2014

Town of Westport Island Ordinances

Westport Island (Me.)

Follow this and additional works at: https://digitalcommons.library.umaine.edu/towndocs

Repository Citation
https://digitalcommons.library.umaine.edu/towndocs/2535

This Plan is brought to you for free and open access by DigitalCommons@UMaine. It has been accepted for inclusion in Maine Town Documents by an authorized administrator of DigitalCommons@UMaine. For more information, please contact um.librarytechnical.services@maine.edu.
MINIMUM LOT SIZE ORDINANCE

TOWN OF WESTPORT ISLAND
MINIMUM LOT SIZE ORDINANCE
Originally adopted March 21, 1987
Amended March 27, 2004
Amended June 29, 2013
Amended June 21, 2014

SECTION 1. – PURPOSE
The purpose of the Minimum Lot Size Ordinance is to provide the property owners and developers of land in the Town of Westport Island, with information regarding lot size in the districts of the town.

SECTION 2. – AUTHORITY§
This Ordinance is adopted pursuant to and consistent with the Town’s Home Rule authority under 30-A.M.R.S.A § 3001 and Article VIII. Part 2. §1. of the Maine Constitution.

SECTION 3. – SINGLE FAMILY DWELLINGS
No single family dwelling shall be erected or building altered to accommodate one family as a residence on less than a one and one half (1 ½) acre lot area outside the Shoreland Zone. Within the Shoreland Zone, a two (2) acre lot area shall be maintained.

SECTION 4. – TWO FAMILY RESIDENTIAL DWELLINGS
No two family residential dwellings shall be erected or buildings altered to accommodate two families unless there is maintained a ratio of a two (2) acre lot area to each family living unit in the Shoreland Zone and a ratio of a one and one half (1¾) acre lot to each family living unit outside the Shoreland Zone.

SECTION 5. – COMMERCIAL, INDUSTRIAL, INSTITUTIONAL AND GOVERNMENT STRUCTURES
No Commercial, Industrial, Institutional or Governmental Structures shall be erected, or building altered to accommodate a Commercial, Industrial, Institutional or Governmental Use on less than a three (3) acre lot area, except that the minimum lot size for such structures or 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.

SECTION 6. – SETBACKS
Setbacks from the back line of the lot shall be forty (40) feet in all districts. From the side lines of the lot the setback shall be twenty (20) feet in all districts. The distance from the access road of the lot shall be forty (40) feet in the Limited Residential/Commercial Districts and the Commercial Fisheries and Maritime Activities Districts and seventy-five (75) feet from such road or right-of-way in the Resource Protection Districts and the Limited Development Districts.
SECTION 7. – EXEMPTIONS

7.A. Nonconforming lots: A nonconforming lot of record on the effective date of this Ordinance or amendments thereto may be built upon for single family structures and uses 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.

7.B. Contiguous built lots: If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the nonconforming lots may be conveyed separately or together, provided that the state minimum lot size law and Subsurface Wastewater Disposal Rules are complied with.

If two or more principal uses or structures existed on a single lot of record on the effective date of this Ordinance, each may be sold on a separate lot provided that the above referenced law 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.

7.C. Contiguous Lots – vacant or partially built: If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure, the lots shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to 2 or more contiguous lots, at least one of which is nonconforming, owned by the same person or persons on the effective date of this Ordinance and recorded in the Registry of Deeds, if the lot can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules.

7.C.1. Each lot contains at least 100 feet of frontage and at least 1 ½ acres of lot area, or

7.C.2. Any lots that do not meet the frontage and lot size requirements of subparagraph 7.C.1. are reconfigured so that each new lot contains at least 100 feet of frontage and at least 1 ½ acres of lot area.

SECTION 8. – CONFORMANCE WITH DISTRICT REGULATIONS

No lot shall be created except in conformity with all the regulations specified for the district in which it is located, unless a variance is granted.

SECTION 9. – ENFORCEMENT

Enforcement of these rules and regulations shall be by the Code Enforcement Officer and/or the Board of Selectmen.
SECTION 10. – APPEALS
Any person who is aggrieved by a decision of the Planning Board or the Code Enforcement Officer under this Ordinance, may appeal that decision to the Board of Appeals in accordance with the provisions of this Ordinance.

10.A. All appeal to the Board of Appeals shall be filed on a Board of Appeals application form, and shall include all required submissions as well as the Board of Appeals’ application fee. See the Fee Schedule, application form and instructions at the Town Office.

10.B. All appeals shall be filed within thirty (30) days of receipt of the decision being appealed. The application shall specify all points and reasons for appeal.

10.C. Within thirty-five (35) days of the completed application, the Board of Appeals shall hold an appellate hearing if the decision is from the Planning Board or a de novo hearing if the decision is from the Code Enforcement Officer. The Board of Appeals may affirm, modify or reverse the decision. The Board of Appeals may also remand a Planning Board decision back to the Planning Board. The Board of Appeals shall inform the applicant of its decision in writing within seven (7) days of its decision.

10.D. Any aggrieved party may appeal the Board of Appeals’ decision to the Superior Court within forty-five (45) days of the date of such decision, pursuant to Rule 80B of the Maine Rules of Civil Procedure.

SECTION 11. - SEVERABILITY – The invalidity or unconstitutionality of any section or provision of this Ordinance shall not invalidate any other section or provision thereof.

SECTION 12 – DEFINITIONS

Appellate Hearing (Board of Appeals) – In an appellate hearing, the Board of Appeals will review only the record established before the Planning Board and will not accept any new evidence not presented to or considered by the Planning Board. The Board of Appeals will limit its review to a determination of whether the Planning Board made an error in law or a mistake of fact in its decision.

de novo Hearing (Board of Appeals) – When a de novo hearing is held by the Board of Appeals, new material shall be accepted by the Board for review, and the Board of Appeals will determine for itself the facts of the case. The Board of Appeals will prepare its own findings of fact and conclusions as part of the appeal. A de novo hearing is held when the action being appealed is from the Code Enforcement Officer.
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
SECTION 1. Purposes ................................................................. 4
SECTION 2. Authority ............................................................. 4
SECTION 3. Application ........................................................... 4
SECTION 4. Effective Date and Repeal of Formerly Adopted Ordinance ......................... 4
SECTION 5. Availability ......................................................... 4
SECTION 6. Severability ......................................................... 4
SECTION 7. Conflicts with Other Ordinances ................................... 4
SECTION 8. Amendments ....................................................... 5
SECTION 9. Districts and Zoning Map ......................................... 5
   A. Official Town of Westport Island Zoning Map .................................. 5
   B. Scale of Map ............................................................... 5
   C. Certification of Official Westport Island Zoning Map .......................... 5
   D. Changes to the Official Westport Island Zoning Map ......................... 5
SECTION 10. Interpretation of District Boundaries ............................. 5
SECTION 11. Land Use Requirements ........................................ 5
SECTION 12. Non-conformance ................................................ 6
   A. Purpose ................................................................. 6
   B. General ................................................................. 6
   C. Non-conforming Structures ............................................... 6
   D. Non-conforming Uses .................................................. 7
   E. Non-conforming Lots .................................................... 7
SECTION 13. Establishment of Districts ....................................... 7
SECTION 14. Table of Land Uses .............................................. 8
SECTION 15. Land Use Standards ............................................ 11
   A. Minimum Lot Standards ............................................... 11
   B. Principal and Accessory Structures ..................................... 11
   C. Campgrounds .......................................................... 14
   D. Individual Private Campsites ....................................... 14
   E. Commercial and Industrial Uses .................................... 14
   F. Parking Areas ........................................................ 15
   G. Roads ................................................................. 15
   H. Signs ................................................................. 16
   I. Storm Water Runoff .................................................... 16
   J. Septic Waste Disposal ................................................ 16
   K. Essential Services ..................................................... 16
   L. Mineral Exploration and Extraction .................................. 17
   M. Agriculture ............................................................ 17
   N. Timber Harvesting ..................................................... 18
   O. Clearing of Vegetation for Development .................................. 18
   P. Erosion and Sedimentation Control .................................... 18
   Q. Soils .................................................................. 19
   R. Water Quality .......................................................... 19
   S. Archaeological Sites ................................................... 19
   T. Home Occupation ...................................................... 19
SECTION 16. Administration .................................................... 20
   A. Administration Bodies and Agents ...................................... 20
   B. Permits Required ........................................................ 21
   C. Permit Application ..................................................... 21
   D. Procedure for Administering Permits ................................. 22
   E. Expiration of Permit .................................................... 22
   F. Special Exemptions ..................................................... 22
   G. Installation of Public Utility Service ................................. 23
SECTION 1. Purposes

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 the M.R.S.A.

