



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 Flood Plain Management 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.

Gerald Bodmer

Ross Norton

FloodPlain Management Ordinance

DEFINITIONS – FLOOD PLAIN MANAGEMENT ORDINANCE

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular includes the plural, and the plural number includes the singular. The word “may” is permissive, “shall” is mandatory and not discretionary.

Accessory Structure – means a small detached structure that is incidental and subordinate to the principal structure.

Adjacent Grade – means the natural elevation of the ground surface prior to the proposed walls of a structure.

Area of Special Flood Plain Hazard – means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in this Ordinance.

Base Flood – means the flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement – means any area of the building having its floor subgrade (below ground level) on all sides

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 considered to be buildings.

Certificate of Compliance – A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

Code Enforcement Officer – A person certified under Maine law, and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances.

Conditional Use – means a use that because of its potential impact on surrounding areas and structures, is permitted upon review and approval by the Planning Board pursuant to local ordinances and rules.

Development – means any man made changes to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations or storage of equipment or materials

Digital Flood Insurance Rate Map – See **Flood Insurance Rate Map**

Elevated Building – A non basement building,

- a) built in the case of a building in Zone A or AE, to have the top of the elevated floor, elevated at above the ground level, by means of pilings, columns, posts, piers, or “stilts” and,
 - b) adequately anchored so as not to impact the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood in the case of Zones A or AE.
- Elevated Building** also includes a building elevated by means of fill or solid foundation

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perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters as required by this Ordinance.

Elevation Certificate – An official form (FEMA Form 81 – 31, as amended) that

- a) is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and
- b) Is required for purchasing flood insurance.

Flood or Flooding – means

- a) A general and temporary condition of partial or complete inundation of normally dry land areas from:
 1. The overflow of inland or tidal waters,
 2. The unusual and rapid accumulation of runoff of surface waters from any source.
- b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in this ordinance.

Flood Elevation Study – means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Insurance Rate Map (FIRM) – means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Floodplain or Flood Prone Area – means any land susceptible to being inundated by water from any source (See Flooding)

Floodplain Management – means the operation of an overall program of corrective and preventive measures, for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodproofing – means any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

Floodway – The channel of a river or other watercourse, and adjacent land area that must be reserved in order to discharge the 100 year flood without cumulatively increasing the water surface elevation by more than one foot in height.

Floodway Encroachment Lines - means the lines marking the limits of floodways on federal, state and local floodplain maps.

Freeboard - means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

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.

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Historic Structures – means any structure that is :

- a, Listed individually in the National Register of Historic Places (a listing maintained by the Department of the 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 of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states without 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.

Locally Established Datum – means, for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGND), North American Vertical Datum (NAVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

Lowest Floor – The lowest floor of the lowest enclosed area (including basements). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non elevation design requirements described in this ordinance.

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 also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days

Mean Sea Level – means for the purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Minor Development – means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in this ordinance, minor dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, depositing or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.

National Geodetic Vertical Datum (NGVD) – means the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL).

North American Vertical Datum (NAVD) – means the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon vertical datum used by other North American countries such as Canada and Mexico, and was established to replace NGVD because of constant movement of the earth's crust, glacial rebound, and subsidence and the increasing use of satellite technology.

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100 Year Flood - The highest level of flood that, on the average, has a one percent chance of occurring in any given year.

Recreational Vehicle - means a vehicle which is :

- A) built on a single chassis,
- B) four hundred (400) square feet or less when measured at the largest horizontal projection not including slideouts,
- C) designed to be self propelled or permanently towable by a motor vehicle, and
- D) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use.

Regulatory Floodway

- A) means the channel of a river or other water course 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 one foot and
- B) when not designated on the community's Flood Insurance Rate Map, it is considered to be the channel of a river or other water course and the adjacent land area to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

Riverine - means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Start of Construction means the date the Building Permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement, or other improvement was within 180 days of the permitting date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations, or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. 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, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

Structure - means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Substantial Damage - means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official, and which are the minimum necessary to assure safe living conditions; or

Any alteration of a Historic Structure, provided that the alterations will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the community's Board of Appeals.

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Variance – In this Ordinance variance means a grant of relief by a community from the terms of a floodplain management regulation.

Violation – In this Ordinance, violation means the failure of a structure or development to comply with a community's floodplain management regulations.