental developments.

C. **Donations of Land:** An applicant may offer, and the Board of Trustees of the Westport Affordable Housing Trust Fund (Trustees) with the approval of the SPGA, may accept donations of land in fee simple, on or off-site, that the SPGA and Trustees determine are suitable for the construction of an equivalent number of affordable housing units. The SPGA may require the applicant to submit an appraisal or other data relevant to the determination of suitability for an equivalent number of affordable housing units. If the SPGA issues a Special Permit to authorize donations of land in lieu of units and the Board of Trustees of the Westport Affordable Housing Trust Fund votes to accept said donations, the donation shall be made to the Westport Affordable Housing Trust Fund prior to the issuance of any building permits for the development or prior to the sale of any lots, if applicable.

D. **Combination of Alternatives:** The applicant may offer, and the SPGA may approve the acceptance of, any combination of the alternatives provided in sections 9.2.5.A. – 9.2.5.C. provided that in no event shall the net result of the combination provided be less than the equivalent number

or value of affordable units required by this By-Law.

E. **Density Bonus:** The SPGA may allow the addition of two market rate units for each affordable unit provided as part of compliance with this By-Law, provided that the expanded development complies with the open space requirements, design standards, and all other provisions of Section 8.1 Open Space Residential Development of the Westport Zoning By-Law. In addition, a development that exceeds the minimum affordable housing requirements of this By-Law may receive the same density bonus benefits; however, the net increase in housing units as a result of this By-Law and Section 8.1 shall not exceed fifty percent (50%) of the original property yield before any density bonuses were applied.

9.2.6 PROVISIONS APPLICABLE TO AFFORDABLE HOUSING UNITS ON OR OFF-SITE

A. Siting of affordable units: All affordable units constructed or rehabilitated under this By-Law shall be situated so as not to be in less desirable locations than market-rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, as the market-rate units.

B. Minimum design and construction standards for affordable units: Affordable housing units within market-rate developments shall be integrated with the rest of the development and shall be compatible in design, appearance, construction and quality of materials with other units.

C. Timing of construction or provision of affordable units or lots: The Special Permit Granting Authority shall impose conditions on the special permit requiring construction of affordable housing according to a specified time table, so that affordable housing units, whether on the locus property or off site, shall be provided coincident to the development of market-rate units, but in no event shall the development of affordable units be delayed beyond the schedule noted below:

Market-Rate Units	Affordable Housing Units
Up to 30%	At least one unit
30% plus 1 unit	At least 10%
Up to 50%	At least 30%
Up to 75%	At least 50%
75% plus 1 unit	At least 70%
UP to 90%	100%
*Any fractions of an affordable unit shall be rounded up to a whole unit.	

9.2.7 LOCAL PREFERENCE

To the extent permitted by law, the SPGA may require the applicant to comply with local preference requirements, if any, as may be established by regulations promulgated

hereunder.

9.2.8 MARKETING PLAN FOR AFFORDABLE UNITS

Applicants under this By-Law shall submit a marketing plan (or other method approved by the SPGA) to the SPGA and DHCD, which describes how the affordable units will be marketed to potential homebuyers/tenants. If applicable, this plan shall include a description of the lottery or other process to be used for selecting buyers/tenants. The plan shall be in conformance to any applicable guidelines issued by DHCD and shall be subject to the prior review and approval of Town Counsel at the applicant's expense.

9.2.9 PRESERVATION OF AFFORDABILITY; RESTRICTIONS ON RESALE

Each affordable unit created in accordance with this By-Law shall be subject to a deed restriction in form and substance acceptable in to Town Counsel and the Massachusetts Department of Housing and Community Development ('DHCD"). The deed restriction shall run with the land in perpetuity or for the longest period of time allowed by law unless the SPGA determines that a shorter period of affordability will facilitate the development of affordable housing. The deed restriction shall limit the resale price of any ownership units or, in the case of rental property ensure the continued availability of affordable rental units, consistent with the regulations and guidelines issued from time to time by DHCD. Prior to the issuance of any occupancy permits for affordable or market rate units, the deed restriction(s) for each affordable unit constructed in accordance with the provisions of 13.6.3 shall be recorded at the Bristol County (S.D.) Registry of Deeds or Registry District of the Land Court. The deed restriction shall survive any bankruptcy or foreclosure.

9.2.10 REGULATIONS

The Special Permit Granting Authority shall adopt regulations for the orderly administration of this By-Law.

9.2.11 EXPIRATION

Any special permit issued pursuant to this Section shall be recorded with the Registry of Deeds or Registry District of the Land Court. A special permit shall lapse within two years from the date of issuance, not including time required for appeals or challenges pursued under G. L. c. 40A Section 17, if substantial use has not been made or if construction has not begun within that time period except for good cause.

(2005 ATM, Article 24, 2010 ATM, Article 37)

9.3 DRIVE-THROUGH FACILITIES

9.3.1 PURPOSE

The purpose of this By-Law is to enhance the public health, safety, convenience and welfare by providing detailed review of the design and layout of drive-through facilities, which have a substantial impact upon the character and environment of the Town and upon traffic, utilities and services therein.

9.3.2 POWERS AND ADMINISTRATION

The Planning Board is hereby designated the Special Permit Granting Authority (SPGA) for Drive-Through Facilities. The SPGA shall, after a public hearing, adopt regulations relative to the issuance of special permits for Drive-Through Facilities, including submission requirements, design standards and BMPs. After holding a public hearing, the SPGA may establish administrative and review fees.

After notice and public hearing as required by M.G.L. Chapter 40A, Section 9, and review of the site plan and accompanying submissions required by its regulations (to be adopted hereunder), the SPGA may grant the special permit, deny the special permit, or grant the special permit with conditions appropriate to serving the purposes of this section.

9.3.3 DEFINITIONS

As used in this By-Law section and any regulations adopted by the Planning Board under this By-Law, the following words shall have the meanings specified herein as follows:

Access: A way or means of approach to provide vehicular or pedestrian access to a property.

Access Connection: Any driveway, street, curb cut, turnout or other means of providing for the movement of vehicles to or from the public/private roadway network.

Cross Access: A service drive providing vehicular access between two or more contiguous sites so that the driver need not enter the public street system.

Drive-Through Facility: A commercial facility that provides a service or delivers a product directly to a motor vehicle (including, but not limited to, quick lube facilities and drive-through car washes); or to the occupants of the vehicle, without requiring them to leave the vehicle (including, but not limited to fast food restaurants and drive-through automatic teller machines). This definition does not include the selling of fuel at a gasoline filling station or the accessory functions of a car wash facility such as vacuum cleaning stations.

Driveway/Curb Cut Spacing: The distance between access connections, as measured from the closest edge of pavement along the public/private roadway.

Joint Access (or Shared Access): A driveway or other Access Connection connecting two or more contiguous lots to the public/private street system.

9.3.4 APPLICABILITY

The provisions of this By-Law shall apply to all new drive-through facilities, whether such drive-through is the principal use on the lot or a use that is accessory to another use on the lot and to any existing drive-through facility undergoing alteration or reconstruction which substantially changes its location, footprint, access connection, or

service capacity.

9.3.5 EXEMPTIONS

The provisions of this By-Law do not apply to businesses such as take-out restaurants that require the vehicle occupant(s) to leave their vehicle and to walk to a take-out window or counter for service.

9.3.6 DIMENSIONAL AND INTENSITY REGULATIONS

A. Drive-Through Facilities shall only be permitted on lots which meet the minimum standards for non-residential lots pertaining to lot area and contiguous upland area contained in Section 7.5 of these By-Laws and which have a minimum lot frontage of 250 feet, and a minimum lot depth of 200 feet.

B. **Driveway/Curb Cut Spacing**: Separation between access connections on all collectors and arterials shall be based on the posted speed limit in accordance with the following table:

Posted Speed Limit (MPH)	Access Connection Spacing (Feet)
20	85
25	105
30	125
35	150
40	185
45	230
50	275

9.3.7 PARKING SPACE REQUIREMENTS

Developments that provide joint (shared) access or cross access drives between properties may be allowed a 10% reduction in the required number of parking spaces. If the applicant demonstrates to the satisfaction of the Special Permit Granting Authority (SPGA) that the periods of peak parking demand for developments with shared parking and joint or cross access are not simultaneous, the SPGA may reduce the number of required parking spaces by 20%.

(2005 ATM, Article 30)

9.4 COMMERCIAL AND NON-COMMERCIAL WIND ENERGY FACILITIES

9.4.1 PURPOSE

The purpose of this by-law is to minimize the impacts of wind turbines on the character of neighborhoods, property values, scenic, historic, and environmental resources of the Town and to protect health and safety while allowing wind energy.

9.4.2 APPLICABILITY

Construction and use of a Wind Energy Facility, Meteorological Tower or any part thereof shall be permitted in all zoning districts subject to the requirements set forth by this By-Law.

9.4.3 DEFINITIONS

A. Wind Energy Facility

All equipment, machinery, and structures, whether underground, on the surface, or overhead used to collect, transmit, distribute, store, supply, or sell energy derived from wind, including but not limited to wind turbines (rotors, electrical generators and towers), anemometers (wind measuring equipment), transformers, substations, power lines, control and maintenance facilities, and site access and service roads.

B. Wind Energy Facility, Commercial

A Wind Energy Facility that has a rated capacity of more than 60kw.

C. Wind Energy Facility, Non-Commercial

A Wind Energy Facility that has a rated capacity of less than or equal to 60kw.

D. Shared Wind Energy Facility

A Wind Energy Facility that serves multiple properties held under separate ownership.

E. Wind Turbine

A device for converting wind energy to mechanical, electrical or another form of energy.

F. Tower

The monopole, freestanding, or guyed structure that supports a wind turbine.

G. Meteorological Tower (Met Tower)

Meteorological tower (Met Tower): Includes the tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment, anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.

H. **Tower Height**

The vertical distance from ground level to the highest point of the tower.

I. **Total Height**

The vertical distance from ground level to the tip of a Wind Turbine blade when it is at its highest point.

9.4.4 **REQUIREMENTS**

The requirements of this Section, 9.4, with the exception of 9.4.4.E and 9.4.4.F, shall apply to both Towers and Met Towers.

A. **Mounting and Engineering Requirements**

Wind turbines and associated tower-mounted components shall be mounted only on a guyed, monopole or lattice structure. The applicant shall provide engineered drawings, plans and supporting data for the tower and tower foundations as well as a site plan depicting location of the Wind Energy Facility relative to property lines, buildings and other structures to the Building Inspector/Zoning Enforcement Officer. Where a special permit and/or Site Plan Approval are required, the applicant shall submit said documents to the Zoning Board of Appeals and Planning Board. Said plans, drawings and supporting data shall be prepared and stamped by the appropriate registered professional engineer licensed in the state of Massachusetts. Site Plans showing setbacks from property boundaries shall be prepared and stamped by a Registered Professional Land Surveyor licensed in Massachusetts. The Zoning board of Appeals and/or Planning board may require peer review of the engineering at the applicant's sole expense.

B. **Maximum Height**

The total height of the Wind Energy Facility shall not exceed 190 feet. A Wind Energy Facility with tower height over 140 in height may be allowed by special permit from the Zoning Board of Appeals.

C. **Lighting**

Tower lighting shall not be permitted. If the FAA requires lighting of a proposed tower because of its height, the height shall be reduced to eliminate the need for lighting.

D. **Setback Requirements**

Towers shall be set back from property lines a distance equal to the total height. Upon provision by the applicant of a recordable easement from an abutting property owner(s) that is satisfactory to the appropriate

permitting authority (Building Inspector/Zoning Enforcement Officer for facilities allowed as a matter of right) or special permit granting authority (Zoning Board of Appeals for those requiring a special permit), that authority may allow a reduction in property line setback to such abutting property.

E. **Density**

A maximum of two (2) wind turbines shall be allowed on a lot. A special permit from the Zoning Board of Appeals shall be required for more than two (2) wind turbines.

F. **Shared Wind Energy Facility**

A special permit from the Zoning Board of Appeals shall be required for a Shared Wind Energy Facility. The applicant(s) shall submit for review and approval legal agreements providing for the repair and maintenance of the shared facility.

G. **Discontinuance**

A Wind Energy Facility that is out-of-service for a continuous 24-month period shall be deemed to have been discontinued. Upon receipt of a Notice of Discontinuance from the Building Inspector/Zoning Enforcement Officer, the owner shall have the right to respond to the Notice of Discontinuance within 30 days from receipt. The Building Inspector/Zoning Enforcement officer shall withdraw the Notice of Discontinuance and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates that the Wind Energy Facility has not been discontinued. If the Wind Energy Facility is determined to be discontinued, the owner of the Wind Energy Facility shall remove the system at the owner's sole expense within three months of receipt of the Notice of Discontinuance. Failure to remove the system within the said time period may subject the owner to action by the Building Inspector/Zoning Enforcement Officer under the Non-Criminal Disposition provisions of Mass. Gen. Law Ch.40, Section 21D and Section 3702 of the general By-Laws and regulations of the Town of Westport. The Building Inspector/Zoning Enforcement Officer may impose fines not exceeding three hundred dollars per day until the discontinued Wind Energy Facility is removed.

H. **Tower Access**

The tower shall be designed and installed so as not to provide step bolts or a ladder readily accessible to the public for a minimum height of 12 feet above the ground.

I. **Tower Uses**

Unless approved by the Zoning Board of Appeals in accordance with Section 5.3, towers permitted for Wind Energy Facilities shall not be used for any purpose inconsistent with the definition of a Wind Energy Facility

J. **Color**

Wind Energy Facilities shall be of neutral color, to minimize visual impact.

(2007 ATM, Article 21)

9.5 ACCESSORY DWELLING UNIT

9.5.1 PURPOSE AND INTENT

Purpose and Intent: The intent of permitting an accessory dwelling unit is to:

1. Enable the production of more types of housing that accommodate a variety of ages, incomes, and abilities.

2. Provide homeowners with a means of obtaining companionship, security, services, and income, thereby enabling them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave.

3. Develop housing units in neighborhoods that are appropriate for households at a variety of stages in their life cycle.

4. Provide housing units for persons with disabilities.

5. Protect stability, property values, and the residential character of a neighborhood.

9.5.2 ACCESSORY DWELLING UNIT

An Accessory Dwelling Unit (ADU) is a self-contained housing unit on the same lot as a principal dwelling. An ADU shall not to exceed nine hundred (900) square feet or ½ the gross floor area of the principal dwelling, whichever is smaller. For the purposes of Section 9.5, gross floor area is defined as set forth in 760 CMR 71.02.

One accessory dwelling unit shall be allowed by right providing the following criteria are met:

a. If an external staircase is needed to reach the primary access to an accessory dwelling unit, this staircase must, to the extent possible, be enclosed and not change the general appearance of the principal dwelling.

b. An accessory dwelling unit must conform to the height and setback requirements for the district in which it is located.

c. To maintain the character of the neighborhood, to the extent possible, an attached ADU shall maintain the exterior appearance the principal dwelling.

d. There shall be no more than one accessory dwelling unit on one lot.

e. Off-street parking spaces shall meet the requirements of Section 8.3 of these bylaws.

f. The Zoning Board of Appeals may allow may grant reasonable and necessary accommodations relative to accessory dwelling units for persons with disabilities and limited mobility.

g. Use of an accessory dwelling unit as a short-term rental as defined in G.L. c. 64G is prohibited.