SECTION 3. Applicability

This Ordinance applies to all land areas within the Town of Westport Island.

SECTION 4. Effective Date and Repeal of Formerly Adopted 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 25, 2010, the date of town approval.

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 posted.

SECTION 6. Severability

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.

SECTION 7. Conflicts with other Ordinances

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute the more restrictive provision shall control.
SECTION 8. Amendments

This Ordinance may be amended by majority vote of the town. 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.

SECTION 9. Districts and Zoning Map

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

The Official Westport Island Zoning Map shall be certified by the attested signature of the Town Clerk and 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 in the district boundaries or other matter portrayed on the Official Town of Westport Island Zoning Map, such changes shall be made on the Official Town of Westport Island Zoning Map within thirty (30) days after the amendment has been approved by the town.

SECTION 10. Interpretation of 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) and Resource Protection District 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 11. 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 12. 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.

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: that the completed foundation does not extend beyond the exterior dimensions of the structure; and that the foundation does 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 subject 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 12.C.1, above.

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 subject 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 12.C. above.

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 single family structures and uses 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 13. 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, 40, 41 and 42 on Map 3 which are 250 feet from the Meadow Pond.

B. **Limited Development District** includes those properties or portions of properties which are 250 feet from the following wetlands:

1. Squam Creek Marsh
2. Heal’s Upper Mill (Heal Pond)
3. The portions of Lots 3.4 and 3.5 on Map 3 that are 250 feet from the Meadow Pond.
4. Beaver Pond
5. The 250 foot portions of Map 4, Lots 2, 6, 1 and 6,2 that are adjacent to the Hopkins Pond

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 Boar 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 30’ W by land of George D. Richardson III to a 5/8” drill hole; thence Southwesterly to a 1 ½” iron pipe at land of Dunlop; thence Southwesterly by land of Dunlop to a ½” iron pipe near the shore of the Sheepscot 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 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.


7. Map 6, Lots 77.1 and 78 (formerly Mary Wright; now the Town of Westport Island)

SECTION 14. **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
### TABLE 1. LAND USES IN THE SHORELAND ZONE IN THE TOWN OF WESTPORT ISLAND

<table>
<thead>
<tr>
<th>LAND USES</th>
<th>DISTRICTS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>LAND USES</strong></td>
<td><strong>RP</strong></td>
</tr>
<tr>
<td>1. Non-intensive recreational uses not requiring structures, such as hunting, fishing, and hiking</td>
<td>yes</td>
</tr>
<tr>
<td>2. Motorized vehicular traffic on existing roads and trails</td>
<td>yes</td>
</tr>
<tr>
<td>3. Forest management activities except for timber harvesting and land management roads</td>
<td>yes</td>
</tr>
<tr>
<td>4. Timber harvesting</td>
<td>CEO</td>
</tr>
<tr>
<td>5. Clearing or removal of vegetation for activities other than timber harvesting</td>
<td>CEO</td>
</tr>
<tr>
<td>6. Fire prevention activities</td>
<td>yes</td>
</tr>
<tr>
<td>7. Wildlife management practices</td>
<td>yes</td>
</tr>
<tr>
<td>8. Soil and water conservation practices</td>
<td>yes</td>
</tr>
<tr>
<td>9. Mineral Exploration</td>
<td>no</td>
</tr>
<tr>
<td>10. Mineral extraction including sand and gravel extraction</td>
<td>no</td>
</tr>
<tr>
<td>11. Surveying and resource analysis</td>
<td>yes</td>
</tr>
<tr>
<td>12. Emergency operations</td>
<td>yes</td>
</tr>
<tr>
<td>13. Agriculture</td>
<td>PB</td>
</tr>
<tr>
<td>14. Aquaculture</td>
<td>PB</td>
</tr>
<tr>
<td>15. Principal structures and uses</td>
<td></td>
</tr>
<tr>
<td>A. One and two family residential, including driveways</td>
<td>PB⁹</td>
</tr>
<tr>
<td>B. Multi-unit residential</td>
<td>no</td>
</tr>
<tr>
<td>C. Commercial</td>
<td>no</td>
</tr>
<tr>
<td>D. Industrial</td>
<td>no</td>
</tr>
<tr>
<td>E. Governmental and Institutional</td>
<td>no</td>
</tr>
<tr>
<td>F. Small non-residential facilities for educational, scientific, or nature interpretation purposes</td>
<td>PB</td>
</tr>
<tr>
<td>16. Structures accessory to allowed uses</td>
<td>PB</td>
</tr>
<tr>
<td>17. Piers, docks, wharfs, bridges, and other structures and uses extending over or below the normal high-water line or within a wetland</td>
<td></td>
</tr>
<tr>
<td>a. Temporary³</td>
<td>CEO⁹</td>
</tr>
<tr>
<td>b. Permanent³</td>
<td>P⁵</td>
</tr>
<tr>
<td>18. Conversions of seasonal residences to year-round residences</td>
<td>LPI</td>
</tr>
<tr>
<td>19. Home occupations</td>
<td>PB⁵</td>
</tr>
<tr>
<td>20. Private sewage disposal systems for allowed uses</td>
<td>LPI</td>
</tr>
<tr>
<td>21. Essential services</td>
<td>PB</td>
</tr>
<tr>
<td>A. Roadside distribution lines (34.5kV or less)</td>
<td>CEO⁷</td>
</tr>
<tr>
<td>B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone</td>
<td>PB⁷</td>
</tr>
<tr>
<td>C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone</td>
<td>PB⁷</td>
</tr>
<tr>
<td>D. Other essential services</td>
<td>PB⁷</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>22. Service drops, as defined, to allowed uses</td>
<td>yes</td>
</tr>
<tr>
<td>23. Public and private recreational areas involving minimal structural development</td>
<td>PB</td>
</tr>
<tr>
<td>24. Individual and private campsites</td>
<td>CEO</td>
</tr>
<tr>
<td>25. Campgrounds</td>
<td>no</td>
</tr>
<tr>
<td>26. Road construction</td>
<td>no10</td>
</tr>
<tr>
<td>27. Land management roads</td>
<td>PB</td>
</tr>
<tr>
<td>28. Parking facilities</td>
<td>no</td>
</tr>
<tr>
<td>29. Marinas</td>
<td>no</td>
</tr>
<tr>
<td>30. Filling and earthmoving of less than 10 cubic yards</td>
<td>CEO</td>
</tr>
<tr>
<td>31. Filling and earthmoving of greater than 10 cubic yards</td>
<td>PB</td>
</tr>
<tr>
<td>32. Signs</td>
<td>yes</td>
</tr>
<tr>
<td>33. Uses similar to allowed uses</td>
<td>CEO</td>
</tr>
<tr>
<td>34. Uses similar to uses requiring a CEO permit</td>
<td>CEO</td>
</tr>
<tr>
<td>35. Uses similar to uses requiring a PB permit</td>
<td>PB</td>
</tr>
<tr>
<td>36. Relocation of a non-conforming structure</td>
<td>PB</td>
</tr>
</tbody>
</table>

---

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 15.T. below).
6 Excluding bridges and other crossings not involving earthwork, in which case no permit is required
7 See further restrictions in Section 15.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 16.E, Special Exceptions. Two-family residential structures are prohibited.
10 Except as provided in 15.G.
SECTION 15. 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 1/2) 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 living unit 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. Commercial or industrial structures or uses are prohibited in some zones such as Resource Protection districts and some areas in the Shoreland Zone. 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 of 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 and 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.

