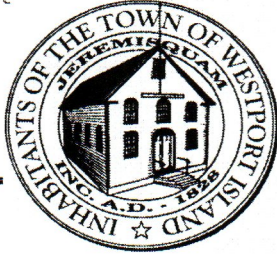


Town Clerk's Copy



**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 Subdivision 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

## SUBDIVISION ORDINANCE

Appeal on the basis of administrative error shall be made only by admitted and statutory parties. It shall be made to the Board of Appeals and may only be entertained if the provisions and time frames that apply to an appeal of the decision of the Planning Board are maintained.

### SECTION 16- SEVERABILITY

A finding of invalidity or unconstitutionality of any section or provision of this Ordinance shall not invalidate any other section or provision thereof.

**SECTION 17. – DEFINITIONS** Definitions for this Ordinance are found in the definitions of words or terms in the Town of Westport Island Shoreland Zoning Ordinance and the Building Code Ordinance, and shall have the definition contained in those Ordinances, unless defined differently below. 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 New Collegiate Dictionary. Other words and terms used herein are defined as follows:

**Abutter:** Owner(s) of record of immediately adjacent property; owner(s) 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 or related to that of the principle building or use of the land, and which is located on the same lot as that of the principal building or use.

**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 and for which a permit or variance has been granted, or any other persons or group of persons who have suffered particularized injury as a result of the granting or denial of such a permit or variance.

**Appellate Hearing:** A Board of Appeals hearing at which only the material that 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 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 or owners. The authorization shall be signed by the property owner(s) of record before any action can be taken by a reviewing Board.

## SUBDIVISION ORDINANCE

**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. For a single family detached residence, this rate is 1 peak hour trip.

**Board of Appeals** – The Board of Appeals of the Town of Westport Island, to which an aggrieved party may make an appeal for review of a decision or action taken 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 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 lines and poles, signs and flagpoles are not considered 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 ground 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.

**Central Water Supply System:** A system using a single source of water and supplying three (3) or more dwelling units or enterprises.

**Cluster Subdivision:** A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located in return for the provision of permanent common space, if allowed under current zoning ordinances.

**Coastal Wetlands:** All tidal and subtidal 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 tide level for the year in which an activity is planned, 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 levels 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** – A person certified under Maine law, and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances.

## SUBDIVISION ORDINANCE

**Common Land:** Land within or related to a subdivision, not individually owned or within a developed or developable subdivision lot, and which is designed and intended for the common use or enjoyment of the residents of the subdivision. It may include complementary structures and improvements, typically used for maintenance and operation of the common space.

**Complete Application:** An application shall be considered complete upon the submission of the appropriate fee and all information required by town ordinances, or by a vote by the appropriate board to waive any portion of the submission of certain required information. The Board shall inform the applicant of its determination that the 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 these policies.

**Conforming** – A building, structure or land use, or portion thereof, which complies with the provisions of all applicable Westport Island Ordinances.

**Conservation Easement:** A non-possessory interest in real property imposing limitations or affirmative obligations, the purpose of which includes retaining or protecting natural, scenic or common space values of real property; assuring its availability for agricultural, forest, recreational or common space use; protecting natural resources; or maintaining air or water quality.

**Conventional Subdivision:** A subdivision in which all buildable lots meet or exceed minimum lot size requirements in existing zoning 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 state permit.

**dBA – Decibel** – A standard measure of the relative sound pressure levels. Current residential dBA measures are 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.

**Density:** The number of dwelling units per acre of land.

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

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

## SUBDIVISION ORDINANCE

**Final Plan:** The complete set of plans required in Sections **Minor Subdivisions and Major Subdivisions**, describing the proposed subdivision. Such plans are to be submitted to the Planning Board for its review and decision.

**Final Plat:** The final drawing(s), agreements, conditions and covenants included in the Final Plan.

**Final Plat Approval:** The last administrative step in the review and approval process before filing at the Registry of Deeds, where the Planning Board reviews all recordable documents to insure consistency with agreements/conditions/covenants set at the Final Plan approval, and signs the Final Plat.

**Final Plat Filing:** The final drawings (Final Plat) representing the approved subdivision, including any modifications or conditions agreed to as part of the Planning Board's approval of the Final Plan, and all other recordable documents required for filing at the Registry of Deeds.

**Foundation** – The support structure of a building or other structure, excluding wooden sills and post supports, but includes basements, slabs, frost walls or other base consisting of concrete, brick, block, or similar materials.

**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 areas 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) 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 on and providing right 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 side lines 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.

## SUBDIVISION ORDINANCE

**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.

**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.

**Net Residential Area or Acreage:** The area of a parcel, which is suitable for development as determined by the Planning Board, shall be calculated by subtracting the following from the total or gross acreage of a parcel:

1. Total acreage that is used for street and sidewalk rights-of-way,
2. Portions of the parcel containing slopes over 35%,
3. Portions of the parcel shown to be within the 100-year flood plain and floodway as designated on Federal Emergency Agency (FEMA) maps,
4. Portions of the parcel located in the Resource Protection District,
5. Portions of the parcel which are unsuitable for development in their natural state, due to drainage or subsoil conditions, including but not limited to:
  - A. Water table at or near the surface for all or part of the year,
  - B. Unstable soils such as Sebago Mucky Peat.

**New Structure or Structures:** Includes any structure for which construction begins on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure.

**Normal High-Water Line (non tidal waters) :** That line which is apparent from visible markings, changes in the character of the 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 of 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.

## SUBDIVISION ORDINANCE

**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 or Board:** The Planning Board of the Town of Westport Island.

**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.

**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 considered residential dwelling units.

**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.

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

**Street:** Public and private ways such as alleys, avenues, highways, roads, and other rights-of-way, as well as areas on a subdivision Final Plat designated as rights-of-way for vehicular access other than driveways.

**Street Classification:**

**Arterial Street:** A major thoroughfare that serves as a major traffic way for travel between and through the municipality. Route 144 from the Westport – Wiscasset Bridge to the north end of West Shore Road shall be considered an arterial street.

**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

## SUBDIVISION ORDINANCE

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.R.S.A. Section 4401 et seq. as amended.

**Subdivision Major:** Any subdivision containing more than four lots or dwelling units, or any subdivision containing a proposed street.

**Subdivision Minor:** Any subdivision containing three or four lots or dwelling units, and in which no street is proposed to be constructed.

**Substantial Start –** Completion of thirty (30) percent of a permitted structure or use measured as a percent of estimated 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 licensed discharge systems, any surface waste water disposal system, or any municipal or quasi municipal sewer or waste water treatment system.

**Tract or 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.