(2015 ATM, Article 42; 2025 ATM, Article 28; 2026 ATM, Article 28)

9.6 SOLAR ENERGY SYSTEMS

9.6.1 PURPOSE

The purpose of this Section is to provide as-of-right siting for small scale solar energy systems in all zoning districts and such development may proceed without need for discretionary approval as set forth herein and to limit large scale solar energy systems as set forth herein. The provisions set forth in this section of the Zoning By-Law shall apply to the construction, operation, repair, and/or removal of solar photovoltaic installations, and to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

The intent of the By-Law is to create a reasonable regulation to ensure that the construction and operation of all solar photovoltaic installations be consistent with all applicable local, state and federal requirements, notwithstanding Chapter 40A, Section 3, including but not limited to all applicable nuisance (noise, odor, lighting etc.), stormwater, safety, construction, electrical, and communications requirements. Additionally, the By-Law is intended to enhance the Town's rural and agricultural heritage while enabling installations of photovoltaic and agrivoltaic systems. All buildings, structures and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code.

9.6.2 AS-OF-RIGHT SMALL-SCALE SOLAR ENERGY SYSTEMS AND ANY SIZE ROOF MOUNTED SYSTEM

A. Purpose

The purpose of small-scale ground mounted solar photovoltaic installations and roof-mounted photovoltaic solar installations is to promote the creation of renewable energy for individual residences, commercial enterprises and municipal and other buildings, as-of-right, requiring the issuance of a building permit after demonstrating compliance

with this bylaw.

B. **Small-Scale Roof-Mounted Solar Energy Equipment**

Retrofitted roof-mounted solar equipment shall be located so as not to increase the total height of the structure more than one (1) foot above the applicable zoning regulations related to height in the Zoning District in which it is located, or such other height as is determined by the Building Inspector to be essential for proper operation, but in no case no more than four (4) feet above existing roof plane, whichever is lesser. All new construction shall comply with the height regulation as listed in Section 7 of the Zoning Bylaw (Intensity Regulations).

C. **Small-Scale Ground-Mounted Solar Energy System Equipment**

Small-scale ground mounted solar equipment is permitted provided it meets the Zoning Dimensional Setbacks as listed in Section7 of the Zoning Bylaw (Intensity Regulations).

Small-scale ground-mounted equipment shall be adequately screened from the neighboring lot line as determined by the Building/Zoning Official.

The height of Small-Scale Ground-Mounted Solar Equipment shall not exceed twelve (12) feet above existing grade.

D. **Permitting**

Small-scale solar equipment requires a building permit. All other necessary permits, such as electrical, shall be obtained through the Building Official/Zoning Official and from other Town departments.

E. **As-Built Plans**

As-built plans shall be submitted prior to final inspection approval.

9.6.3 **LARGE SCALE SOLAR ENERGY SYSTEMS**

A. **Purpose**

The purpose of this section is to facilitate the creation or expansion of any Large-Scale Ground-Mounted Solar Photovoltaic Installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on environmental, scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.

B. **Site Plan Approval**

Large-scale ground-mounted solar photovoltaic installations are allowed

subject to Planning Board Site Plan Approval in the Business District.

C. Special Permit

Large-scale ground-mounted solar photovoltaic installations are allowed by special permit granted by the Planning Board in the Residence-Agriculture District. The Planning Board's authority to grant or deny a special permit is discretionary and prior to the approval of any Large-Scale Ground Mounted Solar Photovoltaic Special Permit, the Planning Board shall consider whether the proposal will achieve the objectives listed below and may require conditions and safeguards deemed necessary to realize, within reason, these performance standards:

1. Protects adjoining premises by providing adequate screening and buffers between the property lines and the solar arrays.

2. Provides screening and buffers to protect scenic vistas and viewsheds from residential uses, public streets and waterways (as described in 9.6.3.K.4).

D. Administration

The Planning Board shall be the Special Permit Granting Authority (SPGA) for a Large-Scale Ground Mounted Solar Photovoltaic Installation special permit. The SPGA shall follow the procedural requirements for special permits as set forth in Section 9 of MGL Chapter 40A. After notice and public hearing and consideration of application materials, consultant reviews, public comments, and the recommendations of other town boards and/or departments, the SPGA may grant such a permit. The SPGA shall impose conditions reasonably appropriate to assure proper site design, safety, and protect water quality, air quality, and significant environmental resources, and/or otherwise serve the purpose of this section.

E. Required Review and Permitting

All large-scale ground-mounted solar photovoltaic installations in the Business Zoning District shall require Site Plan Approval under Section 2.8 and a building permit issued by the Building Inspector. Low Impact Development Requirements, under Zoning By-Law Section 8.2 by the Planning Board shall also apply.

All large-scale ground-mounted solar photovoltaic installations in the Residential/Agricultural zoning district shall require a special permit under this Zoning By-Law and a building permit. Low Impact Development, under Zoning By-Law Section 8.3 by the Planning Board shall also apply, including to those installations requiring an Order of Conditions or Request for Determinations of Applicability issued by the Town of Westport Conservation Commission.

The applicant is encouraged to request a pre-application review at a regular meeting of the Board. At the pre-application review, the applicant may outline the proposed solar photovoltaic installation and seek preliminary, but not binding, feedback from the Board and other Town bodies and staff.

F. Utility Notification

Evidence shall be provided at time of the application that the utility company that operates the electrical grid where the installation is to be located has been informed of the intent of a solar photovoltaic installation and that approval to connect to the grid has been granted or appropriate application(s) have or will be been made to such utilities for interconnection. Off-grid systems shall be exempt from this requirement. Reasonable efforts should be made to place all utility connections underground, depending on appropriate soil conditions, wetlands, shape and topography of the site. The Building Inspector or Planning Board will consider this information in their deliberations.

G. Fees

An application shall be accompanied by the required fee and a tri-party account for engineering review, monitoring, and inspections fees. An application for a building permit shall be accompanied by the fee required for a building permit. All other fees that shall be required by permitting parties (Conservation Commission, etc.) shall be administered according to their regulations.

H. Dimensional, Use and Access Requirements for Large Scale Systems (Lot Size, Frontage, Setbacks and Height)

	Residence/ Agricultural District	Business District
Minimum Lot Size	5 Acres	5 Acres
Minimum setbacks from property lines (1)	100 ft.	100 ft.
Minimum setbacks from street lines (1)	250 ft.	150 ft.
Minimum setback from wetlands resource areas (1)	100 ft.	100 ft.
Minimum protected open space (3)	25%	25%
Maximum height (2)	15 ft. a.	15 ft. a.
Maximum clearing areas (4)	12 Acres	12 Acres

EXPLANATORY NOTES TO TABLE OF DIMENSIONAL, USE AND ACCESS REQUIREMENTS FOR LARGE SCALE SYSTEMS

(1) Setbacks may be reduced if, in the opinion of the Planning Board

based on evidence submitted by applicant, existing and/or proposed screening will be adequate to minimize visual impact (as described in Section 9.6.3.K.4. Under no circumstance will setbacks be reduced to less than the dimensional requirements for the zoning district.

Setbacks may be increased by up to 50% if, in the opinion of the Planning Board based on evidence submitted by the Board or abutters, existing and/or proposed screening will not be adequate to minimize visual impact (as described in 9.6.3.K.4

Fencing and structures, including solar panels, shall meet the minimum setback requirements, and clearing or trimming of natural vegetation within the required setbacks shall be prohibited unless the Board finds that the trimming or clearing would not have a detrimental impact on abutting properties. Drainage facilities shall meet the minimum setback requirements unless the Board finds that adequate screening can be provided and in the opinion of the Board, a reasonable alternative design is not feasible.

(2) Height of Structures – No component of a Large-Scale Ground-Mounted Solar Photovoltaic Installation shall exceed 15 feet above existing grade (except for connection to the grid).

