

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 Site Plan Review 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

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if the provisions and time frames that apply to an appeal of the decisions of the Board are maintained.

### SECTION 15. – SEVERABILITY

A finding of invalidity or unconstitutionality of any provisions of this Ordinance shall not invalidate any other part.

### SECTION 16. – DEFINITIONS

Any word or term defined in the Town of Westport Island Shoreland Zoning Ordinance, the Building Code Ordinance or the Subdivision Ordinance shall have the definition contained in those Ordinances, unless defined differently herein. Other words and terms used in this Ordinance, and not found in the above cited Ordinances, shall have their customary dictionary meanings as found in the latest Webster Collegiate Dictionary. Other words and terms used are defined as follows:

**Abutter** - Owners of record of immediately adjacent property; owners of record of property located immediately across a public road or right-of-way.

**Accessory Building** - A detached, subordinate building, the use of which is clearly incidental and related to that of the principal building or use of the land, and which is located on the same lot as that of the principal building or use.

**Accessory Structure or Use** - A detached, subordinate structure, the use of which is clearly incidental and related to that of the principal structure or use of the land, and which is located on the same lot as that of the principal structure or use. 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 of or denial of a permit or variance under this Ordinance, a person whose land abuts land, and 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 of such 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 Forest Management and Timber Harvesting activities.

**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

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**Applicant:** - The person submitting any application under the provisions of a specific Ordinance including a firm, association, organization, partnership, trust, estate, governmental agency, municipality, company, corporation, two or more individuals having a joint or common interest, or other legal entity, as well as an individual.

**Authorized Agent** - An individual or a firm having written authorization to act on behalf of a property owner. The authorization shall be made by the property owner.

**Average Daily Traffic (ADT)** - The predicted number of vehicles that enter and exit the premises during the day, based on the trip generation rates in the latest edition of "Trip Generation" published by the Institute of Transportation Engineers.

**Board of Appeals** - The Board of Appeals of the Town of Westport Island to which an aggrieved party may apply for a review of a decision or action by the Code Enforcement Officer or the Planning Board. The Board of Appeals also hears variance appeals.

**Buffer Area** - A part of a property or an entire property, which is not built upon and is specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources.

**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.

**Central Water Supply System** - A system using a single source of water and supplying 3 or more dwelling units and/or enterprises.

**Coastal Wetlands** - 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, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest spring tide level for the year in which an activity is 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 dunes and cobble beaches, mud flats, etc. in addition to salt marshes and salt meadows.

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

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**Commercial Use(s)** - 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 Town Ordinances, or by a vote by the appropriate board to waive the submission of certain required information. The Planning Board shall inform the applicant of its determination that an application is complete.

**Comprehensive Plan** - A document or interrelated documents adopted by the Legislative Body of the Town of Westport Island, containing an inventory and analysis of existing conditions, a compilation of goals for the development of the community, an expression of policies for achieving these goals, and a strategy for implementation of the policies.

**Conforming** - A building, structure or land use, or portion thereof, which complies with applicable Westport Island Ordinances.

**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.

**dB, Decibel** - A standard measure of relative sound pressure levels. Quiet Residential measures approximately 40 dBA.

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

**Developed Area** - Any area on which a site improvement or change is made, including buildings, landscaping, parking areas and roads.

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

**Enterprise** - A systematic or purposeful activity or set of activities that are nonresidential in nature.

**Expansion of a Structure** - An increase in the floor area and/or volume of a structure greater than 20% over a 10 year period, including all extensions such as, but not limited to, attached decks, garages, porches and green houses.

**Expansion of Use:** The addition of one or more months to a use's operating season over a 10 year period; or the use of more floor or ground area devoted to a particular use; or greater than a 20% increase in water consumption to a usage level greater than 500 gallons per day or the

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use of greater than 20% floor area or ground area devoted to a particular use over a ten (10) year period.

**Expert** An individual who has experience, knowledge and credentials in a particular field. The determination to accept any “expert” rests solely with the reviewing body.

**Final Plan** - The complete set of plans describing the proposed enterprise, and which are to be submitted to the Planning Board for its review and decision.

