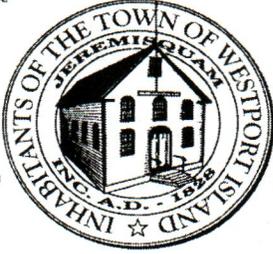


Town Clerk's Copy



TOWN OF WESTPORT ISLAND
6 Fowles Point Road
Westport Island, ME 04578

Office of the Selectmen, Assessors and Overseers of the Poor

Certification of Ordinance by Municipal Officers
of a Proposed Ordinance (30-A M.R.S.A. § 3002(2))

This certifies to the Town Clerk of Westport Island, Lincoln County, Maine that the document to which we have affixed this certificate is a true copy of the official text of an ordinance entitled "Town of Westport Island Definitions Building Code Ordinance" which is to be presented to the voters for their consideration on June 13, 2017.

Pursuant to 30-A M.R.S.A. § 3002(2), you will retain this copy of the complete text of the ordinance as a public record and make other copies available for distribution to the voters, and you will ensure that copies are available at the town meeting/polling place on the day of the vote.

Dated: JUNE 12, 2017

Municipal Officers of Westport Island, Maine

George D. Richardson Jr.
George D. Richardson, Jr.

Gerald Bodmer
Gerald Bodmer

Ross Norton
Ross Norton

BUILDING CODE ORDINANCE

SECTION 17. DEFINITIONS

Abutters – Owners of record of immediately adjacent property; owners of record of property located immediately across a public road or right of way

Accessory structure or use - a use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

Aggrieved Party - an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such a permit or variance.

Agriculture - the production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and green house products. Agriculture does not include Forestry Management and Timber Harvesting.

Appellate Hearing – A Board of Appeals hearing at which only the material which was the basis for the decision or action by the Planning Board is reviewed to determine if the action or decision can be upheld.

Applicant – The person submitting an Application under the provisions of this Ordinance, including a firm, association, organization, partnership, trust, estate, governmental agency, municipality, company, corporation, or two or more individuals having a joint or common interest, or other entity as well as an individual.

Aquaculture - the growing or propagation of harvestable freshwater, estuarine, or marine plants or animal species.

Authorized Agent – An individual or a firm having written authorization to act on behalf of a property owner. The authorization shall be signed by the property owner(s).

Basal Area - the area of cross-section of a tree stem at four and a half (4 ½) feet above ground level and inclusive of bark.

Basement – any portion of a structure with a floor-to-ceiling height of six (6) feet or more and having more than 50% of its volume below the existing ground level.

Board of Appeals – The Board of Appeals of Westport Island, to which an aggrieved party may appeal for a review of a decision or action made by the CEO or the Planning Board. The Board of Appeals also hears variance appeals.

Building – Any permanent structure, having one or more floors and a roof, which is used for the housing or enclosure of persons, animals or property. When any portion thereof is separated by a division wall without opening, then each such portion shall be deemed a separate building. Sidewalks, fences, driveways, parking lots, retaining walls, electrical transmission poles and lines, signs and flagpoles are not construed to be buildings.

Building Footprint – The area covered by a building measured from the exterior surface of the exterior walls as projected to grade level. Where the building is elevated above grade level, the building footprint is the area the building would cover if it were at grade level. All enclosed permanent portions of the building such as enclosed porches are included in the building footprint, but decks, steps and open porches are not included.

Campground - any area or tract of land which is used to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters. See also Individual Private Campsites

Canopy – the more or less continuous cover formed by tree crowns in a wooded area.

Coastal wetland - all tidal and sub tidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp bog, marsh, beach or flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is

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proposed, as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

NOTE: All areas below the maximum spring tide level are coastal wetlands. These areas may consist of rocky ledges, sand and cobble beaches, mud flats, etc. in addition to salt marshes and salt meadows.

Code Enforcement Officer (CEO) - a person certified under Maine law and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances.

Commercial use - the use of lands, buildings, or structures, other than a "home occupation," as defined, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

Complete Application - An application shall be considered complete upon submission of the appropriate fee and all information required by the Town Ordinance, or by a vote by the appropriate board to waive the submission of certain required information. The Board shall inform the applicant upon its determination that the application is complete. For applications not requiring a Board review, the CEO shall make the determination that the application is complete.

Conforming - a building, structure or land use, or portion thereof, which complies with the provisions of all applicable Westport Island ordinances.

Constructed - Built, erected, altered, reconstructed or moved including the physical operations that are required for construction. Excavation, filling, draining and blasting shall be considered a part of construction.

Curb Cut - The opening along the curb line or street right-of-way line at which point vehicles may enter or leave the street. A curb cut on a State road requires a permit from the State.

dBA decibel - A standard measure of relative sound pressure levels. Quiet Residential measures approximately 40 dBA.

DBH - the diameter of a standing tree measured four and a half (4.5) feet from ground level.

de novo Hearing - A Board of Appeals Hearing in which new information can be admitted, in addition to the record and materials of the decision or action of the Code Enforcement Officer.