2. 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. Commercial wind power systems are prohibited in all Districts on the 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 public hearing.

b. **Application must include:**
   - Landowner’s name(s) and contact information,
   - Address, tax map, lot number, zone of proposed project,
   - Names and addresses of all abutters and receipt indicating notification of project,
   - Receipt indicating payment of fee,
   - Location map showing boundaries of site and all contiguous properties as well as Scenic resources and Historic Site if applicable,
   - Description of Wind Power System including capacity, height and manufacturer’s specifications, make 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 proposed to be regarded or cleared within 500 feet of the facility,
   - 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. 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, property boundaries unless waiver is granted by abutter. 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.

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.

f. **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 or building altered to accommodate two family or multiple dwellings 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 or multiple dwellings shall be erected or buildings altered to accommodate two family or multiple 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 limitation.

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 or on any lake, pond, river, or stream except that there shall be no minimum frontage requirement on any driveway serving two lots or less.

   b. No two family or multiple dwellings shall be erected or buildings altered to accommodate two family or multiple dwellings on lots having less than an additional fifty (50) foot frontage on a public or private roadway or on any lake, pond, river, stream or seashore per additional family living unit, above and beyond the initial two hundred (200) foot limitation or one hundred fifty (150) foot limitation, whichever 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 (16 ½) 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 building shall be erected within forty (40) feet of any back line.

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 15. 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:
   a) Auto washing facilities;
   b) Auto or other vehicle service and/or repair operation, including body shops;
   c) Chemical and bacteriological laboratories;
   d) Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual households, farms or small home occupations;
   e) Commercial painting, wood preserving and furniture stripping;
   f) Dry cleaning establishments
   g) Electronic circuit assembly
   h) Laundromats, unless connected to a sanitary sewer;
   i) Metal plating, finishing or polishing;
   j) 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;
   k) Photographic processing;
   l) 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 the (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 Q.

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

5. 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:

<table>
<thead>
<tr>
<th>Road Grade (percent)</th>
<th>Spacing (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-2</td>
<td>250</td>
</tr>
<tr>
<td>3-5</td>
<td>200-135</td>
</tr>
<tr>
<td>6-10</td>
<td>100-80</td>
</tr>
<tr>
<td>11-15</td>
<td>80-60</td>
</tr>
<tr>
<td>16-20</td>
<td>60-45</td>
</tr>
<tr>
<td>21+</td>
<td>40</td>
</tr>
</tbody>
</table>
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 light.

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. No plumbing or sewage system shall be covered until it has been inspected and permission given by the plumbing inspector.
2. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules.

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 or the property to the LPI 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 area 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 procedures to be undertaken to fulfill the requirement of paragraph 4. below.
2. Extraction operations shall not be permitted within seventy-five (75) feet of any property line, without written permission of the owner 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.
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, 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 conformance 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 \( \frac{1}{2} \) feet above ground level on any lot in any ten (10) year period is permitted. In addition:

2. Harvesting operations shall not create single clearcut 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 clearcut 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 \( 4 \frac{1}{2} \) 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.

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 revegetation of 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 rip rap.

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 on site 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 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 these provisions to provide liberal, flexible standards for the establishment and maintenance of home occupations that simultaneously provide 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 any 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.
   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.
   d. Additions to the residence or accessory structure for the express purpose of a home occupation are constructed and finished in the same manner 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 customers or clients use.
   g. There is no objectionable increase in traffic over that traffic normal for the neighborhood.
   h. It 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.

3. 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.

SECTION 16. 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 Title 30-A Section 2691
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 permits issued shall be displayed on site while the work authorized by the permit(s) is 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.

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 municipality, to the appropriate permitting authority as designated in the appropriate Table of Land Uses as specified in Section 14. (e.g. in the Shoreland Zone – the Shoreland Zone Ordinance or outside the Shoreland Zone – this Building Code Ordinance.)

Each application for a building permit under this section shall be accompanied by a fee as set by the Board of Selectmen. A late processing fee as 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 other person 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 approved by the 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 exist 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.
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 either that the application is a complete application, or, if the application is incomplete, that specified additional material 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 proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.

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

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 15. 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 municipality 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 16 above 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 registry of deeds of the county in which the lot is located 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 \( \frac{1}{2} \) 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.

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 15 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 16.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 “structures necessary for access to or egress from the dwelling” shall 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 hears 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, except for enforcement-related matters as described in Section 16.H.1.a. above. 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, 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.
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 shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection 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 party 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 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 Board members originally voting on the decision, and proper notification to the landowner, petitioner, Planning Board, Code Enforcement Officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board 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 / 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 Plumbing Inspector. If the Board of Selectmen or their appointed agent find that any provision of this Ordinance is being violated, he or she 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 abatement of nuisance conditions. A copy of such notices shall be submitted to the selectmen and be maintained as a permanent record.
b. The Code Enforcement Officer and 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 Plumbing Inspector shall also investigate all complaints of alleged violations of this Ordinance in their areas of responsibility.

c. The Code Enforcement Officer and 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, appeal, court actions, violations investigated, violations found and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of Land Quality Control within the Department of Environmental Protection.

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 Plumbing Inspector, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, 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, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines 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 is maintained and amended by the Board of Selectmen as necessary.

SECTION 17. Definitions

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 forest management and timber harvesting activities.

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

Basal Area - the area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

Basement – any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.
Campground - any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

Coastal wetland - all tidal and subtidal lands; all lands below any identifiable debris line left by tidal action; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed, as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

Commercial use - the use of lands, buildings, or structures, other than a "home occupation," defined below, 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.

Dimensional requirements - numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage 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 less.

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, underground propane tanks, 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.

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

Expansion of use - the addition of one or more months to a use's operating season; 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.

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, frostwalls, 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 10 or more contiguous acres; or of less than 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 10 acres; and

2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.
Freshwater Wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

**Functionally water-dependent uses** - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal and inland waters and which cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to marine or tidal waters.

**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. **reat Pond Classified GPA** - any great pond classified GPA, pursuant to 38 M.R.S.A. Article 4-A Section 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds

**Habitable Building (or structure)** – 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 38 MRSA Section 1319-O. It does not include waste or material resulting from normal household or agricultural activities. 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 (prior to construction) grade 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.

**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.

**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 to transport 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 to be side lot lines.

Multi-unit residential - a residential structure containing three (3) or more residential units.

New Construction – All structures, newly constructed on a lot, said lot conforming 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.

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. In the case of wetlands adjacent to rivers and great ponds, the normal high water line is the upland edge of the wetland.

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.

Piers, docks, wharves, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland.

Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

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

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

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:

<table>
<thead>
<tr>
<th>Soil Type</th>
<th>Soil Type</th>
<th>Soil Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alluvial</td>
<td>Cornish</td>
<td>Charles</td>
</tr>
<tr>
<td>Fryeburg</td>
<td>Hadley</td>
<td>Limerick</td>
</tr>
<tr>
<td>Lovewell</td>
<td>Medomak</td>
<td>Ondawa</td>
</tr>
<tr>
<td>Podunk</td>
<td>Runney</td>
<td>Saco</td>
</tr>
<tr>
<td>Suncook</td>
<td>Sunday</td>
<td>Winooski</td>
</tr>
</tbody>
</table>

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.