**Final Plat Filing** - The final drawings representing the approved enterprise, including any modification or conditions agreed to as part of the Planning Board’s approval of the Final Plat and all other recordable documents required for filing at the Registry of Deeds.

**Forest Management Activities:** - Timber cruising and other forest resource evaluation activities, pesticide or fertilizer applications, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads for this purpose.

**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 forest 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, and
- 2) Is 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, and not considered a part of a coastal wetland, river, brook or stream. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to 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 on two roads 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. Alternatively, frontage may be considered to be shore frontage.

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**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 having 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.

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

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

**Light Standards** - Poles or similar structures on which light sources are mounted.

**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 (2) lots.

**Luminaries** - Devices which provide sources of artificial light.

**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 lines of a lot. When only two lot lines extend into the Shoreland Zone, both lot lines shall be considered to be the side lines.

**Multi-Family Development** - A subdivision which contains three or more dwelling units on land in common ownership, such as apartment buildings or condominiums.

**Municipal Engineer** - Any registered professional engineer hired or retained by the municipality, either as staff or on a consulting basis, with the authority to act for the municipality.

**Natural Buffer** - Area of undisturbed trees, shrubs or other vegetation.

**Non-conforming Enterprise** - An enterprise which does not meet one or more of the criteria or standards of this Ordinance, but which is allowed to exist solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

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**Non-Conforming Lot** - A single lot of record, which, at the effective date of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located, and existed prior to affective date of this Ordinance.

**Non-conforming Structure** - A structure which does not meet any one or more of the dimensional requirements: setback, height or lot coverage, but which is allowed solely because it was associated with a non-conforming Enterprise, which pre-existed at the time this Ordinance or subsequent amendments took effect.

**Non-conforming Use** - Use of buildings, structures, premises, land or parts thereof, which is associated with a Non-conforming Enterprise and pre-existed at the time this Ordinance or subsequent amendments took effect.

**Normal High Water Line (non-tidal water)** - 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 that are at the same or lower elevation as the water level of the river or great pond during the period of normal high water are considered part of the river or great pond.

**NOTE:** In the case of tidal waters, setbacks are measured from the upland edge of the "coastal wetland".

**100 Year Flood** - The highest level or flood that, on the average, has a 1% chance of occurring in any given year.

**Party** - Owners of record of immediately adjacent property; owners of record of property located immediately across a public road or right-of-way; other property owners who having 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.

**Planning Board** - The Planning Board for the Town of Westport Island.

**Principal Structure:** A building other than one which is 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.

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**Professional Engineer:** A professional engineer registered in the State of Maine.

**Public Water System:** A water supply system that provides water to at least fifteen (15) service connections or supplies water to at least twenty-five (25) individuals daily for at least thirty (30) days a year.

**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 waste water discharge, or the replacement of an existing holding tank

**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.

**Setback** - The nearest horizontal distance from a lot line or normal high water line to the nearest part of a structure, road, parking space or other regulated object or 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 level.

**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, salt water body, or within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within two hundred and fifty (250) feet of the upland edge of a fresh water wetland; or within seventy-five (75) feet, horizontal distance, of the normal high water line of a stream.

**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.

**Signage** - Graphics, letters or numerals used to identify or draw attention to the enterprise.

**Sketch Plan** - Conceptual maps, renderings, and supportive data describing the project proposed by the applicant prior to submitting an application for review of the project.

**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, and 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



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the waste may have a value, be beneficially used, have other use, or be sold or exchanged, does not exclude it from this definition.

**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, 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.

**Subdivision** - The division of a tract or parcel of land as defined in Title 30-A M.S.R.A. Section 4401 et. Seq. as amended.

**Substantial Start** - Completion of thirty (30) percent of a permitted structure or use measured as a percent of estimated total cost.

**Subsurface Sewage Disposal** - 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 cess pools, holding tanks, pre treatment filters, piping or any other fixture, mechanism or apparatus used for those purposes. This does not include any licensed discharge system, any surface water waste disposal system, or any municipal or quasi municipal sewer or waste water treatment system.

**Tract of Parcel of Land** - All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof