

BUILDING CODE ORDINANCE

Town of

WESTPORT ISLAND

in

Lincoln County, Maine

BUILDING CODE ORDINANCE

Voted by town:

Originally adopted: June 11, 1988
Revision adopted: November 7, 2006
Revision adopted June 25, 2010
Revision adopted June 21, 2014
Revision adopted June 2017

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SECTION 1. PURPOSE

The provisions set forth in this Building Code Ordinance are intended to protect the public health and safety, promote the general welfare of the Town of Westport Island, and conserve the environment by assuring development is designed and executed in a manner consistent with the goals and policies of the Town of Westport Island Comprehensive Plan, assuring that adequate provisions are made for protection and conservation of the town's water supply and ground water; for adequate sewage disposal; for preservation of the natural beauty and rural character; for traffic safety and access; for emergency access; for management of storm water, erosion and sedimentation; for protection of the environment, wildlife habitat, fisheries and unique natural areas; and for protection of historic and archaeological resources; while minimizing the adverse impacts on adjacent properties, and fitting the project harmoniously into the fabric of the community.

SECTION 2. AUTHORITY

This ordinance has been prepared in accordance with the provisions of Home Rule Authority of the Maine Constitution and subject to the restrictions to that authority as provided in Title 30-A of M.R.S.A.

SECTION 3. APPLICABILITY

This Ordinance applies to **the** land areas outside of the Shoreland Zone within the Town of Westport Island.

SECTION 4. EFFECTIVE DATE AND REPEAL OF PRIOR ORDINANCES

This Ordinance was adopted at town meeting on November 7, 2006. Upon approval of this Ordinance, the Building Code Ordinance previously adopted on June 11, 1988 and amended from time to time is hereby appealed. The effective date of this ordinance is June 21, 2014, or the date of town approval of the most recent amendments.

Any application for a permit submitted to the municipality after the date of town approval shall be governed by this Ordinance.

SECTION 5. AVAILABILITY

A certified copy of this Ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public. Electronic copies will be made available on the website of the Town of Westport Island, and hard copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be publicly stated.

SECTION 6. AMENDMENTS

This Ordinance may be amended by majority vote of the town residents. Amendments may be initiated by a majority vote of the Planning Board or by request of the Board of Selectmen, or on petition of 10% of the votes cast in the last gubernatorial election in the town. The Board of Selectmen or the Planning Board shall conduct a public hearing on any proposed amendment.

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SECTION 7. DISTRICTS AND ZONING MAPS

A. Official Town of Westport Island Zoning Map

The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Town of Westport Island Zoning Map(s), which is (are) made a part of this Ordinance:

1. Resource Protection District
2. Limited Development District
3. Limited Residential/Commercial District
4. Commercial Fisheries/Marine Activities District

B. Scale of Map

The Official Westport Island Zoning Map shall be drawn at a scale of not less than 1 inch = 2,000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

C. Certification of Official Westport Island Zoning Map

Electronic images of the Official Westport Island Zoning Map shall be located in the Town Office.

D. Changes to the Official Westport Island Zoning Map

If amendments, in accordance with **Section 8**, are made to the district boundaries or other matter portrayed on the electronic image of the Official Town of Westport Island Zoning Map, such changes shall be made on the above designated electronic images within thirty (30) days after the amendment has been approved by the town.

SECTION 8. INTERPRETATION OF THE DISTRICT BOUNDARIES

Unless otherwise set forth on the Official Town of Westport Island Zoning Map, district boundary lines are property lines, the center lines of streets, roads and rights of way, and the boundaries of the shoreland area as defined herein. However, the Commercial Fisheries/Marine Activities (CFMA) the Resource Protection and the Limited Development Districts' boundaries do not have to follow property lines. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

SECTION 9. LAND USE REQUIREMENTS

Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

SECTION 10. NON-CONFORMANCE

A. Purpose

It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance shall be allowed to continue, subject to the requirements set forth in this section.

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B. General

1. **Transfer of Ownership:** Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.
2. **Repair and Maintenance:** This Ordinance allows, without a permit, the normal upkeep and maintenance of the non-conforming uses and structures including repairs or renovations which do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

C. Non-Conforming Structures

1. **Expansion:** A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure.
Further limitations: Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure provided that the structure and new foundation are placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board basing its decision on the criteria specified in **subsection 2. Relocation**, below. The completed foundation shall not extend beyond the exterior dimensions of the structure and the foundation shall not cause the structure to be elevated by more than three (3) additional feet.
2. **Relocation:** A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.
In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.
3. **Reconstruction or Replacement:** Any non-conforming structure which is damaged or destroyed may be repaired or reconstructed in place if a permit is obtained within eighteen (18) months of the date of said damage or destruction. In no case shall a structure be reconstructed or replaced, so as to increase its non-conformity.
4. **Change of Use of a Non-Conforming Structure:** The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the property or adjacent properties and resources than the existing use. In determining that no greater adverse impact will occur, the Planning Board shall consider the probable effects of public health and safety, erosion and sedimentation, quality of the water supply, wildlife habitat, vegetative cover, natural beauty, archaeological and historic resources.

D. Non-Conforming Uses:

1. **Expansions:** Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as permitted in **Section 10.C.1**, above.

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2. **Resumption Prohibited:** A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding two years, or which is superceded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) years.
3. **Change of Use:** An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the property and adjacent properties and resources than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in **Section 10.C. 4.**

E. Non-Conforming Lots

A non-conforming lot of record on the effective date of this Ordinance or amendments thereto may be built upon for a single family structure and use only, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot size can be met. Variances relating to requirements not involving lot size shall be obtained by action of the Board of Appeals.

SECTION 11. ESTABLISHMENT OF DISTRICTS

- A. **Resource Protection District** includes the portions of Lot 2.1 on Map 3 and Lot 9 on Map 4 which are 250 feet from the identified moderate or high value wetland known as Hopkins Pond. The portions of Lots 31, 35, 39, 40, 41 and 42 on Map 3 which are 250 feet from the Meadow Pond are also included.
- B. **Limited Development District** includes those properties or portions of properties which are 250 feet from the following wetlands:
 1. Squam Creek Marsh including portions of Map 3, Lots 38 and 44.1 and Map 4, Lots 3, 8, 50, 55, and 61.
 2. Heal's Upper Mill (Heal Pond) including portions of Map 3, Lots 55.2, 56, 57, 58, 65, 68.2 and 68.4
 3. The portions of Lots 3.4 and 3.5 on Map 3 that are 250 feet from the Meadow Pond.
 4. Beaver Pond including portions of Map 2, Lots 35, 39 and 40.
 5. The areas 250 foot from the Hopkins Pond on Map 4, Lots 2, 6.1 and 6.2
- C. **Limited Residential/Commercial District.** Includes all other areas not specifically identified as a Resource Protection District, a Limited Development District or a Commercial Fisheries/Maritime Activities District.
- D. **Commercial Fisheries/Maritime Activities District** includes:
 1. Map 7, Lot 52.01 (currently the North End Lobster Coop and marina)
 2. Map 6, Lot 111.11 (currently Westport Boat Works and marina)
 3. Map 1, Lot 24.14, portion only for commercial fishing, described as a portion of land of the estate of Teresa Richardson, being the existing stone wharf adjacent to land described as follows: Beginning at the southwest corner of land of George D. Richardson III, at a ring bolt in the ledge; thence N 45 degrees 53'30"W by land of George D. Richardson III to a 5/8" drill hole; thence Southwesterly to a 1 1/2" iron pipe at land of Dunlop; thence Southwesterly by land of Dunlop to a 1/2" iron pipe near the shore of the Sheepscoot River; thence to low water mark in said river; thence Easterly by low water mark to a point in a line extended S 45 degrees, 53'30"E from the point of beginning; thence N 45 degrees 53'30"W to the point of beginning.
 4. Map 4 Lot 60.01 (Land of estate of George R. Harrison – commercial fishing)
 5. Map 4 Lot 56 (portion only for marine construction) described as a portion of land of E. Davies Allen being described as follows; beginning at a point most southerly and easterly in the cove East of the Boathouse peninsula marked by a steel pin in the ledge above high water; thence due magnetic South

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- to a point 250 feet from high water marked by a concrete marker; thence due magnetic North to a pin in the ledge located in the westerly corner of the cove West of the Boathouse peninsula; thence Easterly along the shore to the point of beginning.
6. Map 3, Lot 16, (land of Reginald Lee – commercial fishing)
 7. Map 6, Lots 77.1 and 78 (formerly Mary Wright; now the Town of Westport Island)

SECTION 12. TABLE OF LAND USES

All land use activities, as indicated in **Table 1. Land Uses** in the Town of Westport Island shall conform to all of the applicable land use standards in **Section 15**. The district designation for a particular site shall be determined from the Official Westport Island Zoning Map.

Key to Table 1:

- | | |
|-----|---|
| Yes | Allowed (no permit required but the use must comply with all applicable land use standards) |
| No | Prohibited |
| PB | Requires permit issued by the Planning Board |
| CEO | Requires permit issued by the Code Enforcement Officer |
| LPI | Requires permit issued by the Local Plumbing Inspector |

Abbreviations:

- | | |
|------|--|
| RP | Resource Protection |
| LD | Limited Development |
| LRC | Limited Residential/Commercial |
| CFMA | Commercial Fisheries/Maritime Activities |

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TABLE OF LAND USES IN THE BUILDING CODE ORDINANCE

LAND USES	DISTRICTS			
	RP	LD	LRC	CFMA
1. Non-intensive recreational uses not requiring structures, such as hunting, fishing, and hiking	Yes	Yes	Yes	Yes
2. Motorized vehicular traffic on existing roads and trails	Yes	Yes	Yes	Yes
3. Forest management activities except for timber harvesting and land management roads	Yes	Yes	Yes	Yes
4. Timber harvesting	CEO	Yes	Yes	Yes
5. Clearing or removal of vegetation for activities other than timber harvesting	CEO	Yes	Yes	Yes
5A Clearing or removal of vegetation within the protected buffer area of a water body or wetland	CEO	CEO	CEO	CEO
6. Fire prevention activities	Yes	Yes	Yes	Yes
7. Wildlife management practices	Yes	Yes	Yes	Yes
8. Soil and water conservation practices	Yes	Yes	Yes	Yes
9. Mineral Exploration	No	CEO ¹	CEO ¹	CEO ¹
10. Mineral extraction including sand and gravel extraction	No	PB	PB	PB
11. Surveying and resource analysis	Yes	Yes	Yes	Yes
12. Emergency operations	Yes	Yes	Yes	Yes
13. Agriculture	PB	Yes	Yes	Yes
14. Aquaculture	PB	PB	Yes	Yes
15. Principal structures and uses				
A. One and two family residential, including driveways	PB ⁹	CEO	CEO	CEO
B. Multi-unit residential	No	No	No	No
C. Commercial	No	No	PB	PB ²
D. Industrial	No	No	No	PB ²
E. Governmental and Institutional	No	No	PB	PB ²
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB	CEO	CEO	PB ²
16. Structures accessory to allowed uses	PB	CEO	CEO	PB ²
17. Piers, docks, wharfs, bridges, and other structures and uses extending over or below the normal high-water line or within a wetland				
a. Temporary ³	CEO ⁶	CEO ⁶	CEO ⁶	CEO ^{2,6}
b. Permanent ^{3,4}	PB	PB	PB	PB ²
18. Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	No
19. Home occupations	PB ⁵	CEO ⁵	CEO ⁵	Yes
20. Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI
21. Essential services	PB	PB	PB	PB
A. Roadside distribution lines (34.5kV or less)	CEO ⁷	CEO ⁷	Yes ⁸	Yes ⁸
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB ⁷	PB ⁷	CEO	CEO
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB ⁷	PB ⁷	PB	PB