Relocation – 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 this Ordinance.

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.

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.

Salt Marsh - areas of coastal wetland (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is regularly inundated by tidal waters. The predominant species is saltmarsh cordgrass (Spartina alterniflora). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

Salt Meadow - areas of a coastal wetland that support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cordgrass (Spartina patens) and black rush; common threesquare occurs in fresher areas.

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 produces 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.
Solid Waste – useless, unwanted or discarded solid material with insufficient liquid content to be free flowing, including, but not limited to rubbish, garbage, refuse-derived fuel, 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 guy and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes. For the purposes of this paragraph, temporary or removable structures on no more than one hundred (100) square feet in the aggregate and not affixed to the ground in any way, and sited so as not to require digging or otherwise altering the ground resources which are necessary for controlling water runoff, shall not be defined as structures and will be permitted with approval by the CEO. Materials placed at or below grade level, and not adversely affecting water runoff, shall not be considered a structure.

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 trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. 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.

Upland edge of a wetland - the boundary between upland and wetland.

Vegetation - all live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level.

Volume of a structure - the volume of all portions of a structure enclosed by 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 include but may 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.

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. Wetlands associated with great ponds or rivers are considered to be part of that 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.
MODEL ADDRESSING ORDINANCE

TOWN OF WESTPORT ISLAND
MODEL ADDRESSING ORDINANCE
Originally adopted March 23, 1995
Amended June 29, 2013

SECTION 1. – PURPOSE
The purpose of this Ordinance is to enhance the easy and rapid location of properties for the delivery of public safety and emergency services, postal delivery and business delivery.

SECTION 2. – AUTHORITY
This Ordinance is adopted pursuant to and consistent with the Town’s Home Rule Authority under Title 30-A M.R.S.A. Section 3001 and Art. VIII, Pt. 2, Section1 of the Maine Constitution.

SECTION 3. – ADMINISTRATION
This Ordinance shall be administered by the Board of Selectmen, who may assign road names to roads serving two (2) of more addresses and may assign lot numbers to all properties, both on existing and proposed roads. The Selectmen may be represented by the 911 Officer or Deputy as their agent(s).

SECTION 4. – NAMING SYSTEM
All roads in the Town of Westport Island that serve two or more addresses shall be named regardless of whether the ownership is public or private. A road name assigned by the Board of Selectmen or the 911 Officer or Deputy, shall not constitute or imply acceptance of the road as a public way. The following criteria shall govern the naming system:

4.A. Undeveloped properties shall be staked at the lot boundaries and proposed driveways on the portion of the lot on the designated addressing road.
4.B. Similar names – No two roads shall be given the same or similar sounding names to other Westport Island roads or roads in nearby communities.
4.C. Each road shall have the same name throughout its entire length.
4.D. Each designated lot shall be assigned a 911 address.

SECTION 5. – APPEALS  If a person, firm, or other legal entity is aggrieved by any aspect of this Ordinance, an appeal may be made to the Board of Appeals.
5.A. Any appeal to the Board of Appeals shall be filed on a Board of Appeals application form, and shall include all required submissions as well as the Board of Appeals application fee. See the Fee Schedule, application form and instructions at the Town Office.
5.B. All appeals shall be filed within thirty (30) days of the action or decision, which is being appealed. The Application shall specify all points and reasons for appeal.
5.C. The Board of Appeals shall hold a de novo hearing within thirty-five (35) days of the receipt of the completed application, and may affirm, modify or reverse the decision or action. The Board of Appeals shall inform the applicant of the decision in writing within seven (7) days of its decision.
MODEL ADDRESSING ORDINANCE

5.D. Any aggrieved party may appeal the Board of Appeals’ decision to the Superior Court within forty-five (45) days of the date of such decision pursuant to Rule 80B of the Maine Rules of Civil Procedure.

SECTION 6. - SEVERABILITY
The invalidity or unconstitutionality of any section or provision of this Ordinance shall not invalidate any other section or provision thereof.
TOWN OF WESTPORT ISLAND

SUBDIVISION ORDINANCE

(Replacement for Subdivision Standards and Procedures adopted June 11, 1988)

Amended March 2004
Amended June 2014
TABLE OF CONTENTS

SECTION 1. - PURPOSE.................................................................3
SECTION 2. - AUTHORITY..........................................................3
SECTION 3. - ADMINISTRATION AND AMENDMENTS..............................3
SECTION 4. – ZONING DISTRICTS..................................................4
SECTION 5. - ADMINISTRATIVE PROCEDURES-APPLICATION PROPOSAL PROCEDURES......5
SECTION 6. - APPLICATION REQUIREMENTS – MINOR SUBDIVISIONS.........................8
SECTION 7. - APPLICATION REQUIREMENTS – MAJOR SUBDIVISIONS........................11
SECTION 8. - FINAL PLAN REVIEW AND APPROVAL........................................13
SECTION 9. - APPLICATION FEES....................................................17
SECTION 10. REVISIONS TO APPROVED PLAN........................................17
SECTION 11. CRITERIA..................................................................18
SECTION 12. STANDARDS..............................................................20
  12.A. Water Supply and Groundwater Quality and Quantity..........................20
  12.B. Sewage Disposal..................................................................23
  12.C. Soil Erosion and Sedimentation..................................................24
  12.D. Roads and Streets..................................................................25
  12.E. Site Clearing and Open Space or Common Land..............................28
  12.F. Storm Water Management.......................................................29
  12.G. Emergency Municipal Services................................................29
  12.H. Financial and Technical Capacity..............................................30
  12.I. Lots.......................................................................................30
  12.J. Setbacks...............................................................................31
  12.K. Monuments...........................................................................31
  12.L. Street Signs...........................................................................31
  12.M. Surface Drainage.................................................................31
SECTION 13. - INSPECTION AND ENFORCEMENT.....................................32
SECTION 14. APPEALS......................................................................33
SECTION 15. - REVOCATION OF A PERMIT............................................37
SECTION 16. – SEVERABILITY..........................................................38
SECTION 17. – DEFINITIONS...........................................................38
SUBDIVISION ORDINANCE

SECTION 1. – PURPOSE

In order to assure the comfort, convenience, safety, health and welfare of the people of the Town of Westport Island, to protect the town’s water supply and ground water, to protect the environment, to promote the development of an economically sound and stable community, to assure that a minimal level of services and facilities are available to the residents of new subdivisions and that lots in subdivisions are capable of supporting the proposed uses and structures, and to minimize the potential negative impacts from new subdivisions on neighboring properties and on the municipality.

SECTION 2. – AUTHORITY

To insure that new development in the Town of Westport Island meets the goals and conforms to the policies of the Westport Island Comprehensive Plan, the Subdivision Ordinance including regulations, criteria and standards are adopted pursuant to Art. VIII, Pt. 2, Sec 1 of the Maine Constitution, and 30-A M.R.S.A. 3001 et seq. and 30-A M.R.S.A. §4401-4407.

SECTION 3. – ADMINISTRATION AND AMENDMENTS

3.A. The provisions of this Ordinance shall pertain to all land and buildings proposed for subdivisions within the boundaries of the Town of Westport Island. All Town of Westport Island Ordinances apply, as appropriate and relevant, to any project covered by this Subdivision Ordinance. Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or any other ordinance, regulation or statute, the more restrictive shall control.

