

Article \_\_\_\_: To see if the Town will vote to amend the Town’s Zoning Bylaw, by establishing a new Article XXIV – West Harwich Special District, to include the following subsections:

- §325-144 Statutory Authority and Purpose
- §325-145 Intent
- §325-146 Applicability
- §325-147 Definitions
- §325-148 Permitted Uses
- §325-149 Special Permit Uses
- §325-150 Prohibited Uses
- §325-151 Continuation of Pre-Existing Non-Conforming Uses
- §325-152 Change, Alteration, Expansion of Pre-Existing Non-Conforming Uses and/or Structures
- §325-153 New Construction
- §325-154 Review Standards

and further

Amend §325-2 Word Usage and Definition, “Overlay District”, add a new item G, as follows: “G - West Harwich Special District, see Article XXIV”

and further,

Amend §325-3 Division of Town into Districts, by adding “West Harwich Special District”

and further,

Amend §325-4 Maps, by adding Subparagraph F as follows:

- F. The West Harwich Special District established hereunder as shown on a map titled, “West Harwich Special District” dated July 27, 2020, prepared by the Cape Cod Commission, a copy of which can be found as an attachment to this chapter in the town’s online Code and a copy of which is on file in the office of the Town Clerk.

**Explanation:** The Board of Selectmen nominated the West Harwich corridor of Route 28 from the Dennisport Town Line east to the Herring River as a District of Critical Planning Concern (“DCPC”). The Barnstable County Commissioners approved the nomination and it became a County Ordinance (19-18) on December 4, 2019. The Town has one (1) year from this date to establish implementing regulations. The following is the full text of the proposed zoning amendments:

## XXIV - West Harwich Special District

### §325-144 Statutory Authority and Purpose

#### A. Statutory Authority

On December 4, 2019, the Barnstable County Assembly of Delegates adopted Barnstable Ordinance 19-18 and designated the district shown on a map labeled “West Harwich DCPC District Boundaries” prepared by the Cape Cod Commission (“DCPC Map”) as a District of Critical Planning Concern (“DCPC”), pursuant to Cape Cod Commission Act Section 11(d). The Town created the following implementing regulations to regulate the DCPC which shall be known as the West Harwich Special District.

B. Purpose

The purpose of the West Harwich Special District (“WHSD”), as designated in Barnstable Ordinance 19-18, is to preserve the significant historic and architectural resources in the area, to guide development to be consistent with the area’s unique character, to address safety and transportation impacts within the commercial zone on Route 28, and to promote small-scale businesses consistent with the area’s character.

§325-145 Intent

It is the intent of this bylaw to encourage and incentivize the retention, preservation, creative reuse, change of use, or expansion of use of existing historic structures to the extent possible.

§325-146 Applicability

A. District Boundaries

The boundaries of the West Harwich Special District (“WHSD”) are shown on a map entitled “West Harwich Special District” Map dated July 27, 2020, prepared by the Cape Cod Commission which is hereby made a part of this bylaw.

B. Relationship to Other Regulations

The provision in this Section (XXIV - West Harwich Special District) apply to all development within the WHSD. Other sections of the Town of Harwich Zoning Bylaw also apply within this special district, except that where this Section conflicts with or differs from other sections of the Harwich Zoning Bylaw, this Section shall control.

C. Relationship to General Bylaws

All Chapters contained within the General Bylaws of the Town of Harwich, including but not limited to Article II Historically Significant Buildings, shall also apply to all development within the WHSD, as applicable.

§325-147 Definitions

**Historic Structures:** Those structures located within the boundaries of the WHSD and which are identified in the Town of Harwich Historic Properties Inventory List. Additionally, the following properties, identified by the street address and the Assessors Map and Parcel, are also determined to be Historic Structures for the purposes of this bylaw:

- 5 Route 28 – Map 10 Parcel N1-A
- 21 Route 28 – Map 10 Parcel N5
- 45 Route 28 – Map 10 Parcel S4
- 55 Route 28 – Map 10 Parcel U1-A
- 126 Route 28 – Map 11 Parcel B5
- 76 Route 28 Map 10 Parcel F7-2

66 Route 28 – Map 10 Parcel F5  
22 Route 28 – Map 10 Parcel C6

**Principle Building Façade:** The front plane of the building wall closest to the road frontage, not including stoops, porches, or other appurtenances, and measuring at least 25 feet in length.

#### §325-148 Permitted Uses

The following uses are permitted within the WHSD; however, for some uses either a Staff Plan Review, pursuant to §325-152.A or a Site Plan Review Special Permit may also be required, pursuant to §325-55:

- A. Single-Family Dwelling
- B. Two-Family Dwelling
- C. Uses Accessory to a Single- or Two-Family Dwelling
- D. Bed and Breakfast
- E. Home Occupation
- F. Single family dwelling and accessory apartment
- G. Church or other religious use
- H. Non-profit Library, Museum or Historical Use
- I. Hotel
- J. Motel
- K. Hotel, Motel – Incidental Use
- L. Professional Offices, including Dental Offices and Blue Economy
- M. Municipal Uses

Additionally, the following uses are permitted in historic structures:

- N. Multifamily
- O. Retail sales
- P. Restaurant
- Q. Mixed-Use commercial/residential developments

#### §325-149 Special Permit Uses

For new construction or reuse or change of use of structure or building not identified as an historic structure, the following uses are conditionally allowed within the WHSD through the Planning Board as the special permit granting authority, provided the use does not conflict with the purpose of the district, and for some uses a Site Plan Approval pursuant to §325-55 and the provisions of §325-153 shall be required:

- A. Multifamily
- B. Retail sales, greater than 1,000 square feet of gross floor area and/or exterior space.
- C. Restaurant
- D. Mixed-Use commercial/residential developments

#### §325-150 Prohibited Uses

Any use not specifically allowed as of right or by Special Permit within this district are prohibited. Within this district, use variances shall be prohibited.

#### §325-151 Continuation of Pre-Existing Non-Conforming Uses

Any lawfully existing use of a structure or land that does not conform to the provisions of this bylaw may continue.

#### §325-152 Change, Alteration, Expansion of Pre-Existing Non-Conforming Uses and/or Structures

Notwithstanding the provisions of M.G.L Chapter 40A, and §325-54 of the Harwich Zoning Bylaw, lawfully established structures and uses in existence as of December 4, 2019 that do not conform to the WHSD District Wide Development Standards may be changed, altered or expanded in conformance with §325-154 Review Standards and Procedures.

- A. A pre-existing, non-conforming structure or use may change or expand up to 250 square feet of gross building footprint or exterior of building or site area through Staff Plan Review in accordance with the provisions of §325-154 provided it does not involve demolition of significant parts of an historic structure. Said application shall be made to the Planning Department and a written decision shall be rendered within 30-days of receipt. Said decision shall be consistent with the provisions of §325-154 and may be appealed to the Planning Board with written notice within 10-days. Said decision shall be lapse two (2) years from the date of issuance unless construction or operation under the approval has commenced.
- B. A pre-existing, non-conforming structure or use may change or expand up to 1000 square feet of building footprint or exterior of building or site area or undergo a change of use in accordance with §325-55.F Waivers, provided the following criteria are determined to be met:
  - 1. There shall be no more than one curb cut on to Route 28 and where practical, a driveway connection (shared driveway) shall be provided to an adjacent property;
  - 2. A landscaped area of at least 10 feet in depth shall be provided and maintained on the subject property along its road frontage. Any property with existing parking in front of the building will reduce the size of said parking area by at least 20% and will provide screening of said parking through landscape plantings and/or a low fence or wall. No expansion of parking in the front yard area is permitted;
  - 3. The specific change or expansion shall comply with all dimensional standards in the WHSD enumerated in Section 325-154.A; and,
  - 4. There shall be no demolition of an historic structure.

Said decision shall lapse two (2) years from the date of issuance unless construction or operation under the approval has commenced.

- C. A pre-existing non-conforming structure or use that proposes to change or expand more than 1,000 square feet of building footprint or exterior of building or site area requires Site Plan Approval pursuant to §325-55. The specific change or expansion shall comply with all dimensional standards in the WHSD pursuant to §325-154.A and B.

#### §325-153 New Construction

For new construction Site Plan Approval pursuant to §325-55 and all dimensional requirements of §325-154.A and B shall be required.

#### §325-154 Review Standards

##### A. Dimensional requirements.

1. Lots shall have frontage along Route 28. Adjacent parcels may be included provided that they are under the same ownership and are also located within the WHSD.
2. Setback requirements.
  - a. Front setback requirements for the principle building façade shall be a minimum of 20 feet and maximum of 40 feet.
  - b. Side lot line setback shall be a minimum of 20 feet.
  - c. Rear lot line setback shall be a minimum of 20 feet.
  - d. Parking shall be permitted at the side, measured a minimum of 10 feet back from the principle building facade on the property, or rear of the property.
  - e. Maximum site coverage shall not exceed 80%.
3. The maximum permitted height for new constructions shall not exceed 30 feet or 2 1/2 stories.
4. Minimum lot size shall be 20,000 square feet.
5. For properties containing and maintaining/reusing historic structures, the Planning Board or its designee may waive or modify these dimensional requirements if it is found that such waiver or modification will not substantially derogate from the purpose and intent of this bylaw and that such waiver or modification may be granted without substantial detriment to the neighborhood or overall public good.
6. The maximum length allowable for the principle building façade is 50 feet and adjacent street-facing building facades shall be stepped back a minimum of 10 feet from the principal building facade.
7. A maximum building footprint of 2,000 square feet for front street-facing buildings is allowable; and a maximum footprint of 3,000 square feet for buildings sited behind a front street-facing building is allowable.

##### B. Parking, Driveway, Vehicular and Pedestrian Access Standards

###### 1. Parking

- a. Parking areas shall be visually buffered from all streets and adjoining residential uses by placing them behind frontage buildings and/or through the use of berms or natural features and/or plantings, using materials that shall be maintained for visual buffering a minimum of 50% and 75% of their effectiveness year-round, for streets and residential uses respectively. Parking shall also comply with the requirements of Article IX – Off Street Parking and Loading Requirements.
- b. Shared Parking – The number of parking spaces required may be reduced for shared parking at the discretion of the Planning Board through Site Plan Review §325-55, provided such reduction does not shift a demand for parking onto public streets or any areas not equipped to handle such activity.
- c. All other parking standards shall comply with Article IX Off-Street Parking and Loading Requirements; however, in no case shall a driveway width be greater than 24 feet.

2. A driveway shall be limited to one per street frontage; however shared driveways are encouraged to limit the number of curb cuts onto Route 28. Driveways must be situated to provide for the optimal sight distance along Route 28. All driveway access shall provide for adequate service and emergency access. All driveway shall comply with §325-154.B.1.b. and c. above.
3. Commercial and residential pedestrian access shall include a combination of walkways and landscaping. Such pedestrian access shall be provided from the streets providing frontage and/or access for the project as well as the drives and parking areas within the project. Pedestrian access routes shall be laid out to minimize conflict with vehicular routes, and where they intersect, the pedestrian route shall be clearly marked on the vehicular surface and when appropriate, with signage. Pedestrian access routes shall be lighted to provide adequate visibility for use in the dark, and in conformance with Article XXI Outdoor Lighting.

and further

Amend §325-2 Word Usage and Definition, “Overlay District”, add a new item G, as follows:  
“G - West Harwich Special District, see Article XXIV”

And further,

Amend §325-3 Division of Town into Districts, by adding “West Harwich Special District”

and further,

Amend §325-4 Maps, by adding Subparagraph F as follows:

- G. The West Harwich Special District established hereunder as shown on a map titled, “West Harwich Special District” dated July 27, 2020, prepared by the Cape Cod Commission, a copy of which can be found as an attachment to this chapter in the town’s online Code and a copy of which is on file in the office of the Town Clerk.