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LAND USES	RP	LD	LRC	CFMA
D. Other essential services	PB ⁷	PB ⁷	PB	PB
22. Service drops, as defined, to allowed uses	Yes	Yes	Yes	Yes
23. Public and private recreational areas involving minimal structural development	PB	PB	CEO	CEO ²
24. Individual and private campsites	CEO	CEO	CEO	CEO
25. Campgrounds	No	PB	PB	No
26. Road construction	No ¹⁰	PB	PB	PB ²
27. Land management roads	PB	PB	Yes	Yes
28. Parking facilities	No	PB	PB	PB ²
29. Marinas	No	PB	PB	PB
30. Filling and earthmoving of less than 10 cubic yards	CEO	Yes	Yes	Yes
31. Filling and earthmoving of greater than 10 cubic yards	PB	CEO	CEO	CEO
32. Signs	Yes	Yes	Yes	Yes
33. Uses similar to allowed uses	CEO	CEO	CEO	CEO
34. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO
35. Uses similar to uses requiring a PB permit	PB	PB	PB	PB
36. Relocation of a non-conforming structure	PB	PB	PB	PB
37. Mobile Home Parks	No	No	PB ¹¹	No

¹ Requires permit from the CEO if more than 100 square feet of surface area, in total, is disturbed.

² Functionally water-dependent uses and uses accessory to such water dependent uses only within 75 feet, horizontal distance, of the normal high-water line.

³ Requires a permit from the selectmen.

⁴ Requires a permit from the Department of Environmental Protection.

⁵ May require a permit from the Planning Board or CEO (see **Section 13.T.**).

⁶ Excluding bridges and other crossings not involving earthwork, in which case no permit is required

⁷ See further restrictions in **Section 13.K.**

⁸ Permit not required but must file a written “notice of intent to construct” with CEO.

⁹ Single family residential structures may be allowed by special exception only according to the provisions of **Section 14.E**, Special Exceptions. Two-family residential structures are prohibited.

¹⁰ Except as provided in **Section 13.G.**

¹¹ Except in the Shoreland Zone

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SECTION 13. LAND USE STANDARDS

All land use activities shall conform to the following provisions, if applicable:

A. Minimum Lot Standards

1. No single family dwelling shall be erected or building altered to accommodate one family as a residence on less than a one and a half (1 ½) acre lot outside the shoreland zone. Within the shoreland zone, a two (2) acre lot area shall be maintained.
2. No two family dwelling shall be erected or building altered, to accommodate a two family residence unless a ratio of two (2) acres per family unit in the Shoreland Zone is maintained, and a ratio of one and one half (1½) acres each family unit outside the Shoreland Zone is maintained.
3. No commercial, industrial, institutional or government structure shall be erected, or building altered to accommodate such use on less than a three (3) acre lot area, except that the minimum lot size for such uses in the CFMA Districts, (Commercial Fisheries/Maritime Activities) shall be at least two (2) acres. Commercial or industrial structures or uses are prohibited in some areas in the Shoreland Zone and in the Limited Development Districts. Commercial and industrial uses are prohibited in the Resource Protection Districts. See the Shoreland Zoning Ordinance for more information.
4. If two or more contiguous lots or parcels are in a single or joint ownership of record and all or part of the lots do not meet the dimensional requirements for lot size, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided the state minimum lot size law and Subsurface Wastewater Disposal rules are complied with.
5. If two or more principal uses or structures exist on a single lot of record, each may be sold on a separate lot, provided that the above referenced laws and rules are complied with. When such lots are divided, each lot thus created must be as conforming as possible to the dimensional requirements of this ordinance. In other situations, the creation of new non-conforming lots is prohibited.
6. If two or more contiguous lots or parcels are in single or joint ownership, and if any of these lots do not meet the dimensional requirements of this ordinance, the lots shall be combined to the extent necessary to meet the dimensional requirements, if one or more of the lots are vacant or contain no principal structure.
7. Lots 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 after September 22, 1971.
8. If more than one residential dwelling unit or more than one principal commercial or industrial structure is constructed on a single parcel, each additional dwelling unit or principal structure shall require an additional fifty (50) feet of frontage.
All other dimensional requirements shall be met for each additional dwelling unit or principal structure.

B. Principal and Accessory Structures

1. Building Standards

- a. Each dwelling shall have at least two suitable exit doorways.
- b. Chimneys constructed and installed in accordance with Chapter 211 of Volume 4 of the current issue of the National Fire Code as amended, published by the National Fire Protection Association, shall be deemed to be standard practice for safe installation and use.

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Principal or accessory structures and expansion of existing structures which are permitted in the Resource Protection District, Limited Development District and the Limited Residential/Commercial District shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, antennas and similar structures having no floor area.