3.B. This Ordinance shall be enforced by the Board of Selectmen, who may delegate enforcement responsibilities to an appointed agent including, but not limited to, a Code Enforcement Officer and/or a Local Plumbing Inspector.

3.C. The Town of Westport Island Planning Board, hereinafter called the Board, is authorized to review and act on all Subdivision Applications in a manner outlined within this Ordinance.

3.D. This Ordinance may be amended by majority vote of the Legislative Body of the Town of Westport Island at a Town Meeting. A Public Hearing shall be held by the Planning Board and/or the Board of Selectmen prior to the vote by the Legislative Body of the Town. The Public Hearing shall be noticed at least fourteen (14) days prior to such hearing and advertised in a newspaper of general circulation in the municipality, at least two (2) times with the date of the first publication being at least fourteen (14) days prior to the hearing and the second at least seven (7) days prior to the hearing. Amendments to this Ordinance may be initiated by the Board of Selectmen, by a majority vote of the Planning Board, or by a resident petition of 10% of the votes cast in the most recent gubernatorial election.
SUBDIVISION ORDINANCE

SECTION 4. – ZONING DISTRICTS
The areas in the Town of Westport Island are divided into the following districts as shown on the Official Town of Westport Island Zoning Map(s):

4.A. Resource Protection District includes portions of the following properties:

4.A.1. The area 250 feet from the wetland located on Map 4 Lot 9, known as the Hopkins Pond.

4.A.2. The portion of Map 3 Lot 2.1 located 250 feet from the wetland identified as Hopkins Pond.

4.A.3. The area 250 feet from the pond known as the Meadow Pond, including portions of Lots 31, 35, 39, 40, and 41 and 42 on Map 3. Subdivisions cannot be proposed in Resource Protection Districts.

4.B. Limited Development District includes those properties or portions of properties that are located 250 feet from the following wetlands:

4.B.1. Squam Creek Marsh including portions of the following properties: Map3 Lots 38 and 44.1, Map 4 Lots 3, 8, 50, 55 and 61.

4.B.2. Heal’s Upper Mill (Heal Pond) including portions of the following lots: Map 3 Lots 55.2, 56, 57, 58, 65, 68.1, 68.2, 68.3 and 68.4.

4.B.3. Meadow Pond, including portions of the following lots: Map 3 Lots 3.4 and 3.5.

4.B.4. Beaver Pond including portions of the following lots: Map 2 Lots 35, 39 and 40.

4.B.5. The 250 foot portions of Map 4 Lots 2, 6.1 and 6.2 which are adjacent to Hopkins Pond.

4.C. Commercial Fisheries/Maritime Activities District includes areas on tidal water where the activities are primarily those requiring access to tidal water and generally associated with maritime functions. The district may include portions of a lot. The following properties are designated as Commercial Fisheries/Maritime Activities Districts (CFMA):

4.C.1. Map 7 Lot 52.01 (currently North End Lobster Coop – Marina).


A portion of land of the estate of Teresa Richardson, being the existing stone wharf and adjacent 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° 53’ 30” West by land of George D. Richardson III to a 5/8” drill hole; thence Southwesterly to a 1 ½” iron pipe at land of Dunlop; thence Southwesterly by land of Dunlop to a ½” iron pipe near the shore of the Sheepscot River; thence to low water mark in said River; thence Easterly by low water mark to a point in a line extended S 45° 53’ 30” East from the point of beginning; thence N 45° 53’ 30” West to the point of beginning.

4.C.4. Map 4 Lot 60.01 (land of George R. Harrison – commercial fishing)

4.C.5. Map 4 Lot 56 (portion only – commercial marine construction) A portion of the 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 to a point 250 feet from high water marked by a concrete marker; thence Westerly along the 250 foot setback line to 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.


4.C.7. Map 6 Lots 77.1 and 78 (formerly Mary Wright; now Town of Westport Island – boat launch and maritime activities)

4.D. Limited Residential/Commercial District – Includes all other area not specifically identified as Resource Protection, Limited Development or Commercial Fisheries/Maritime Activities Districts.

SECTION 5 – ADMINISTRATIVE PROCEDURE – APPLICATION PROPOSAL PROCEDURE

5.A. Pre-application Meeting, Sketch Plan and On-Site Inspection

5.A.1. Purpose
The purpose of the pre-application meeting and on-site inspection is for the applicant to present general information regarding the proposed subdivision to the Planning Board and receive the Board’s comments prior to the expenditure of substantial sums of money on surveying, soils identification, and engineering, by the applicant.

5.A.2. Procedure

5.A.2.a. The applicant shall present a Pre-application Sketch Plan.

5.A.2.b. The Planning Board may ask questions and make suggestions which may be incorporated by the applicant into the application.
5.A.2.c. Following discussions on the Sketch Plan, the Board, on its own motion, or by request of the applicant, may conduct a Site Visit.

5.A.3. Submission
The Pre-application Sketch Plan shall show in simple sketch form the proposed layout of streets, lots, buildings and other features in relation to existing conditions. The Sketch Plan, which does not have to be engineered and may be a free hand penciled sketch, shall be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. Topographic site conditions such as steep slopes, wet areas and vegetative cover shall be identified in a general manner. The Sketch Plan shall be superimposed on or accompanied by a copy of the assessor’s map(s) on which the land is located. The Sketch Plan shall be accompanied by:

5.A.3.a. A copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision,

5.A.3.b. Copies of those portions of the county or any town soil surveys and/or hydrological studies covering the proposed subdivision, showing the outline of the proposed subdivision,

5.A.3.c. Areas to be contoured at greater than a 5' contour interval on the plan to be submitted in the final application shall be discussed and approved at the Pre-application Meeting.

5.A.3.d. Any lot clearing or temporary road construction necessary to conduct any assessments or tests necessary to support the application, are subject to normal Town Ordinances and standards including, but not limited to, building permits, written plans for temporary erosion and sedimentation control as well as permanent stabilization measures following testing. The applicant may include a list of any such efforts and a tentative schedule as to when they will commence, especially if they deem it useful to the review process to have representatives of the Board or other potential parties present during the testing phase.

5.A.4. On-Site Inspection
The purpose of the Pre-application site visit is purely informational, as an aid to all involved in a future review to understand more fully the Final Plans when submitted. Prior to the on-site inspection, the applicant shall place “flagging” at fifty (50) foot intervals along the approximate centerlines of any proposed streets, and locate the approximate frontage center of proposed lots with road frontage, or the approximate entrance location of any roads or driveways proposed to provide access to non-frontage lots. The Board shall not conduct on-site inspections when there is more than one foot of snow on the ground.
SUBDIVISION ORDINANCE

5.A.5. Rights Not Vested
At the Pre-application meeting, the submittal or review of the Sketch Plan or the on-site inspection shall not be considered the initiation of the substantive review process for the purpose of bringing the proposed subdivision under the protection of Title 1 M.R.S.A. Section 302.

5.B. Final Plan Application

5.B.1. Within six (6) months after the Pre-application Meeting, the applicant shall submit an application for approval of a Final Plan (see Sections 6.B. and 7.A. for a list of items required).

If an applicant cannot submit the Final Plan within six (6) months, the applicant may request an extension. Such a request for an extension to the filing deadline shall be filed with the Board in writing, prior to the expiration of the filing period. In considering the request for an extension, the Board shall make findings that the applicant has made due progress in preparation of Final Plans and in pursuing approval of those Final Plans before other agencies, and that municipal ordinances or regulations which may impact the proposed development have not been amended.

5.B.2. At the meeting where the Final Plan is presented, the applicant shall note that

5.B.2.a. Any requirement of the application which is not applicable or for which a waiver is requested, and

5.B.2.b. For any criterion that is not applicable and therefore not addressed, the Board may vote to grant waivers of submission requirements, which it finds are not applicable to the proposed subdivision. The Board shall prepare written findings in support of any waiver approved. Cost of providing a required submission shall not be grounds for granting a waiver. Based on all materials presented, the Board shall vote as to whether the application is complete or not complete. The Board shall notify the applicant in writing within thirty-five (35) days of the Board’s determination that the application is complete. If the application is deemed not complete, the Board shall notify the applicant of the specific additional material needed to complete the application. This notification shall be in writing within thirty-five (35) days of the receipt of the incomplete application.

5.B.3. The Board may consult experts as deemed necessary in their deliberations, providing that the Board only selects such experts that have been previously discussed with the applicant. The Board may require the owner or the owner’s authorized agent to deposit in escrow an amount of money sufficient to cover the costs of any professional review of the subdivision application, which the
SUBDIVISION ORDINANCE

Board may feel, is reasonably necessary to protect the general welfare of the Town. Maximum amounts for this escrow payment shall be established by the Board of Selectmen. This escrow payment shall be made to the Town Treasurer before the Board engages any outside party to undertake this review and to make recommendations to the Board. Payments made from this escrow account shall be requested by the Planning Board and authorized by the Board of Selectmen. Any part of this escrow payment in excess of the final costs for review shall be returned to the owner or the owner’s agent.

SECTION 6 – APPLICATION REQUIREMENTS — MINOR SUBDIVISIONS
(Three or Four lots with no streets included)

6.A. The Board may require, where it deems necessary for protection of public health, safety and welfare, that a minor subdivision comply with any or all of the requirements of a major subdivision.

6.B. Procedure Final Plan
The Final Plan shall include or be accompanied by the following information:

6.B.1. Proposed name of the subdivision, or identifying title, plus the assessor’s map and lot number(s).

6.B.2. Purpose, nature, and projected cost of project.

6.B.3. A list of all abutters to the properties proposed for subdivision.

6.B.4. Right, title or interest in the property.

6.B.5. A Final Plat consisting of one or more maps or drawings, drawn to a scale of not more than one hundred (100) feet to the inch. Final Plats for subdivisions containing more than one hundred (100) acres may be drawn at a scale of not more than two hundred (200) feet to the inch, provided all necessary detail can easily be read. Final Plats shall be no larger than twenty-four (24) by thirty-six (36) inches in size, and shall have a margin of two (2) inches outside of the border on the left side for binding, and a one (1) inch margin outside the border along the remaining sides. Space shall be reserved on the Final Plat for endorsements by the Planning Board. The Final Plat should contain the following information:

6.B.5.a. Land Description  A standard boundary survey of the parcel giving complete descriptive data by bearings and distances, made and certified by a Professional Land Surveyor. The Final Plat shall indicate the type of monument found or to be set at each lot corner.
6.B.5.b. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, water courses and other essential existing physical features,

6.B.5.c. The location of all rivers, streams, brooks and wetlands within or adjacent to the proposed subdivision,

6.B.5.d. Contour lines at not more than five (5) foot intervals, or at the interval specified by the Board, showing elevations in relation to mean sea level,

6.B.5.e. The location and size of existing and proposed sewers, water mains, culverts and drainage ways on or adjacent to the property to be subdivided,

6.B.5.f. The dimensions and location of any streets, public improvements or open space shown upon the official map and the Comprehensive Plan, if any, within the subdivision,

6.B.5.g. The location of any common land and a description of proposed improvements and its management,

6.B.5.h. If any portion of the subdivision is in a flood prone area, the boundaries of any flood hazard areas and the 100 Year flood elevation, shall be delineated on the Final Plat.

6.B.5.i. The zoning district in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision,

6.B.5.j. The date the Final Plat was prepared and by whom prepared, the north point, and graphic map scale,

6.B.5.k. The location of any test sites, proposed water supply and sewage disposal sites and related structures.

6.B.6. Facilities Description  If a private sewage disposal system is proposed, location and results of tests to ascertain subsurface soil and ground water conditions and depths to maximum ground water level shall be indicated. Information from a Maine State Certified Site Evaluator and a completed HHE 200 form, approved and signed by the Local Plumbing Inspector, must be submitted with the application for each lot in the subdivision.

6.B.7. A description of the type of water supply system(s) to be used in the subdivision,
6.B.8. The names and addresses of the owner(s) of record, applicant, and individual(s) or company who prepared the Final Plat,

6.B.9. Any analyses, reports, etc. required to support adherence to a standard or to demonstrate compliance with a criterion and the names and addresses of any individuals or companies who prepared and/or certified them,

6.B.10. An erosion and sedimentation control plan in conformance with Section 12.C.

6.B.11. An estimate of the amount and type of vehicular traffic to be generated on a daily basis,

6.B.12. Location Map. The location map shall be drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The Location Map shall show:

6.B.12.a. Existing subdivisions in the proximity of the proposed subdivision,

6.B.12.b. Location and names of streets. The 911 Officer shall be contacted to ascertain that the street names chosen by the applicant are not the same or phonetically similar to other street names on Westport Island or in neighboring communities.

6.B.12.c. Boundaries and designations of zoning districts,

6.B.12.d. An outline of the proposed subdivision and any remaining portion of the owner’s property if the Final Plat submitted involves only a portion of the owner’s entire contiguous holdings.

6.B.13. The location of significant resources including important deer wintering areas, other important plant or wildlife habitat and areas with visual significance,

6.B.14. The location of any trail, trail system or greenbelt that crosses the property,

6.B.15. The applicant shall submit information on the location of the development to the following address to determine if the subdivision has any negative impact on significant historic areas:

State Historical Preservation Office
Maine Historic Preservation Commission
55 Capitol Street,
State House Station 55,
Augusta, Maine 04333
SUBDIVISION ORDINANCE

The information submitted above shall include a request that the Westport Island Planning Board be notified of any comments. The applicant shall submit to the Board proof of such notification, including a copy of the letter to the State Historic Preservation Officer.

6.B.16. A statement indicating that all required federal and state approvals have been applied for.

SECTION 7. APPLICATION REQUIREMENTS – MAJOR SUBDIVISIONS
(More than four lots or any Subdivision containing a proposed street)

7.A. An applicant for major subdivision approval shall file a Final Plan application containing all information required under Section 6 for a Minor Subdivision, and in addition shall provide the following information:

7.A.1. Street Plans including detailed construction drawings shall be submitted showing a plan view, profile and typical cross-section of the proposed streets and existing streets within three hundred (300) feet of any proposed intersection. The plans shall include the following information:

7.A.1.a. Date, scale and magnetic or true north point,

7.A.1.b. Intersection of the proposed street with any existing streets,


7.A.1.d. Kind, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways. Such structures shall be designed and sized in accordance with a storm water management plan prepared by a Registered Professional Engineer and shall meet the minimum storm water design and construction standards of Section 12.F.

7.A.1.e. Complete curve data shall be indicated for all horizontal and vertical curves,

7.A.1.f. Turning radii of all intersections,

7.A.1.g. Centerline gradients,

7.A.1.h. Location of all existing and proposed overhead and underground utilities, including, but not limited to water, sewer, electricity, telephone, lighting and cable television,
7.A.1.i. Kind, size, location, profile and cross-section of all existing and proposed drainage ways and structures and their relationship to existing structures,

7.A.1.j. A soil erosion and sedimentation control plan in conformance with the requirements of Section 12.C.

7.A.1.k. For a street that is to remain private, the application shall include a plan setting forth how the street and associated drainage structures are to be maintained. Responsibility for street maintenance may be assigned to a lot owners’ association or to lot owners in common through provisions included in the deeds for all lots that utilize the private street for access. The applicant shall submit appropriate legal documentation such as proposed homeowners’ association documents or proposed deed covenants for Board review. This documentation must address specific maintenance activities such as summer and winter maintenance, long term improvements and emergency repairs and include a mechanism to generate funds to pay for such work.

7.A.1.l. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours and the sight distances for each proposed driveway that intersects with an existing or proposed public or private road. For a subdivision with more than thirty (30) parking spaces or that will generate more than twenty-five (25) peak hour vehicular trips per day, a traffic impact analysis shall be prepared by a Registered Professional Engineer with experience in traffic engineering. The analysis shall indicate the expected average daily vehicular trips, peak hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service on the road giving access to the subdivision and neighboring roads that may be affected, and recommended improvements to maintain the desired level of service on the affected roads. Trip generation rates shall be obtained from the latest edition of “Trip Generation”, published by the Institute of Transportation Engineers.

7.A.2. The Final Plat shall include final designs of any bridges or culverts and drainage ways that may be required on, or adjacent to the property to be subdivided.

7.A.3. A list of facilities and construction items proposed and to be completed by the applicant prior to the sale of lots with the proposed date for completion of each facility or item. Also, evidence that the applicant has financial instruments or resources to complete the items within the time frame proposed.

7.A.4. For major subdivisions that are not served by public sewer and which have a density of more than one dwelling per five (5) acres, or if possible future subdivision of the property could result in a density of more than one dwelling
SUBDIVISION ORDINANCE

per five (5) acres, a hydrological assessment shall be prepared in accordance with Section 12.A.2. by a Certified Geologist or Registered Professional Engineer experienced in hydrogeology.

7.A.5. A Stormwater Management Plan in accordance with the requirements of Section 12.F.

SECTION 8 – FINAL PLAN REVIEW AND APPROVAL

8.A. Final Plan

8.A.1. Subdivision Subject to State Review
If the proposed subdivision requires a permit under the Site Location of Development Act, the Stormwater Management Law or the Natural Resources Protection Act or is otherwise under the jurisdiction of the Maine Departments of Environmental Protection or Transportation, the Final Plat shall not be executed until all such approvals are obtained. The applicant shall submit any Conclusions of Law and Findings of Fact to the Board and all recognized parties. The Planning Board may consider them in formulating its own Findings of Fact and Conclusions of Law.

8.A.2 Final Plan Review Procedure

8.A.2.a. All public hearings for subdivisions brought before the Planning Board shall be recorded by electronic means and filed with the Town Clerk of Westport Island. Any party with the consent of the Chair may arrange for a court reporter to be present at a hearing. All costs incurred are the responsibility of the requesting party. If a written transcript is produced, a single copy is to be provided to the Board. Rights to the transcript remain the property of the party producing it. Copies may only be obtained from that party following agreement of the payment of a reasonable proportionate share of the cost of producing it.

8.A.2.b. When an application is filed with the reviewing authority, the applicant shall file a notice of application by first class mail with all abutting landowners. The filed application shall include certification that such notice has been made. The reviewing authority shall give the applicant a dated receipt for the filing of the application. Within thirty-five (35) days of the receipt of the application, the applicant shall be notified if the application is deemed complete, or not complete. The applicant shall be notified in writing, as to why the application is deemed not complete. A complete application includes a site evaluation by a State of Maine Certified Site Evaluator, completion of the HHE 200 form, approved and signed by the Local Plumbing Inspector, and a
proposed Soil and Erosion Control Plan as well as other required information.

A hearing, which may include a site inspection, shall be held within thirty-five (35) days of the determination that the application is complete. Notice of this hearing shall be given and published two times in a local newspaper with a readership on Westport Island. The date of the first publication shall be at least fourteen (14) days before the Public Hearing, and the second publication must be at least seven days before the hearing.

The Board may request that the Fire Chief, Road Commissioner, or Local Plumbing Inspector comment (either at the public hearing or in writing to all statutory parties prior to the hearing) upon the adequacy of their departments’ existing capital facilities to service the proposed subdivision. The applicant or the applicant’s appointed agent shall appear at any hearings held by the Board for the purpose of answering any questions about and providing information relative to the application.

8.A.2.c. At the public hearing, the Chairman of the hearing shall review requests for party status, granting status for those who meet the standards for party status under governing law. Non-statutory parties may be granted full or selective status for certain criteria, based solely upon a demonstration of potential impacts upon their properties under specific criteria. All decisions on non-statutory party status shall be by vote of the Board. All testimony shall be sworn and the Chair shall administer the oath individually to each person who wishes to present testimony.

The Chair shall request testimony upon each criterion and standard contained in this Ordinance. The applicant has the burden of proof and will present information to show that the requirements of the criteria and all Town of Westport Island standards are met, or offer alternatives and provide evidence that the proposed alternatives meet the spirit and requirements of the criteria and standards. The applicant’s presentation of evidence is intended to show that the proposed subdivision will conform to each specific criterion and each specific standard associated with that criterion, if any. The burden of proof with regard to that criterion then shifts to the other parties present. An admitted party may then present evidence as to whether the applicant has in fact satisfied specific criteria or standards.

After all testimony and evidence, arguments and rebuttals have been heard, the Board shall decide by vote whether the applicant has met the burden of proof and has satisfied the criteria and Town of Westport Island standards.
8.A.2.d. Within thirty-five (35) days from the date of completion of the public hearing, generally at its next regularly scheduled meeting, the Board shall issue a written order denying, approving, or approving with conditions the application. If the Board finds that all the criteria cited above have been met, it shall vote to approve the subdivision. If the Board finds that any of the criteria cited above have not been met, the Board shall either deny the application or approve the application with conditions to ensure that all of the criteria will be met by the subdivision. At its next scheduled meeting the Board shall sign the written Findings of Fact and Conclusions of Law and any conditions and shall specify its reasons for approval, conditional approval or disapproval. These documents shall be provided to the applicant and all admitted parties within ten (10) days of the date at which they were signed. The Board shall require the applicant to record the approved Final Plan, all Conclusions of Law, Findings of Fact and conditions at the Registry of Deeds.

The decision of the Planning Board relative to the Final Plan shall be considered the appealable decision.

8.B. Final Plat Approval
Within six months of Final Plan Approval, at a regular meeting of the Planning Board, the applicant shall submit the Final Plat and all other required recordable documents (including, but not limited to, Findings of Fact, Conclusions of Law and conditions) to be filed at the Registry of Deeds. The Final Plat submission shall consist of two (2) reproducible, stable-based transparencies; one to be recorded at the Registry of Deeds, the other to be filed at the municipal office, and three (3) copies of the Final Plat shall be submitted to the Board. The applicant may instead submit one (1) reproducible stable-based transparent original of the Final Plat and one recording plat with three (3) copies of the Final Plat.

8.B.1. The Final Plat shall include the following:

8.B.1.a. All of the information presented on the Plan Location Map and any amendments thereto suggested or required by the Board,

8.B.1.b. The name, registration number and seal of the land surveyor or engineer or planning consultant who prepared the plan.

8.B.1.c. Street names and lines, pedestrian ways, lots, easements and areas to be reserved or dedicated for public use.

8.B.1.d. Sufficient data to determine readily the location, bearing and length of every street line, lot line, boundary line and to reproduce such lines upon
SUBDIVISION ORDINANCE

the ground. Parting lines of all lands adjoining the subdivision shall be shown.

8.B.1.e. The length of all straight lines, the deflection angles, radii, length of curves and central angles of all curves, tangent distances and tangent bearing for each street.

8.B.1.f. Lots within the subdivision numbered as prescribed by the Board, as represented by the 911 Officer or Deputy who will provide each lot with a 911 address. Centerlines of each lot shall be staked to assist the 911 Officer to determine the location of each lot.