Development - a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not occurring naturally.

Dimensional requirements - numerical standards relating to spatial relationships including but not limited to setback, lot area, and height.

Disability - any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by a bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special educational, vocational rehabilitation, or related services.

Driveway - a vehicular access-way serving two lots, or two single family dwellings, or one two family dwelling or less.

Dwelling - See Residential Dwelling Unit

Emergency operations - operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

Essential services - gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; cable installations for television, gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

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Expansion of a structure - an increase in the floor area and/or volume of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and green houses. A volumetric expansion includes attached and covered areas.

Expansion of use - the addition of one or more months to a use's operating season over a ten (10) year period; or the use of more floor area or ground area devoted to a particular use.

Family - one or more persons occupying a premise and living as a single housekeeping unit.

Floor area - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

Forest Stand - a contiguous group of trees sufficiently uniform in age, class, distribution, composition and structure and growing on a site of sufficiently uniform quality to be a distinguishable unit.

Forested Wetland - a freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

Foundation - the supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frost walls, or other base consisting of concrete, block, brick or similar material.

Freshwater Wetland - freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

1. Of ten (10) or more contiguous acres; or if less than ten (10) contiguous acres and adjacent to a surface water body, excluding any river, stream or brook such that in a natural state, the combined surface area is in excess of ten (10) acres;
2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater Wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

Frontage - That portion of a lot fronting upon and providing rights of access to a public or private road listed on the Schedule of Town Roads on file with the Town Clerk, or to an approved or accepted new right-of-way laid out in accordance with the Town Ordinances, to be measured continuously along a single street or road line. Owners of lots fronting upon two streets may select that which may be considered "frontage". On a corner lot, frontage shall be measured to the point of intersection of the extension of the sidelines of the roads. The minimum frontage for permitted uses within the Town of Westport Island must be met by contiguous frontage within the Town of Westport Island on an approved or accepted right-of-way in the Town of Westport Island.

Grade - the degree of inclination of a road or slope. Percent grade is measured as vertical drop divided by horizontal distance times 100.

Great pond - any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

Ground Cover - small plants, fallen leaves, needles and twigs, and partially decayed organic matter of the forest floor

Groundwater - All the water found beneath the surface of the ground. For purposes of aquifer protection, this term refers to the subsurface water present in aquifer recharge areas.

Habitable Buildings (or structures) - places likely to be occupied on a continuous or temporary basis. This includes, but is not limited to, dwellings, commercial businesses, places of worship, nursing homes, schools or other places used for education, day-care centers, motels, hotels, inns or barns.

Hazardous Materials - any waste substance or materials, in any physical state, designated as hazardous under Maine law. It does not include waste or material resulting from normal household or agricultural activities.

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The fact that a hazardous waste material or a part or a constituent may have value or other use or may be sold or exchanged does not exclude it from this definition.

Height of a structure - the vertical distance between the mean original grade (prior to construction) at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

Home occupation - an occupation or profession which is customarily conducted in a residential structure or property, and which is: 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home.

Individual private campsite - an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to gravel pads, parking areas, fire places, or tent platforms.

Industrial - the assembling, fabrication, finishing, manufacturing, packaging or processing of goods.

Institutional - a nonprofit or quasi-public use, or institution such as a House of Worship, library, public or private school, hospital or municipally owned or operated building, structure or land used for public purposes.

Land Owner - the owner of record of the fee simple title to a parcel, tract or lot of land

Leachable Materials - materials that, when exposed to water, can be dissolved and passed through or emerge from solid waste and which contain dissolved, suspended or miscible materials removed from that waste.

Lot area - the area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

Lot Lines - the lines bounding a lot as follows: 1) Front lot lines - the boundary line separating the lot from a street right of way, or in the case of corner lots or through lots, from two or more streets rights of way, or packed surface where the right of way is not determined. 2) Rear Lot Line - the lot line opposite the front lot line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines, not less than ten (10) feet long, lying at the farthest distance from the front lot line and parallel to it. 3) Side Lot Lines - a boundary line other than the front lot line or the rear lot line.

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. The term manufactured home includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 days.

Market value - the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

Mineral exploration - hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

Mineral extraction - any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and transports the product removed, away from the extraction site.

Minimum lot width - the closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered the side lot lines.

Multi-unit residential - a residential structure containing three (3) or more residential units. These structures are not permitted in the Town of Westport Island unless they are grandfathered.

Native - indigenous to the local forest

Natural buffer - Area of undisturbed trees, shrubs or other vegetation

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New Construction – All structures, newly constructed on lots which conform to specifications of this Ordinance.

Non-conforming lot - a single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

Non-conforming structure - a structure which does not meet any one or more of the following dimensional requirements; setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Any non-conforming structure which is located less than the required setback from a water body, and which is removed, damaged or destroyed by more than 50% of market value of the structure (only) at the time of the destruction, damage or removal, may be replaced or reconstructed so that such reconstruction or replacement is in compliance with the normal setback requirements to the greatest possible extent, as determined by the Planning Board.

Non-conforming use - use of buildings, structures, premises, land or parts thereof which is not permitted in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Normal high-water line (non-tidal waters) - that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils, and are at the same or lower elevation as the water level of the river or great pond.

Note: Adjacent to tidal waters, setbacks are measured from the upland edge of the “coastal wetland.”

Party – Owners of record of immediately adjacent properties; owners of record of property located immediately across a public road or right of way; other property owners who have shown that their property may be affected by the proposed development under a specific criterion or standard, shall be admitted to testify with participation limited to that criterion or standard

Person - an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

Principal structure - a building other than one used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

Principal use(s) - a use or uses other than one which is wholly incidental or accessory to another use on the same premises.

Professional Engineer – A professional engineer registered in the State of Maine

Public facility - any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased or otherwise operated, or funded by a governmental body or public entity

Recent flood plain soils - the following soil series as described and identified by the National Cooperative Soil Survey:

Alluvial	Cornish	Charles
Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondawa
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

Recreational facility - a place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

Recreational vehicle - a vehicle or an attachment to a vehicle designed for **temporary** sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

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Relocation of a Structure – Any structure moved to a new lot or a structure moved to a new location on the lot it occupied. Both lot and structure must conform to provisions of Westport Island Ordinances.

Renovation – Any construction which does not increase the square footage of the structure.

Replacement – Any structure already constructed which is to be moved to the existing site of a structure destroyed by fire or other natural calamity, or new construction of a structure on the existing site of a building lost because of the foregoing reasons.

Replacement System - a system intended to replace: 1) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2) any existing overboard wastewater discharge, or the replacement of an existing holding tank

Residential Dwelling Unit - a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

Riprap - rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

River - a free-flowing body of water including its associated flood plain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth.

NOTE: The portion of a river that is subject to tidal action is a coastal wetland.

Road - a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined.

Service drop - any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. In the case of electric service:
 - a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
 - b. the total length of the extension is less than one thousand (1,000) feet.
2. In the case of telephone service:
 - a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
 - b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Setback - the nearest horizontal distance from a lot line or normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

Shadow Flicker – The shadow produced intermittently when the blades of a wind power turbine rotate and cast a shadow over the surrounding area.

Shore frontage - the length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline at normal high water elevation.

Shoreland zone - the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond, river or salt water body; within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within 250 feet of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

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Sight Distance – The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Used in this Ordinance as a reference for unobstructed road visibility. Sight distance is measured from the perspective of a hypothetical person seated in a vehicle.

Solid Waste – useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including, but not limited to rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscape refuse, but does not include hazardous waste, biomedical waste, septic tank sludge or agricultural wastes. The fact that a solid waste, or constituent of the waste, may have a value, be beneficially used, have other use, or be sold or exchanged, does not exclude it from this definition.

Stream - a free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within the shoreland area.

Structure - anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes.

Substantial start - completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

Subsurface sewage disposal system - any system designed to dispose of waste or waste water on or beneath the surface of the earth; including, but not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filters; piping; or any other fixture, mechanism or apparatus used for those purposes. This does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 M.R.S.A. Chapter 13, Subchapter 1.

Sustained slope - a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Timber harvesting - the cutting and removal of timber for the primary purpose of selling or processing forest products. Timber harvesting does not include the clearing of land for approved construction.

Tributary stream - a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed devoid of topsoil, containing waterborne deposits on exposed soil, parent material or bedrock, and which is connected hydrologically with other water bodies. This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils, where the natural vegetation cover has been removed by human activity.

NOTE: Water setback requirements apply to tributary streams within the Shoreland Zone.

Vegetation - all live trees, shrubs, and other plants including without limitation, trees both over and under four (4) inches in diameter, measured at four and a half (4 ½) feet above ground level.

Volume of a structure - the volume of all portions of a structure enclosed by a roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

Water body - any lake, pond, river or stream.

Water crossing - any project extending from one bank to the opposite bank of a river, stream, tributary stream or wetland, whether under, through, or over the water or wetland. Such projects may include but not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings.

Wetland - a freshwater or coastal wetland.

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Wetlands associated with great ponds and rivers – wetlands contiguous with or adjacent to a great pond or river, and which during normal high water are connected by surface water to the great pond or river. Also included are wetlands separated from the great pond or river by a berm, causeway, or similar feature less than 100 feet in width, and which have a surface elevation at or below the normal high water line of the great pond or river.

Wind Power System – a wind power energy conversion system consisting of a wind turbine, tower, footings, electrical infrastructure, fence and any other associated equipment or structures. Any single small wind energy conversion system, as defined, shall have a rated capacity of not more than 100 kw.

Woody vegetation – live trees or woody, non herbaceous shrubs