2. Wind Power Systems

Commercial wind power systems are prohibited in all Districts on Westport Island island. Residential wind power systems may be constructed in Limited Development and Limited Residential/Commercial Districts under the following conditions:

- a. Any proposed residential wind power system shall be presented to the Planning Board at a public hearing. The Planning Board may vote on the project at the close of the public hearing or at its next meeting. The applicant must be informed of the decision no later than 35 days following the decision of the Board.
- b. **Application must include:**
 - Landowner's name(s) and contact information
 - Tax map number, lot number and zone or district of proposed project,
 - Names and addresses of all abutters and receipt(s) indicating notification to abutters of project,
 - Receipt indicating payment of fee,
 - Location map showing boundaries of site and all contiguous properties as well as Scenic resources and Historic Sites if applicable
 - Description of Wind Power System including capacity, height and manufacturer's specifications, make and model, maximum generating capacity, sound emission levels and types of controls,
 - Site map showing location of facility including boundaries, setbacks, contour lines at 20 foot intervals, roads, rights of way, overhead utility lines, buildings identified by use, land cover, wetlands, streams, water bodies and areas within five hundred (c500) feet of the facility which are proposed to be graded or cleared. Evidence of notification to Maine Department of Inland Fisheries and Maine Natural Areas Program,
 - Evidence of notification to electrical service provider if connection to grid is proposed,
 - Evidence that any guy wires for a wind power system tower shall be located within the site. No guy wires or other system components shall be located so as to block access by emergency vehicles. In the event of fire, the fire Department shall be afforded the ability to cut electricity going into the house or any other habitable building.
 - Evidence that a locked anti-climb device will be installed on the tower, or, a locked, protective fence at least six (6) feet in height that encloses the tower site.
 - Evidence of compliance with all FAA Guidelines,
 - Description of emergency and normal shut down procedures,
 - Photos of existing conditions at site,
 - Provision for dismantling any abandoned wind power system at owner's expense. Any system which has not generated electricity for 18 months shall be considered abandoned.
- c. **Setbacks**

Small residential wind power systems (exclusive of guy wires) are to be set back 110% of total height from overhead utility lines, travel ways such as driveways, parking areas, trails, and property boundaries unless a waiver is granted by abutters. Wind power systems must also meet all set back requirements of principal structures in the zone where the facility is located.
- d. **Height**

Small residential wind power systems must not be more than 100 feet tall generating a maximum of 199 kw, must be on a monopole, and may utilize guy wires if determined to be needed by a professional engineer.
- e. **Sound Level**

Not to exceed 60 decibels (ordinary conversation) at the property line.

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- f. Visual Impact**
Color to be non reflective and non obtrusive,
Facility not to be lit unless required by FAA regulations,
Signs shall be limited to manufacturer's or installer's identification and warning signs/placards.
 - g. Shadow Flicker**
Facility must be sited to minimize shadow flicker. Burden of proof is on the applicant.
 - h. Electro Magnetic Interference**
The wind power system shall be operated and located such that no disruptive electromagnetic interference with signal transmission or reception is caused beyond the site. If it has been demonstrated that the system is causing disruptive interference beyond the site, the system operator shall promptly eliminate the disruptive interference or cease operation of the system.
3. The total area of all structures, parking lots and other non-vegetated surfaces, excepting one access road shall not exceed twenty (20) per cent of the lot or a portion thereof, including land area previously developed except in the Commercial Fisheries/Maritime Activities District where lot coverage shall not exceed seventy (70) per cent.
- 4. Minimum Lot Width**
- a.** No single family dwelling shall be erected on lots having less than an additional one hundred **and fifty (150) feet measured through that part of the building where the lot is narrowest.**
 - b.** No two-family dwellings shall be erected or buildings altered to accommodate two-family dwellings on lots having less than an additional fifty (50) foot width measured through that part of the building where the lot is narrowest, per living unit, above and beyond the initial one hundred and fifty (150) foot width requirement, which is applicable for a single family dwelling outside of the Shoreland Zone area.
- 5. Frontage**
- a.** No single family dwelling shall be erected or building altered to accommodate one family as a residence on a lot having frontage less than one hundred and fifty feet on a public or private roadway, except that there shall be no minimum frontage requirement on any driveway serving two lots or less.
 - b.** No two family dwellings shall be erected or buildings altered to accommodate two family dwellings on lots having less than an additional fifty (50) foot frontage on a public or private roadway, per additional family living unit, above and beyond the initial one hundred fifty (150) foot requirement, which is applicable, for single family dwellings.
- 6. Set Back**
No building or structure or any portion thereof shall be erected within seventy-five (75) feet in the Resource Protection District and the Limited Development District, or forty (40) feet in the Limited Residential/Commercial District and the Commercial Fisheries/Maritime Activities District, from the right of way or sideline of any road or street. If there is no established right of way sideline for any road or street, said sideline shall be deemed to be sixteen and one-half (16½) feet from the center line of the road or street.
- 7. Side Yards and Rear Yards**
- a.** For every building erected there shall be a minimum side lot clearance on each side of said building of not less than twenty (20) feet, which space shall remain open and unoccupied by any structure.
 - b.** No building or structure or any portion thereof except steps and uncovered porches extending less than ten (10) feet from a building, shall be erected within forty (40) feet of any back line

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8. **Corner Lots**

The setback building line on a corner shall be in accordance with the provisions governing the road or street on which the building faces. If possible, the proposed side lot clearance on the side street shall conform to the setback line for an inside lot on said street or road, but in no event shall side yard clearance be less than forty (40) feet from the right of way sideline.

9. **Development of slopes in excess of 20%.**

On slopes of more than 20%, the new structures or uses otherwise allowed in this ordinance are allowed with a permit from the Planning Board provided that:

- a. Each application shall be accompanied by:
 - i. A topographic plan of the construction site with intervals of not more than five (5) feet and showing the slopes on the construction site,
 - ii. A plan to prevent erosion or sedimentation,
 - iii. Evidence that the soils at the construction site are suitable for the proposed use.
- b. Clearing shall be limited to those areas needed for construction of any approved structure, driveways, or parking areas.
- c. Any driveway or road construction shall be done in conformance with the provisions of **Section 13. G.** of this Ordinance.
- d. The proposed use conforms to all other standards and review criteria contained in this Ordinance.

C. **Campgrounds**

Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation shall not be included in calculating land area per site.

D. **Individual Private Campsites**

1. Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except canopies shall be attached to the recreational vehicle.
2. When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

E. **Commercial and Industrial Uses**

The following new commercial and industrial uses are prohibited:

1. Auto washing facilities;
2. Auto or other vehicle service and/or repair operation, including body shops;
3. Chemical and bacteriological laboratories;
4. Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual households, farms or small home occupations;
5. Commercial painting, wood preserving and furniture stripping;
6. Dry cleaning establishments;
7. Electronic circuit assembly;
8. Laundromats, unless connected to a sanitary sewer;

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9. Metal plating, finishing or polishing;
10. Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas and landscaping home occupations;
11. Photographic processing;
12. Printing.

F. Parking Areas

1. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent storm water runoff from flowing directly into a water body, and where feasible, to retain all runoff on-site.
2. In determining the appropriate size of proposed parking facilities, the following shall apply:
 - a. Typical parking space: Shall be a minimum of ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
 - b. Internal travel aisles: Shall be a minimum of twenty (20) feet wide.
3. Parking facilities are prohibited in the Resource Protection Districts.

G. Roads

The following standards shall apply to the construction of roads and drainage systems, culverts and other related features:

1. Existing public roads may be expanded within the legal road right of way regardless of its setback from a water body.
2. New roads and driveways are prohibited in Resource Protection Districts except that the Planning Board may grant a permit to construct a road, parking space or a driveway to provide access to permitted uses within the District. A road or driveway may also be approved by the Planning Board in Resource Protection Districts upon a finding that no reasonable alternative route or location is available outside the District. When a road, parking space or driveway is permitted in a Resource Protection District, these roads, parking spaces or driveways shall be set back as far as practical from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
3. Road banks shall be no steeper than a slope of two (2) horizontal feet to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in **subsection P**.

Road grades shall be no greater than twelve (12) per cent except for where no reasonable alternative exists as determined by the Planning Board.

4. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow in the road or ditches gains sufficient volume or head to erode the road or ditch. To accomplish this, the following shall apply:
 - a. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road at intervals no greater than indicated in the following table:

Road Grade (percent)	Spacing (feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40

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- b. Drainage dips may be used in place of ditch relief culverts only where the road grade is ten (10) per cent or less.
 - c. On road sections having slopes greater than ten (10) per cent, ditch relief culverts shall be placed across the road at approximately a thirty (30) degree angle downslope from a line perpendicular to the center line of the road.
 - d. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
6. Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads shall be maintained on a regular basis to assure effective functioning.

H. Signs

The following provisions shall govern the use of signs:

1. Signs and billboards relating to goods and services sold on the premises shall be permitted, provided that such signs shall not exceed twenty (20) square feet in area and shall not exceed two (2) signs per premises. Billboards and signs relating to goods or services not sold or rendered on the premises shall be prohibited.
2. Name signs shall be permitted, provided such signs shall not exceed two (2) signs per premises.
3. Residential users may display a single sign not over six (6) square feet in area relating to the sale, rental, or lease of the premises.
4. Signs relating to trespassing and hunting shall be permitted without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
5. Signs relating to public safety shall be permitted without restriction.
6. Signs may be illuminated only by shielded, non-flashing lights.

I. Storm Water Runoff

1. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of storm waters.
2. Storm water runoff systems shall be maintained as necessary to ensure proper functioning.

J. Septic Waste Disposal

1. All plumbing and sewage for any dwelling covered by the scope of this Ordinance shall be in strict accordance with the State of Maine Law and the State Plumbing Code. A suitable site for waste disposal shall be determined by a State of Maine Site Evaluator or a licensed engineer engaged in the business of Site Evaluation. An HHE-200 form shall be completed by the Site Evaluator and provided to the Local Plumbing Inspector for approval and signature. No plumbing or sewage system shall be covered until it has been inspected and permission given by the Local Plumbing Inspector (LPI).

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2. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules.
3. No holding tanks or overboard discharge systems shall be permitted in place of an approved waste disposal site and process.

K. Essential Services

1. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
2. The installation of underground propane tanks shall conform to the rules put forth by the State of Maine for the installation of such tanks. Notice of such installation shall be made by the owner of the property to the Local Plumbing Inspector and the Fire Chief.
3. The installation of essential services, other than roadside distribution lines, is not allowed in Resource Protection Districts except to provide services to a permitted use within said District, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

L. Mineral Exploration and Extraction

Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes shall be immediately capped, filled or secured by other equally effective measures, so as to restore disturbed areas and to protect the public health and safety.

Mineral extraction may be permitted under the following conditions:

1. A reclamation plan shall be filed with, and approved by the Planning Board before a permit is granted. Such plan shall describe in detail the procedures to be undertaken to fulfill the requirement of **subsection 4.** below.
2. Extraction operations shall not be permitted within seventy-five (75) feet of any property line. Written notification of extraction operations shall be provided to the owner(s) of such adjacent property.
3. Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
 - a. All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
 - b. The final grade slope shall be two to one (2:1) or flatter.
 - c. Top soil or loam shall be retained to cover all disturbed land area, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
4. In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

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5. Mineral extraction is prohibited in Resource Protection Districts and in Aquifer Protection Areas.

M. Agriculture

1. All spreading or disposal of manure shall be accomplished in conformance with the Maine Guidelines for Manure and Manure Sludge Disposal on Land published by the University of Maine soil and Water Conservation Commission in July of 1972.
2. Within five (5) years of the effective date of this Ordinance all manure storage areas within the Shoreland Zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water. Existing facilities which do not meet this requirement may remain, but must meet the no discharge provision within the above five (5) year period.
3. Agriculture activities involving tillage of the soil greater than forty thousand (40,000) square feet in surface area, or the spreading, disposal or storage of manure shall require a Soil and Water Conservation Plan to be filed with the Planning Board. Non-compliance with the provisions of said plan shall be considered to be a violation of this Ordinance. (Note: Assistance in preparing a Soil and Water Conservation Plan may be available through the local Soil and Water Conservation District Office.)

N. Timber Harvesting

Timber harvesting shall conform with the following provisions:

1. Selective cutting of no more than forty (40) per cent of the total volume of trees four ½ feet above ground level on any lot in any ten (10) year period is permitted. In addition:
2. Harvesting operations shall not create single clear cut openings greater than ten thousand (10,000) square feet in the forest canopy. Where such openings exceed five thousand (5,000) square feet, they shall be at least one hundred (100) feet apart. Such clear cut openings shall be included in the calculation of total volume removal. For the purposes of these standards volume may be considered to be equivalent to basal area.
3. Timber harvesting may be allowed by the Planning Board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The Planning Board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the Planning Board's decision.
4. Slash shall be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground.

O. Clearing of Vegetation for Development

1. Except to allow for the development of permitted uses, there shall be permitted on any lot, in any ten (10) year period, selective cutting of not more than forty (40) per cent of the volume of trees four (4) inches or more in diameter, measured 4 ½ feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) per cent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, exceed in the aggregate, 25% of the lot area or ten thousand (10,000) square feet, whichever is greater, including land previously developed. This provision shall not apply to the Commercial Fisheries/Maritime Activities District.

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2. Cleared openings legally in existence on the effective date of this Ordinance may be maintained, but shall not be enlarged, except as permitted by this Ordinance.
3. Fields which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.
4. In a Resource Development District, the cutting and removal of vegetation shall be limited to that which is necessary for the uses expressly authorized for that district.

P. Erosion and Sedimentation Control

1. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall require a written Soil Erosion and Sedimentation Control Plan, which need not be prepared by a licensed or certified engineer. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - Mulching and replanting of vegetation on disturbed soil
 - Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - Permanent stabilization structures such as retaining walls or riprap.
2. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
3. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
4. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
 - a. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 - b. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
5. Natural and man made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

Q. Soils

All land uses shall be located on soils in or upon which the proposed uses of structures can be established or maintained without contamination of the water supply or causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an onsite investigation and prepared by state certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water area, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which

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the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

R. Water Quality

No activity shall deposit on or into the ground or discharge to the waters of the state, any pollutant that, by itself or in combination with other activities or substances will in any way pollute the water supply or impair designated uses or the water classification of the water body.

S. Archaeological Sites

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

T. Home Occupations

It is the intent and purpose of this Ordinance to provide liberal, flexible standards for the establishment and maintenance of home occupations, while simultaneously providing the community with a practical mechanism by which to monitor and regulate their use.

1. Home occupations which meet the following conditions do not require a Code Enforcement Officer (CEO) or Planning Board permit:
 - a. Do not employ more than two persons who do not make the residence their permanent home.
 - b. Do not display any exterior signs, exterior exhibits, exterior storage of materials or any other exterior indications of the home occupation or variation from the residential character of the principal dwelling or accessory building. Billboards and signs relating to goods or services not sold on the premises shall be prohibited.
 - c. Do not generate any nuisance, water discharge, offensive noise, vibration, smoke, dust, odors, heat, glare, radiation, fumes, or electrical interference detectable to the normal senses or which interferes with normal radio and television reception, or causes other nuisances which extend beyond the limits of the subject property, and
 - d. Will not generate regular or seasonal traffic.
2. Home occupations that do not meet the provisions of **Section 1** shall obtain a permit from the Code Enforcement Officer and comply with the following conditions:
 - a. Not more than two persons who do not make the residence their permanent home may be employed (including part time workers).
 - b. The appearance of the structure or accessory structure is not altered, subject to the provisions of the subsection below or the occupation within the residence is conducted in a manner that would not cause the residence to differ from its residential character by means of colors, lights, or sounds.
 - c. Signs and billboards relating to goods and services sold on the premises shall be permitted, provided that such signs shall not exceed twenty (20) square feet in area, and shall not exceed two (2) signs per premises. Billboards and signs relating to goods or services not sold on the premises shall be prohibited.

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- d. Additions to the residence or accessory structure for the express purpose of a home occupation are constructed and finished in the same manner as the original structure such that the character and appearance of the principal structure are maintained.
 - e. Retail sales are limited to the sale of products or goods produced, fabricated or substantially altered on the premises as a result of the home occupation. This may include products that are not manufactured on the premises as defined above, but which are customarily incidental to the product created by the home occupation.
 - f. There is adequate off street parking on the premises for use by customers or clients.
 - g. There is no objectionable increase in traffic over that traffic normal for the neighborhood.
 - h. The home occupation does not adversely affect any natural resource or environmentally sensitive area including, but not limited to the water supply.
 - i. The home occupation that uses chemicals not commonly found in a residence and any chemicals in quantities not commonly used in a residence shall be required to collect and dispose of said chemicals in an environmentally safe manner.
 - j. The home occupation shall not generate any nuisance, waste discharge, offensive noise, vibration, smoke, dust, odors, heat, glare, radiation, fumes, or electrical interference detectable to the normal senses or which interferes with normal radio and television reception, or causes other nuisances, which extend beyond the limits of the subject property. All waste material from the home occupation shall be removed promptly from the premises, according to federal, state and local laws.
4. Home occupations not meeting the above standards shall be considered to be commercial or industrial uses, and are therefore prohibited in the Resource Protection Districts.