(a) Except in cases where agriculture is an integral part of the solar plan, an elevation of seventy-two (72) inches at the lowest point and similar increase at all other points in the array, provided that viewsheds from the public ways are not significantly affected, and at the discretion of the Special Permit Granting Authority (SPGA).

(3) Protected open space – Shall equal 25% of the "clearing area". Protected open space shall be left in their natural state.

(4) Clearing Area – Shall include all areas of the parcel being disturbed, the access drive shall also be included in this area. Clearing areas may be increased by up to 50% provided the Board finds that there is no undue impact to the environment and the visual impact (as described in 24.2.11.d) is not detrimental to the abutters or neighborhood. Upon Board findings that a solar array is an agrivoltaic system, clearing areas may be increased by an additional 10%. In no circumstance shall total clearing area exceed 60%.

Access Drive - Access to the facility shall be through actual minimum lot frontage of 50 feet on a street or through a 50-foot-wide easement connecting the development lot to a public way. The physical travelled way for the construction and maintenance of the proposed solar facility shall be a minimum of 12' wide or such greater width as required by the Planning Board or Fire Department and shall have the lines, grades, surface conditions and

drainage facilities, as required.

I. Required Documents

In addition to any other documents required under the Town of Westport Zoning By-Law, the following documents shall be provided for Large-Scale Ground-Mounted Solar Photovoltaic Installation:

1. All plans and maps shall be prepared, stamped and signed by a professional engineer licensed to practice in Massachusetts in accordance with the "Plans and Plan Content" section of Rules and Regulations of the Westport Planning Board for Site Plan Approval .

2.. Drawings of the solar photovoltaic installation showing the proposed layout of the system and any potential shading from nearby structures shall be shown on the plans.

3.. One- or three-line electrical diagrams detailing the solar photovoltaic installation, associated components and electrical interconnection methods with all National Electrical Code compliant disconnects and overcurrent devices shall be shown on the plans.

4. Documentation of the major system components to be used, including the electric generating photovoltaic panels, mounting system, inverter, etc. shall be provided (including applicable material safety data sheets (MSDS).

5. A list of any hazardous materials proposed to be located on the site in excess of household quantities and a plan to prevent their release to the environment, as appropriate, (including applicable material safety data sheets (MSDS).

6. Name, address, signature and contact information for project applicant, co-applicant and name, address, signatures and contact information of any agents representing the project applicant's proposed system installer shall be provided.

7. Photometric plan for any required site lighting with specific cut-sheet details.

8. All signage detail shall be submitted with the application showing dimensions and detail.

9. A rendering or photo simulation showing the proposed project at completion.

10. Locations of wetlands and Priority Habitat Areas defined by the Natural Heritage and Endangered Species Program (NHESP); the applicant shall provide evidence of compliance with these regulations.

11. Locations of Floodplains or inundation areas for moderate or high hazard dams.

12. Locations of local or National Historic Districts and Priority Heritage Landscapes or other significant cultural sites.

13. Plans showing provision of water including that needed for fire protection.

14. Plans showing existing trees of 6" caliper or larger.

15. Proof of liability insurance.

The Building Inspector or Planning Board may waive documentary requirements as it deems appropriate. All waiver requests must be written on the site plan.

J. **Site Control**

The applicant shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation.

K. **Design Standards**

1. **Lighting**

Lighting of solar photovoltaic installations shall be consistent with local, state and federal law.

2. **Signage**

A non-illuminated sign not exceeding four square feet in area shall be installed identifying the owner and/or operator of the solar installation and a 24–hour emergency contact telephone number. Additional signage relative to public safety shall be permitted if approved by the Building Inspector.

3. **Land Clearing, Landscaping, Vegetation Maintenance**

Clearing of natural vegetation shall be limited to what is necessary for construction, operation and maintenance of the installation. Section 8.2 Low Impact Development shall apply. including to those installations requiring an Order of Conditions or Request for

Determinations of Applicability issued by the Town of Westport Conservation Commission.

Herbicides shall not be used on site. Mowing or grazing farm animals shall be used to control vegetation under the solar array panels. Geotextiles may be used to control erosion.

The design and construction shall include suitable organic material for all disturbed areas to prevent erosion and support pollinator-friendly habitat vegetation. In the case where topsoil is removed, a minimum of four inches of native topsoil, or compostable mulch mix, is replaced to facilitate plant growth and adequate coverage to control stormwater runoff.

4. <u>Visual Impact</u>

Siting of Large Scale Solar Energy Systems within the Residence-Agricultural District applicants shall consider the residential and farming character of the District, the larger general purpose of the Westport Zoning By-law to promote land uses compatible with that existing character and the avoidance of visual impacts that large scale solar energy systems, by their commercial or industrial nature, would have on District vistas.

Existing topography, plantings and natural landscaped buffers shall be used to minimize the visual impacts of large-scale solar energy systems from residential uses, public streets or waterways. Large scale solar energy system designs shall not be approved unless the system design provides screening and buffers to protect scenic vistas and viewsheds from residential uses, public streets and waterways

Structures shall be reasonably shielded from view by vegetation and/or joined and clustered to minimize adverse visual impacts. Landscaping, natural features, opaque fencing and other suitable methods shall be utilized. A screening plan shall be submitted ensuring that the solar arrays and any appurtenant structures are screened from roads and from adjacent lots by a minimum twenty-five (25) foot wide and five (5) foot tall staggered and grouped planting of shrubs and small trees within the setbacks. The Planning Board may alter or waive this requirement if such screening would prove to be ineffective for the site. Fences may be required for safety and/or visual screening purposes with appropriate safety signage (see 9.6.3.K.2).

When possible, a diversity of plant species shall be used, with a preference for species native to New England. Use of exotic plants, as identified by the most recent copy of the "Massachusetts

Prohibited Plant List" maintained by the Massachusetts Department of Agricultural Resources, is prohibited.

Such plantings shall use native plants, pollinators, and a mix of deciduous and evergreen species and may be located within the setback area. Said vegetative screening shall reach a mature form to effectively screen the installation within five years of installation. Planting of the vegetative screen shall be completed prior to final inspection and approval of the solar energy installation. The applicant shall provide surety (either through escrow account or other form of surety approved by the Planning Board) for a minimum of two (2) growing seasons to ensure that the site is properly revegetated and that the installed stormwater infrastructure is functioning properly.

Pre-application clearing may negate the application for Large Scale Systems at the Planning Board's discretion.

5. <u>Safety, Emergency Service and Hazardous Materials</u>

The applicant shall provide a copy of the project summary, electrical schematic, and site plan. The applicant shall develop an emergency response plan including showing all means of shutting down the solar installation. The applicant shall submit the name of the person answerable to inquires throughout the life of the installation. The name of the designated individual shall be kept current and on file with the Planning Board and the Building Inspector.

Hazardous materials stored, used, or generated on site shall not exceed the amount for a Very Small Quantity Generator of Hazardous Waste as defined by the DEP pursuant to MassDEP regulations 310 CMR 30.000 and shall meet all requirements of the DEP including storage of hazardous materials in a building with an impervious floor that is not adjacent to any floor drains to prevent discharge to the outdoor environment. If hazardous materials are utilized within the solar photovoltaic equipment, impervious containment areas capable of controlling any release to the environment to prevent potential contamination of groundwater are required.

6. <u>Monitoring and Maintenance</u>

The applicant shall submit a plan for the operation and maintenance of the installation, which shall include measures for maintaining the site including safe access, stormwater control, structural repairs and the integrity of security measures. These measures shall be approved by the Fire Chief and emergency

medical services personnel. The owner and/or operator shall be responsible for the cost of maintaining the installation.

7. Appurtenant Structures

All appurtenant structures to large-scale ground-mounted solar photovoltaic installations shall, be subject to reasonable conditions concerning the bulk and height of structures, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including but not limited to, equipment shelters, storage and battery facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be screened from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

8. Noise

Noise generated by Large-Scale Ground-Mounted Solar Photovoltaic Installations and associated equipment and machinery shall conform to applicable state and local noise regulations, including the DEP's Division of Air Quality noise regulations, 310 CMR 7.10. A source of sound will be considered in violation of said regulations if the source:

a. Increases the broadband sound level by more than 10 db(A) above ambient; or

b. Produces a "pure tone" condition, when an octave band center frequency sound pressure level exceeds the two (2) adjacent center frequency sound pressure levels by three (3) decibels or more. Said criteria are measured both at the property line and at the nearest inhabited residence. "Ambient" is defined as the background A-weighted sound level that is exceeded 90% of the time measured during equipment hours, unless established by other means with the consent of the DEP. Noise generated shall further comply with Section XL of the Town of Westport By-Laws.

9. Impact on Agricultural and Environmentally Sensitive Land

The facility shall be designed to minimize impacts to agricultural and environmentally sensitive land and to be compatible with continued agricultural use of the land whenever possible.

10. Fencing

Photovoltaic and agrivoltaic systems shall be surrounded by fencing of a minimum six (6) foot height. Fencing required under

this section shall be installed six (6) inches above the ground.

11. Utility Connections

All utility connections and electrical transmission lines in service of photovoltaic and agrivoltaic installations and their appurtenant structures shall be installed underground to the greatest extent feasible, depending on appropriate site conditions. Electrical transformers for utility interconnections may be above ground as necessary, to be approved by the Planning Board.

L. As-Built Plans

As-built plans shall be approved by the Building Inspector, if said plans represent construction of the facility as shown on the building permit application or the site plan approved by the Planning Board before a Certificate of Completion or Occupancy may be issued.

M. Modifications

All material modifications as determined by the Building Inspector for a solar photovoltaic installation made after issuance of the required building permit shall require approval by the Planning Board.

N. Change in Ownership

If the owner and/or operator of a large-scale ground mounted solar facility changes, notice shall be given to the Building Inspector and Planning Board with the contact information of the new owner/operator within one month of the change in ownership and/or operations.

O. Annual Reporting

The owner or operator of the installation shall submit an Annual Report to the Building Inspector and the Planning Board which certifies compliance with the requirements of this By-Law and their approved site plan including control of vegetation, noise standards, and adequacy of road access by January 15th of each year.

P. Abandonment, Decommissioning and Removal of Equipment

The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Planning Board by certified mail of their proposed date of discontinued operations and plans for removal. The notification shall consist of the methodology of physical removal of all structures, equipment, security barriers and transmission lines, disposal of all solid and hazardous waste, and stabilization or re-vegetation of the site.

If the owner or operator fails to remove the installation in accordance with the above criteria, the Town or its agents may, after the receipt of an appropriate court order or consent of the owner, enter the property and physically remove the installation at the owner's expense. As a condition of siting any such use, an equipment owner shall allow the Town entry to remove an abandoned or decommissioned installation. The cost for the removal will be charged to the property owner in accordance with the provisions of M.G.L. 139, Section 3A as a tax lien on the property.

Decommissioning shall consist of:

1. Physical removal of all Large-Scale Ground-Mounted Solar Photovoltaic Installations, structures, equipment, security barriers and transmission lines from the site, including any materials used to limit vegetation.

2. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

3. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

4. Restoration of agricultural land to a condition suitable for resumption of agricultural production.

Q. <u>Financial Surety for Removal/Remediation</u>

The applicant shall provide surety (either through escrow account or other form of surety approved by the Planning Board) to cover the cost of removal in the event the Town must remove the installation and remediate the landscapes, in an amount and form determined to be reasonable by the Planning Board. Such amount shall not exceed 150% of the estimated cost of removal and compliance with any additional requirements set forth herein. The project applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal cost due to inflation. The estimate shall be verified by the Planning Board's consultant engineer or other expert who may be engaged pursuant to Section 9.6.4.

9.6.4 CONSULTANT REVIEW

The Planning Board shall establish a procedure for engaging professional engineers and/or other technical consultant(s) to advise the Building Inspector and the Planning Board, and to review application plans and documents in the application phase and in the construction phase. The applicant shall pay for the cost of the consultant review(s) pursuant to the procedures specified in M.G.L. c. 44, §53G or §53A. Further, the Planning Board shall establish a procedure for engaging consultants to inspect and confirm

compliance with any requirements during construction and maintenance. Refusal to pay the necessary consultant fees shall be a basis to deny the building permit, site plan, or special permit approval. Such procedure shall include prior notice to the owner or operator of the installation of the cause of such proposed engagement.

(2013 STM, Article 11; 2022 ATM, Article 27; 2023 ATM, Article 32)

9.7 HOME OCCUPATIONS

Home occupations are permitted by right and by Special Permit in the Residential/Agricultural, and Business, Districts in accordance with the following provisions:

A. Use of room or rooms in a dwelling for customary home occupations conducted by resident occupants, such as for the practice, by a resident, of a recognized profession.

B. Use of premises or building thereon in connection with his trade by a resident carpenter, electrician, painter, plumber or other artisan, provided that no manufacturing or business requiring substantially continuous employment be carried on.

C. Display of a sign pertaining to a permitted use with a total area of not more than six (6) square feet.

D. Use of the premises by a resident fisherman, possessing a commercial shellfish license, for the shucking or removal of meats from shellfish, caught by said resident.

E. Non-Medical and Medical Marijuana Establishments are not permitted as home occupations.

F. Home occupations shall be registered as a business with the Town Clerk.

9.7.1 HOME OCCUPATION – AS OF RIGHT

A home occupation may be allowed as of right, provided that it:

A. is conducted by the person(s) occupying the dwelling as a primary residence;

B. is clearly incidental and secondary to the use of the premises for residential purposes;

C. does not produce offensive noise, vibration, smoke, dust, odors, heat, lighting, electrical interference, radioactive emission or environmental pollution;

D. does not produce any excessive customer, pupil or client trips to the occupation site;

E. does not have any non-nonresident employees.

9.7.2 HOME OCCUPATION – BY SPECIAL PERMIT

A home occupation may be allowed by special permit issued by the Zoning Board of Appeals, provided that it:

A. fully complies with Sections 9.7, and 9.7.1. a., b, c. above.

B. is conducted by the person(s) occupying the dwelling as primary residence and, in addition to the residents of the premises, by not more than one additional employee;

C. does not exhibit any exterior indication of its presence, or any variation from residential appearance, except for a sign or name plate in compliance with Section 9.7.C. and,

D. a special permit for such use is granted by the Zoning Board of Appeals, subject to conditions including, but not limited to, restriction of hours of operation, maximum floor area, off-street parking, and maximum number of daily custom vehicle trips. Such special permit shall be limited to five years, or the transfer of the property, whichever first occurs.

(2022 ATM, Article 28)

9.8 BED AND BREAKFAST

Bed and Breakfast consisting of renting rooms on a daily or weekly basis and providing breakfast meals to guests renting such rooms are permitted in accordance with Section 5.1 Table of Use Regulations and the following requirements

A. The only meal to be provided guests shall be breakfast, and it shall only be served to guests taking lodging at the facility and shall be included in the guestroom rate.

B. The business owner shall conform to any requirements of the Massachusetts Department of Public Health and the Department of Public Health and Code Enforcement, adhere to all existing rules, regulations, codes and other Federal, Commonwealth of Massachusetts and Town of Westport requirements pertaining to health and safety as typically regulated and enforced by the Building Department, Board of Health, Conservation Commission, Fire Department, Planning Board and/or Board of Selectmen.

C. A maximum of two guests per room are allowed and children under the age of twelve (12) shall not be considered in the total number of guests.

D. Guestroom shall not include individual kitchen facilities, and shall have at least one toilet, one bath/shower, and one washbasin separate from those required for the single-family residence portion of the dwelling.

E. Not more than forty-five (45%) percent of the entire habitable living space shall be allocated for Bed and Breakfast establishment purposes.

F. One non-illuminated sign may be erected on the property, not to exceed eight (8) square feet in size, with no single dimension exceeding four feet (4').

9.9 MARIJUANA ESTABLISHMENTS

9.9.1 PURPOSE

The purpose and intent of this Section is to regulate the siting of Marijuana Establishments by minimizing the adverse impacts on adjacent properties, residential

neighborhoods, schools and other places where children congregate, and other land uses potentially incompatible with said Establishments.

9.9.2 AUTHORITY

Marijuana Establishments, may be allowed by Special Permit from the Westport Planning Board provided the Planning Board finds that:

1. The Establishment is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in M.G.L. Chapter 40A, Section 11.

2. The Establishment is designed to maximize security measures including but not limited to lighting, fencing, visibility and gates. Alarms and video shall connect to the Police Station for security.

3. The Establishment demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations.

4. The Establishment will be designed and operated to minimize noise and odors.

5. The applicant has demonstrated that there is sufficient water supply and that all waste will be properly disposed, and

6. The applicant has satisfied all the conditions and requirements of this Section.

9.9.3 REQUIREMENTS

1. Marijuana Establishments shall only be located in the Science and Technology Overlay District, or within the boundaries of the Adult Entertainment Overlay District. If the provisions of the underlying district conflict with the requirements of Section 9.9 of this Bylaw, Section 9.9 shall control.

2. All Marijuana Establishments shall be contained within a permanent building or structure.

3. No other use shall be permitted on a lot containing a Marijuana Establishment.

4. All Marijuana Establishments shall meet the following dimensional requirements, in addition to those of the district in which it is located.

Minimum Front Yard 50'
Minimum Side Yard 25'
Minimum Rear Yard 25'
Maximum Gross Floor Area 10,000 s.f.
Maximum Building Height 40'
Setback from Residential Uses, Minimum 500' (1)

(1) To qualify as a residential use, the structure shall be occupied and used as a single family or two family dwelling at the time of the Special Permit filing. The distance shall be measured between structures.

5. The hours of operation of a Retail Marijuana Establishment and/or Medical Marijuana Treatment Center shall be set by the Special Permit Granting Authority, but in no event shall said facilities be open to the public between the hours of 9:00 PM and 8:00 AM for sales to consumers. All visits to Retail Marijuana Establishments shall be by appointment only.

6. Site Plan Approval under Section 2.8 is required for all Marijuana Establishments.

7. Cultivation shall be located entirely within one or more fully enclosed buildings with conventional or post framed opaque, rigid walls and roof covering.

8. The total number of Marijuana Retailers shall not exceed 20 percent of the number of licenses issued within the Town for the retail sale of alcoholic beverages not to be drunk on the premises where sold under Section 15 of M.G.L. Chapter 138.

9.9.4 WAIVER OF COMPLIANCE

The Planning Board acting as the Special Permit Granting Authority, under this Section may waive strict compliance with the dimensional requirements, provided the Board finds that the waivers are in the public interest and not inconsistent with the purpose and intent of this Section.

9.9.5 TERM LIMIT

A special permit granted under this Section shall have a term limited to the duration of the applicant's ownership of the premises as Marijuana Establishments. A special permit may be transferred only with the approval of the Planning Board in the form of an amendment to the special permit.

(2014 ATM, Article 29, ATM, Article 21)

9.10 SHORT-TERM RENTALS

9.10.1 Purpose

The short term rental zoning bylaw provides for administration and enforcement of Westport short term rentals in order to protect the health, safety, and welfare of both the occupant(s) of those rental units and the general public, and to maintain the quality of life in residential neighborhoods. This bylaw provides for the orderly operation of short term rentals, recognizing their historic role in Westport's economy.

9.10.2. Permit

The owner of a short term rental business must annually have a Short Term Rental permit granted pursuant to ARTICLE LXXI of the **BY-LAWS AND REGULATIONS OF THE TOWN OF WESTPORT, MASSACHUSETTS**.

9.10.3 General Requirements

A short term rental is permitted in accordance with Section 5.1 Table of Use Regulations and subject to the following requirements:

A. Guestroom(s) must be provided within a legal dwelling unit.

B. The owner shall adhere to applicable bylaws, laws, rules, regulations, and codes of the Commonwealth of Massachusetts and Town of Westport including but not limited to registering with the Massachusetts Department of Revenue.

C. Short term rentals in the Residential/Agricultural district are for residential uses only. Commercial uses, including but not limited to event spaces or beverage promotion, are not permitted in the Residential/Agricultural district.

9.10.4 Violation Provisions

Violations of Section 9.10 of this bylaw will be subject to the provisions of G.L. c. 40, sec. 21D, regarding Non-Criminal disposition, as adopted by the Town of Westport. Any owner who fails to comply with any provision of this section shall be subject to the actions identified in Section 2.1 for each offense, where each day of noncompliance is considered a separate offense.

(2025 ATM, Article 26)

Establishment

APPENDIX A ZONING DISTRICT DESCRIPTIONS

The Zoning Map is described as follows:

A. **As Residence/Agriculture:** The portion of the Town bounded and described as follows:

Beginning at the boundary line between Little Compton and Westport at the southerly limit of private rights in the Atlantic Ocean, thence northerly along said boundary line to the southerly line of Adamsville Road; thence easterly in the southerly line of Adamsville Road to the southerly line of Cornell Road, thence easterly in the southerly line of Cornell Road, excepting parcels or portions thereof identified as Village Commercial in the Town of Westport Zoning Map approved May 5, 2026 and on file with the Town Clerk, to the west line of Main Road; thence easterly in right angles to the west line of Main Road across Main Road to the east line thereof and continuing easterly in the same course one thousand feet; thence southerly in a line parallel to the east line of Main Road and one thousand feet easterly there from to a point distant northerly one thousand feet measured in a southerly extension of said line from the west line of Drift Road thence easterly; northeasterly and northerly in a line parallel to the west line of Drift Road and one thousand feet there from to the south line of Kirby Road; thence easterly in the south line of Kirby Road one thousand feet more or less to the west line of Drift Road; thence easterly at right angles to the west line of Drift Road across Drift Road to the east line thereof and continuing easterly in the same course to the East Branch of the Westport River and into said River as far as private rights extend; thence southerly by the East Branch of said River to Westport Point; thence northwesterly by the West Branch of said River to the head thereof; thence southeasterly by the West Branch of said River to the Ocean; thence westerly by the Ocean to the place of beginning.

All that portion of the Town not previously voted by a two-thirds vote of a Town Meeting to be included in the Business District bounded and described as follows: *

Southerly by the American Legion Highway (Route 177); Westerly by the Westport-Fall River boundary line and the South Watuppa Pond; Northeasterly by the State Highway (Route 6); Easterly by the Westport-Dartmouth boundary line.

That portion of the Town, bounded and described as follows:

Northerly by Interstate 195; Easterly by the Westport-Dartmouth boundary line; Southerly by a line five hundred (500) feet north of and parallel to the north line of the State Highway (Route 6); Westerly by the east line of Washington Street extended to Interstate 195.

That portion of the Town, bounded and described as follows:

Beginning at a point on the westerly line of Washington Street, which point is 500' on a perpendicular line from the northerly line of the State Highway (Route 6); thence northwesterly 500' along a line which is 500' from and parallel to the northerly line of the State Highway (Route 6); thence northwesterly and northerly along a line parallel to and 500' on a perpendicular line from the westerly line of Washington Street to the northerly line of Hobart Street; thence easterly 150' in the northerly line of said Hobart Street; thence northerly in a line parallel to said westerly line of Washington Street for a corner at a point which is on a perpendicular line to the westerly line of Washington Street and from the terminus of Washington Street, said terminus is at the intersection of westerly line of Washington Street and the southerly line of Interstate Route 195; thence at a right angle easterly 350' to the westerly line of Washington Street; thence southerly and southwesterly along the westerly line of Washington Street to the point of beginning.

That portion of the Town, bounded and described as follows:

Northerly by the Westport-Fall River boundary line; Easterly by the Westport-Dartmouth boundary line; Southerly by the north line of Old Bedford Road; Westerly by the Westport-Fall River boundary line.

All that portion of the Town, not previously voted by a two-thirds vote of a Town Meeting to be included in the Business District bounded and described as follows: *

Beginning at the intersection of the south line of the American Legion Highway (Route 177) with the Westport-Fall River boundary line; thence easterly along said south line of the American Legion Highway to its intersection with the west line of Old County Road to the west line of Main Road; thence southerly along said west line of Main Road to a point one thousand (1,000) feet northerly of the north line of Kirby Road; thence westerly at a right angle to the west line of Main Road one thousand (1,000) feet; thence southerly along a line which line is one thousand (1,000) feet westerly from, and parallel to the west line of Main Road, to the south line of Cornell Road; thence westerly along said south line of Cornell Road to its intersection with the south line of Adamsville Road; thence southwesterly along said south line of Adamsville Road to the Westport-Rhode Island boundary line, excepting parcels or portions thereof identified as Village Commercial in the Town of Westport Zoning Map approved May 5, 2026 and on file with the Town Clerk; thence northerly along said boundary line to the Westport-Fall River boundary line; thence northerly along last said boundary line and Sawdy Pond to the point of beginning.

All that portion of the Town, not previously voted by a two-thirds vote of a Town Meeting to be included in the Business District, bounded and described as follows: *

Beginning at a point on the south line of Kirby Road, which point is one thousand (1,000) feet easterly of the intersection of the south line of Kirby Road with the east line of Main Road; thence southerly along a line, which is one thousand (1,000) feet easterly from, and parallel to the east line of Main Road to a point one thousand (1,000) feet northerly of the west line of Drift Road; thence northerly along a line, which line is one thousand (1,000) feet westerly from, and parallel to the west line of Drift Road, to a point on the south line of Kirby Road; thence easterly along the south line of Kirby Road to the west line of Drift Road; thence easterly at right angles to the west line of Drift Road across Drift Road to the east line thereof and continuing easterly in the same course to the west bank of the East Branch of the Westport River, and into said River as far as private rights extend; thence northerly along the west bank of the East Branch of the Westport River to the south line of Old County Road; thence southerly along the east bank of the East Branch of the Westport River to the east bank of the Let; thence southerly along the east bank of the Let to a point, which point is on the westerly extension of the north line of Third Street; thence easterly along the north line of Third Street as extended to Horseneck Road and Westport-Dartmouth boundary line; thence northerly along the Westport-Dartmouth boundary line to the south line of American Legion Highway (Route 177); thence westerly along the south line of American Legion Highway (Route 177) to the west line of Old County Road; thence southerly along the west line of & Old County Road to the east line of Main Road; thence southerly along the east line of Main Road to a point one thousand (1,000) feet northerly of the intersection of the north line of Kirby Road with the east line of Main Road; thence easterly at right angles to the east line of Main Road one thousand (1,000) feet; thence southerly along a line, which line is one thousand (1,000) feet easterly from, and parallel to the east line of Main Road, one thousand (1,000) feet to the north line of Kirby Road and thence in the same course to the point of beginning.

All that portion of the Town, not previously voted by a two-thirds vote of a Town Meeting to be included in the Business District, bounded and described as follows: *

On the east by the Westport-Dartmouth boundary line from the Atlantic Ocean to the easterly extension of the north line of Third Street; on the south by the Atlantic Ocean; on the west by the West Branch of the Westport River; on the north, by the West and East Branches of the Westport River, by the east bank of the Let and by the north line of Third Street and its extension westerly to the Let; including all the islands in the Westport River, the Horseneck and Gooseberry Neck.

All that portion of Town lying northerly of Interstate Route 195.

(1957 STM, Article 6; 1963 ATM, Article 38; 1973 STM, Articles 27, 28, 29, 31, 38, 42 & 44; 1975 STM, Article 11; 1987 ATM, Article 80; 1990 ATM, Articles 45 & 49; 2008 ATM, Article 45; 2024

ATM, Article 36; 2026 ATM, Article 33)

(Editorial Note): The 1963 Article added the introduction to this section, which was amended by Article 44 in 1973 to incorporate the updated zoning map, and again by Article 11 in 1975 which added the words "except flood plain districts." Articles 27, 28, 29, 31, 38, and 42 passed in 1973 added the second, third, fourth, fifth, sixth and seventh descriptive paragraphs. The 1990 ATM, Article 45 changed the Residence District name to "Residence/Agriculture District" while Article 49 changed a portion of the Unrestricted District to Residence/Agriculture, which added the present fourth paragraph. The 2008 ATM added the words "and other overlay districts" in the first line of 3.1 Location of Districts.

*All references above to "Business Districts voted by Town Meeting" refer to zones contained in 3.1.B., below.

The 2024 Annual Town Meeting, Article 36 rezoned the "Unrestricted District" to Residence/Agriculture, as described on the May 7, 2024 Town of Westport Zoning Map.

B. **As Business:** The portion of the Town bounded and described as follows:

Beginning at the intersection of the south line of Cornell Road and the west line of Main Road; thence easterly at right angles to the west line of Main Road across Main Road to the east line thereof and continuing easterly in the same course one thousand feet; thence northerly in a line parallel to the east line of Main Road and one thousand feet easterly there from to a point distant northerly one thousand feet measured in said line from the north line of Kirby Road; thence westerly at right angles to the east line of Main Road one thousand feet to the east line of Main Road; thence continuing westerly in the same course across Main Road to the west line of Main Road and continuing westerly in the same course one thousand feet beyond the west line of Main Road; thence southerly in a line parallel to the west line of Main Road and one thousand feet westerly there from to the south line of Cornell Road; thence easterly in the south line of Cornell Road one thousand feet more or less to the place of beginning.

The portion of the Town bounded and described as follows:

Southerly by the American Legion Highway (Route 177); (Route 6); Easterly by the Westport-Dartmouth boundary line.

The portion of the Town bounded and described as follows:

Beginning at the intersection of the west line of Forge Road with the north line of the American Legion Highway (Route 177); thence proceeding northerly along said west line of Forge Road five hundred (500) feet; thence proceeding westerly along a line, which line is five hundred (500) feet northerly from, and parallel to the north line of the American Legion Highway to a point on the east line of Sanford Road; thence proceeding southerly along said east line of Sanford Road five hundred (500) feet to the north line of the American Legion Highway (Route 177); thence

proceeding easterly along said north line of the American Legion Highway to the point of the beginning.

The land bounded and described as follows:

Beginning at the intersection of the south line of the American Legion Highway (Route 177) with the west line of Beeden Road; thence proceeding westerly along the south line of said American Legion Highway to a point two thousand (2,000) feet west of the southerly extension of the west line of Sanford Road; thence proceeding south five hundred (500) feet; thence proceeding easterly along a line, which line is five hundred (500) feet southerly from, and parallel to the south line of the American Legion Highway, to a point on the west line of Beeden Road; thence proceeding northerly five hundred (500) feet along the west line of Beeden Road to the point of beginning. Beginning at the intersection of the west line of Old County Road with the north line of Mouse Mill Road; thence proceeding westerly four hundred (400) feet; thence southerly and parallel to the west line of Old County Road four hundred (400) feet; thence easterly four hundred (400) feet to the west line of Old County Road; thence proceeding northerly four hundred (400) feet along the west line of Old County Road to the point of beginning.