U. Mobile Homes

This section applies to any Mobile Home which may be installed on a lot which is leased or in the same ownership as the Mobile Home. Recreational vehicles (RV's), recreational trailers or truck campers (pickup trucks with a camper unit placed in the truck bed) are not considered Mobile Homes.

1. Permits required

The installation of a Mobile Home requires the same permitting process as does a conventional home, including payment of a fee, determination of a suitable site and design for a subsurface waste disposal system, a soil and erosion control plan, a notification to the Fire Chief and the Local Plumbing Inspector of any existing or planned underground propane tanks and compliance with all town ordinances and state rules. A valid E 911 address must be determined prior to obtaining a permit.

When a Mobile Home is to be installed in place of an existing Mobile Home, the same permitting process shall be followed except for the determination of an E 911 address. The Local Plumbing Inspector shall determine if the existing subsurface waste disposal system is functioning properly and is adequate in size for the replacement Mobile Home. If the existing system is not functioning properly or is inadequate in size, action must be taken to repair or replace the system. Holding tanks or overboard discharge systems are prohibited.

As with other dwellings, the Code Enforcement Officer shall review the Permit Application to determine if all of the land use requirements have been addressed and if a Planning Board review is required. When all required information has been obtained and the application is deemed to be complete, including the results of any Planning Board review, the Code Enforcement Officer shall approve, approve with conditions or deny the application.

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2. Foundations

Whenever possible, the Mobile Home shall be installed on a substantial foundation or a pad or base such as gravel, cinder block, cement or black top.

3. Water Supply

Each Mobile Home shall have a source of potable water located on the parcel of land on which the Mobile Home is located, or have an easement and current lease to another parcel on which a well is located for use by that Mobile Home occupant.

4. Sewage Disposal

Sewage disposal shall be provided by a private subsurface Wastewater Disposal System which meets the same standards and requirements as that of a conventional home. In no case shall a holding tank or an overboard discharge system be allowed.

SECTION 14. Administration

A. Administering Bodies and Agents

1. Code Enforcement Officer / Plumbing Inspector – A Code Enforcement Officer and a Plumbing Inspector shall be appointed or reappointed annually by July 1.
2. Board of Appeals – A Board of Appeals shall be created in accordance with the provisions of M.R.S.A. Title 30-A.
3. Planning Board – A Planning Board shall be created in accordance with the provisions of State law.

B. Permits Required

1. After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure, or renew a discontinued nonconforming use. A copy of the permit(s) issued shall be displayed on site while the work authorized by the permit(s) is/are performed.
2. A permit is not required for the replacement of an existing road culvert as long as the replacement culvert is:
 - a. Not more than one standard culvert size wider in diameter than the culvert being replaced,
 - b. Not more than 25% longer than the culvert being replaced, and
 - c. Not longer than 75 feet and adequate erosion control measure are taken to prevent sedimentation of the water, and that the crossing does not block fish passage in the water course.
3. Exemptions
 - a. Free standing structures of one hundred and fifty (150) square feet or less, and not associated with any other existing or proposed structures(s), whose combined area would exceed 150 square feet, shall not require a permit under this section but shall in all other respects conform to the provisions of this and any other municipal ordinances and all state and federal statutes and regulations.
 - b. Renovations as defined herein shall not require a permit under this section but shall in all other respects conform to the provisions of this and any other municipal ordinances and all state and federal statutes and regulations.

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C. Permit Application

1. Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the Town of Westport Island, to the appropriate permitting authority as designated in the Table of Land Uses and specified in the Shoreland Zone Ordinance or outside the Shoreland Zone – in this Building Code Ordinance.

Each application for a building permit under this section shall be accompanied by a fee set by the Board of Selectmen. A late processing fee set by the Board of Selectmen will be charged for permits after work has begun. Penalties may be assessed in some cases.

2. All applications shall be signed by the owner or owners of the property or the designated agent(s) authorizing the work, certifying that the information in the application is complete and correct. If the person signing the application is not the owner or lessee of the property, then that person shall submit a letter of authorization from the owner or lessee.
3. All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt. Applications shall be accompanied by the appropriate fee. See Fee Schedule posted in the Town Office.
4. If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation done by a Maine State Certified Site Evaluator and approved by the Local Plumbing Inspector, shall be submitted whenever the nature of the proposed structure would require the installation of a subsurface sewage disposal system.
5. Prior to the issuance of any permit, a valid E-911 address must exist, and signage, either permanent or temporary, shall be posted identifying the street or road. When the street or road does not intersect a town or state road or street, then all roads or streets leading to the building site must also be identified with either permanent or temporary signs. Temporary signs must be replaced by permanent signs within 90 days.
6. An erosion control plan must be submitted.
7. The Fire Chief and the Local Plumbing Inspector shall be notified of any existing or planned underground propane tanks.

D. Procedure for Administering Permits

Within 30 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer as appropriate, shall inform the applicant if the application is complete. If the application is incomplete, the applicant shall be informed of the specific additional material that is needed to make the application complete. The Planning Board or Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if one is held. Permits shall be approved if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance. The applicant shall have the burden of proof that the proposed land use activity conforms to the purposes and provisions of this Ordinance.