The land bounded and described as follows:

Beginning at the intersection of the south line of the line; thence southeasterly along said south line of said State Highway (Route 6) to the west line of Forge Road; thence southerly along said west line of Forge Road to a point five hundred (500) feet northerly of the north line of the American Legion Highway (Route 177); thence westerly along a line, which line is five hundred (500) feet northerly from, and parallel to the north line of the American Legion Highway, one thousand (1,000) feet; thence northerly to a point, which is five hundred (500) feet east of the end of the east line of Center Street; thence northerly along a line, which line is five hundred (500) feet easterly from and parallel to the east line of Center Street to a point five hundred (500) feet southerly from the south line of the State Highway (Route 6); thence northwesterly along a line, which line is five hundred (500) feet southerly from, and parallel to the south line of the State Highway, to the Westport-Fall River boundary line; thence northerly five hundred (500) feet along said boundary line to the point of beginning.

The land bounded and described as follows:

Beginning at the intersection of the north line of the State Highway (Route 6) with the Westport-Dartmouth boundary line; thence northwesterly along said north line of the State Highway (Route 6) to the east line of Washington Street; thence northerly along said east line of Washington Street; five hundred (5OO) feet; thence southeasterly along a line, which line is five hundred (500) feet northerly from and parallel to the north line

of State Highway (Route 6) to a point on the Westport-Dartmouth boundary line; thence southerly along said boundary line to the point of beginning.

The portion of the Town, bounded and described as follows:

Beginning at the intersection of the westerly line of Washington Street and the northerly line of the State Highway (Route 6); thence northwesterly along said northerly line of the State Highway (Route 6) to its intersection with the easterly line of Davis Road; thence northeasterly along said easterly line of Davis Road to a point which is 500' on a perpendicular line from the northerly line of the State Highway (Route 6); thence southeasterly along a line, which is 500' from and parallel to the northerly line of the State Highway (Route 6) to the westerly line of Washington Street; thence southeasterly along said westerly line of Washington Street to the northerly line of the State Highway (Route 6) to the point of beginning. The portion of the Town, bounded and described as follows:

Beginning at the intersection of the north line of the American Legion Highway (Route 177) with the west line of Sanford Road; thence northerly along the west line of Sanford Road one thousand (1,000) feet; thence westerly along a line, which line is northerly from, and parallel to the north line of the American Legion Highway, two thousand (2,000) feet; thence southerly along a line, which line is parallel to the west line of Sanford Road, one thousand (1,000) feet to a point on the north line of the American Legion Highway (Route 177); thence easterly along said north line of the American Legion Highway (Route 177) to the point of beginning.

The portion of the Town, bounded and described as follows:

Beginning at a point in the south line of Hix Bridge Road, which point is one thousand (1,000) feet easterly from the intersection of said south line with the east line of Main Road; thence southerly along a line, which line is one thousand (1,000) feet easterly from, and parallel to the east line of Main Road one thousand (1,000) feet; thence easterly at a right angle to the last said line to Route 88; thence northerly along Route 88 to the south line of Kirby Road; thence westerly along said south line of Kirby Road to a point, which point is one thousand (1,000) feet easterly from the intersection of said south line with the east line of Main Road; thence southerly along a line, which line is one thousand (1,000) feet easterly from, and parallel to the east line of Main Road to the point of beginning.

The portion of the Town, bounded and described as follows:

Beginning at the intersection of the east line of Route 88 with the north line of Hix Bridge Road; thence northerly along the east line of Route 88 one thousand (1,000) feet; thence proceeding easterly along a line, which line is one thousand (1,000) feet northerly from, and parallel to the north

line of Hix Bridge Road, five hundred (500) feet; thence proceeding southerly along a line, which line is five hundred (500) feet easterly from, and parallel to the east line of Route 88, to a point, which point is one thousand (1,000) feet southerly of the south line of Hix Bridge Road; thence proceeding westerly along a line which line is one thousand (1,000) feet southerly from, and parallel to the south line of Hix Bridge Road, five hundred (500) feet to the east line of Route 88; thence northerly along the east line of Route 88 to the point of beginning.

The portion of the Town bounded:
Northerly by Interstate Route 195;
Easterly by Old Bedford Road;
Southerly by Route 6;
Westerly by the Westport-Fall River boundary line.

The portion of the Town bounded as follows:

Bounded on the east by Route 88; on the south by the State Highway (Route 6); on the north by Interstate Route 195, and on the west by Old Bedford Road.

The portion of the Town bounded as follows:

Bounded on the west by Route 88; on the north by Interstate Route 195; on the east by Davis Road; and on the south by State Highway (Route 6).

(1957 STM, Article 6; 1973 STM, Articles 20, 21, 22, 23, 24, 25, 32 & 33; 1975 ATM, Article 38; 1990 ATM, Articles 46, 47 & 48)

(Editorial Note): The July 1973 meeting added paragraphs 2, 3, 4, 5, 6, 7, 8, and 9. The 1975 Article added the last paragraph "to clarify the zoning status of property currently occupied by White's Restaurant." Articles 46, 47, and 48 in 1990 changed portions of the Unrestricted District to the Business District as described in 3.1.B present paragraphs 7, 11, and 12 respectively.

(1963 ATM, Article 38)

C. **As Village Commercial:** As depicted on the Town of Westport Zoning Map, approved May 2026 and on file with the Town Clerk.

(2026 ATM, Article 33)

D. **Flood Plain District:** See Section 5.1 and the maps referenced therein.

(1975 STM, Article 11; 1977 ATM, Article 54; 2006 ATM, Article 8; 2009 ATM Article 31)

(Editorial Note): Article 8 of the 2006 ATM replaced section 3.1.D and then Article 31 of the 2009 ATM replaced section 3.1.D.

E. **Aquifer Protection District**: See Section 5.2 and map.

F. **Telecommunications Facilities Overlay District**: See Section 5.3 and Zoning Map.

G. **Adult Entertainment Overlay District**: The portion of the Town described as the following assessors' parcels as of May, 2008:
Assessor's Map 3, Lots 144, 144B through E

Assessor's Map 3, Lots 145 and 146

Assessor's Map 4, Lots 13 through 15, 16 and 16A

Assessor's Map 4, Lots 17 & 17A.

and further described on the Adult Entertainment Overlay District zoning map detail approved May, 2008, on file with the Town Clerk.

(Editorial Note): Article 54 of 1977 amended the map designation.

H. **Noquochoke Overlay District:** The portion of the Town described as the following assessors' parcels as of November, 2008:

Assessor's Map 33, Lot 17
Assessor's Map 33, Lot 45
Assessor's Map 33, Lot 47
Assessor's Map 33, Lot 47A
Assessor's Map 33, Lot 47E

And further described on the Noquochoke Overlay District Zoning Map detail approved May, 2009 on file with the Town Clerk.

(1998 ATM, Article 63 added the Aquifer Protection District and Article 65 added the Telecommunications Facilities Overlay District; 2008 ATM added the Adult Entertainment Overlay District; 2009 ATM added the Noquochoke Overlay District)

I. Science and Technology Overlay District: The portion of the Town described as the following assessors' parcels (Map-Lot #): as of September, 2011

MAP	LOT
14-29	23-38 A & B
14-25 & 26	23-78
14-30	23-4
14-30 A	23-3
14-34	17-243 & 249
14-31	17-440-444
14-33 C & D	17-634

14-25 A & 33 B	17-634 A
14-33	23-57
14-32, 33 A	23-46
14-20 E	23-5
14-20 A, 14-20 C & 20 D	23-39
14-20	23-40
23-2	23-22 A, B, C
14-29 B	3-44V
14-29 C & E	14-21
14-29 D	14-22
23-2 A	14-23
23-1	14-24A
17-42, 57, 84	14-24
17-43, 44	14-27
17-3	14-28
17-2	14-31A&31B
14-25 C	14-31C-31D
23-36	Portion of layout of Franklin Avenue as shown

And further described on the Science and Technology Overlay District zoning map detail, approved May 2012 on file with the Town Clerk.

(2012 ATM, Article 39)