After the submission of a complete application to the Planning Board, the Planning Board shall deny the application, or shall approve the application, or approve it with conditions if the Planning Board makes a positive finding based on the information presented that the proposed use:

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1. Will maintain safe and healthful conditions,
2. Will not result in contamination of the water supply, water pollution, erosion, or sedimentation to surface waters,
3. Will adequately provide for the disposal of all wastewater,
4. Will not have an adverse impact on bird or other wildlife habitat,
5. Will protect archaeological and historic resources as designated in the Comprehensive Plan,
6. Will avoid problems with flood plain development and use, and
7. Is in conformance with the provisions of **Section 13. Land Use Standards.**

If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or any State law which the Town of Westport Island is responsible for enforcing.

E. Expiration of Permits

Following the issuance of a permit, if no substantial start is made in construction or in the use of the property within two years of the date of the permit, the permit shall lapse and become void.

F. Special Exceptions.

In addition to the criteria specified in **Section 14.** excepting structure setback requirements, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

1. There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
2. The lot on which the structure is proposed is undeveloped and was established and recorded in the Lincoln County Registry of Deeds before the adoption of the Resource Protection District.
3. All proposed buildings, sewage disposal systems and other improvements are:
 - a. Located on natural ground slopes of less than 20%; and
 - b. Located outside the floodway of the 100-year flood plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all building, including basement, are elevated at least one foot above the 100-year flood plain elevation; and the development is otherwise in compliance with any applicable municipal flood plain ordinance.

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be ½ the width of the 100-year flood plain.
4. The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet.

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G. Installation of Public Utility Service

No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in the Town of Westport Island unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials. Following installation of service, the company or district shall forward the written authorization to the municipal officials, indicating that installation has been completed.

H. Appeals

1. Powers and Duties of the Board of Appeals

The Board of Appeals shall have the following powers:

- a. **Administrative Appeals:** To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance; and to hear and decide administrative appeals on a *de novo* basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.
- b. **Variance Appeals:** To authorize variances upon appeal, within the limitations set forth in this Ordinance.

2. Variance Appeals

- a. Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure, height, percent of lot coverage, and setback requirements.
- b. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
- c. The Board shall not grant a variance unless it finds that:
 - i. The proposed structure or use would meet the provisions of **Section 13** except for the specific provision which has created the non-conformity and from which relief is sought; and
 - ii. The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:
 - (a) That the land in question cannot yield a reasonable return unless a variance is granted;
 - (b) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - (c) That the granting of a variance will not alter the essential character of the locality; and
 - (d) That the hardship is not the result of action taken by the applicant or a prior owner.
- d. Notwithstanding **Section 14.H.2.c.ii** above, the Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The Board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The Board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term

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"structures necessary for access to or egress from the dwelling" may include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

- e. The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformity with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
- f. A copy of each variance request, including the application and all supporting application supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

3. Administrative Appeals

When the Board of Appeals reviews a decision of the Code of Enforcement Officer, the Board of Appeals shall hold a "*de novo*" hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a "*de novo*" capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

When the Board of Appeals reviews a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board of Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings is inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

4. Appeal Procedure

a. Making an Appeal

- i. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board as described in **Section 14.H.1.a.**, except for enforcement-related matters. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board of Appeals, upon a showing of good cause, may waive the thirty (30) day requirement.
- ii. Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:
 - (a) A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
 - (b) A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- iii. Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

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- iv. The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.
- b. Decision by Board of Appeals
 - i. A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.
 - ii. The person filing the appeal shall have the burden of proof.
 - iii. The Board shall decide all administrative appeals and variance requests within thirty-five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
 - iv. The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board of Appeals shall cause written notice of its decision to be mailed or hand-delivered to the applicant within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.

5. Appeal to Superior Court

Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved person who participated as a party during the proceeding before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.

6. Reconsideration

In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board of Appeals to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the members of the Board of Appeals originally voting on the decision, and proper notification to the landowner(s), petitioner(s), Planning Board, Code Enforcement Officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board of Appeals may conduct additional hearings and receive additional evidence and testimony.

I. Enforcement

1. Nuisances

Any violation of this Ordinance shall be deemed a nuisance.

2. Code Enforcement Officer /Local Plumbing Inspector

- a. This Ordinance shall be enforced by the Board of Selectmen. The Board of Selectmen may delegate enforcement responsibilities to an appointed agent including, but not limited to, a Code Enforcement Officer and/or Local Plumbing Inspector. If the Board of Selectmen or their appointed agent(s) find that any provision of this Ordinance is being violated, the agent(s) shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and

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abatement of nuisance conditions. A copy of such notices shall be submitted to the Board of Selectmen and be maintained as a permanent record.

- b. The Code Enforcement Officer and Local Plumbing Inspector shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals in their respective areas of responsibility. The Code Enforcement Officer and Local Plumbing Inspector shall also investigate all complaints of alleged violations of this Ordinance in their areas of responsibility.
- c. The Code Enforcement Officer and Local Plumbing Inspector shall keep a complete record of all essential transactions of the office for their respective areas of responsibility, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found and fees collected.

3. Legal Actions

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Selectmen, upon notice from the Code Enforcement Officer or Local Plumbing Inspector, are hereby directed to institute any and all actions and proceedings, legal or equitable, including seeking injunctions of violations and the imposition of penalties, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The Selectmen, or their authorized agent(s), are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering penalties without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

4. Penalties

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A, Maine Revised Statutes Annotated, Subsection 4452. Each day that any such violation continues shall constitute and be considered a separate offense. A schedule of fees and penalties shall be maintained and amended by the Board of Selectmen as necessary.

SECTION 15. SEVERABILITY

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

SECTION 16. CONFLICTS WITH OTHER ORDINANCES

Whenever a provision or section of this Ordinance conflicts with or is inconsistent with another provision or section of this Ordinance or of any other Ordinance, Regulation or Statute, the more restrictive shall control.

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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