8.B.1.g. By proper designation, all public common space for which offers of cession are made by the developer and those common spaces to which title is reserved by the developer.

8.B.1.h. Permanent reference monuments shown thus “X”. They shall be constructed and placed in accordance with Section 12.J. and their location noted and referenced upon the Final Plan.

8.B.1.i. The Plan shall indicate the proposed landscaping program of the Subdivision developer.

8.B.1.j. Any conditions of approval required by the Board.

8.B.1.k. A statement indicating that any change or modification to any aspect of the approved plan shall be considered an amendment to the plan and shall require approval of the Board.

8.B.1.l. All necessary state and federal approvals have been obtained.

8.B.2. The Planning Board shall review the Final Plat, and all recordable documents solely to insure consistency with agreements/conditions/covenants set forth at the Final Plan approval, and if they are complete and consistent, the Planning Board shall sign the Final Plat.

If the Planning Board determines that changes have been made beyond those agreed to or required by conditions of the Final Plan Approval, they will follow the procedure described in Section 10 “Revisions to Approved Final Plan”.

8.B.3. No changes, erasures, modifications, or revisions shall be made in any Final Plat after approval has been given by the Planning Board and endorsed by signing the Final Plat.
SUBDIVISION ORDINANCE

8.B.4. The approval by the Planning Board of a subdivision Final Plat shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other common space included in such Final Plan.

SECTION 9 – APPLICATION FEES

All applications for Final Plan of a Subdivision shall be accompanied by a fee to be determined by the Board of Selectmen. In addition, as provided for in Section 5.B.3, the applicant shall pay reasonable review costs incurred by the municipality, including but not limited to, review of the application by subject experts or by legal counsel. A tentative budget for such review and counsel, if required, will be discussed and agreed to by the applicant prior to the filing of the application.

SECTION 10 – REVISIONS TO APPROVED FINAL PLAN

10.A. Procedure

10.A.1. An applicant for a revision to a previously approved Final Plan shall, at least ten (10) days prior to a scheduled meeting of the Board, request to be placed on the Board’s agenda. If the revision involves the creation of additional lots or dwelling units, the procedures for Final Plan approval shall be followed. If the revision involves only minor modifications of the approved Final Plan, without the creation of additional lots or dwelling units, the Board may vote to approve the revised Final Plan at that meeting, or may, because of the nature of the revision, vote to use some or all the procedures for Final Plan approval. For all approved revisions, the Board shall make findings that the revised Final Plan meets the criteria and standards of this Ordinance and the criteria of Title 30-A M.R.S.A. § 4404. The Board will issue new Findings of Fact, Conclusions of Law, and conditions, if applicable, regarding the approved revisions, in no more than thirty-five (35) days. The applicant must then repeat the procedure for Final Plat Approval of the approved revised Final Plan as outlined in Section 8.B.

10.A.2. If at any time during the construction of the required improvements it is demonstrated to the satisfaction of the Code Enforcement Officer that unforeseen conditions make it necessary or preferable to modify the location or design of any required improvement, the Code Enforcement Officer may authorize minor modifications, provided these modifications are within the spirit and intent of the Board’s approval and do not extend to the waiver or substantial alteration of the function of any improvements required by the Board. The Code Enforcement Officer shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Board. The Board may require the filing of a revised Final Plan depending on the extent of the modification.
10.B. Scope of Review
The Board’s scope of review under Section 10.A. is limited to those portions of the Final Plan which are proposed to be changed.

SECTION 11 – CRITERIA

11.A. When reviewing any proposed subdivision for approval, the Planning Board shall determine whether the proposed subdivision meets all applicable state subdivision criteria, as currently specified in 30-A M.R.S.A. Section 4404, at the time of approval of this Ordinance, and amendments thereto, as well as the following criteria:

11.A.1. The proposed subdivision will not result in undue water or air pollution. In making this determination it shall consider: the elevation of land above sea level and its relation to the flood plains, the nature of the soils and sub-soils and their ability to adequately support wastewater and sewage disposal, the slope of the land and its effect on effluents, the availability of streams for disposal of effluents, and the applicable state and local health and water resource rules and regulations.

11.A.2. The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision.

11.A.3. The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used.

11.A.4. The proposed subdivision will not cause unreasonable soil erosion or reduction in the land’s capacity to hold water so that a dangerous or unhealthy condition results.

11.A.5. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways, public roads or roads necessary for access to or within the proposed subdivision.

11.A.6. The proposed subdivision will provide for adequate wastewater and sewage waste disposal.

11.A.7. The proposed subdivision will not cause an unreasonable burden on the ability of the Town of Westport Island to dispose of solid waste and sewage with respect to the use of municipal facilities existing or proposed.

11.A.8. The proposed subdivision will not place an unreasonable burden on the ability of the Town of Westport Island to provide municipal or governmental services.

11.A.9. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat
or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.

11.A.10. The proposed subdivision conforms to the Subdivision Ordinance, Comprehensive Plan, Floodplain Management Ordinance, Shoreland Zoning Ordinance, and any other duly adopted town ordinance or regulation. In making this determination, the municipal review authority may interpret these ordinances and plans.

11.A.11. The subdivider has the adequate financial and technical capacity to meet Maine Subdivision criteria and the criteria and standards of this Ordinance to the completion of the project.

11.A.12. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, pond, lake, river or tidal waters as defined in the Mandatory Shoreland Zoning Act Title 38, Chapter 3, subchapter 1, article 2-B, the proposed subdivision will not adversely affect the shoreline of such body of water.

11.A.12.a. To avoid circumventing the intent of this provision, if a proposed subdivision adjoins a shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision shall be reviewed as if lot lines extend to the shore.

11.A.12.b. The frontage and set back provisions of this ordinance do not apply within areas designated as densely developed. The determination of which areas are densely developed must be based on a finding that existing development met the definitional requirements of section 4401, subsection 1, on September 23, 1983.

11.A.13. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.

11.A.14. If any part of the proposed subdivision is in a flood prone area, the subdivider shall determine the 100 year flood elevation and flood hazard boundaries within the subdivision and include a condition of Final Plan approval requiring that the principal structures in the subdivision in such flood prone areas will be constructed with their lowest floor, including the basement, at least one foot above the 100 year flood elevation.

11.A.15. All freshwater wetlands have been identified on any maps submitted as part of the application, regardless of the size of these wetlands.
SUBDIVISION ORDINANCE

11.A.16. Any river, stream or brook as defined in the Natural Resources Protection Act, Title 38, Section 480-B, within or abutting the proposed subdivision has been identified on any maps submitted as part of the application.

11.A.17. The proposed subdivision will provide for adequate storm water management.

11.A.18. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond, or coastal wetland as defined in Title 38, Section 480-B, none of the lots created within the subdivision shall have a lot depth to shore frontage ratio greater than 5 to 1.

11.A. 19. The proposed subdivision will not cause an unreasonable burden on the ability of a municipality to provide emergency services.

SECTION 12 – STANDARDS

The following standards are in addition to the requirements of the state statute judgmental criteria, and the Town of Westport Island’s judgmental criteria in Section 11.A. Compliance with these Standards may be used to show partial or full compliance with the requirements of the associated judgmental criteria.

12.A. Water Supply and Groundwater Quality and Quantity


12.A.1.a. When a proposed subdivision’s water supply shall be from individual wells:

12.A.1.a.i. Individual wells shall be sited on the Final Plat and shall be sited at the approved location; alternative locations may be approved by the Board upon request.

12.A.1.a.ii. Lot design shall permit placement of wells, subsurface sewage and waste water disposal areas, and where necessary, additional reserved sites for subsurface sewage and wastewater disposal areas in full compliance with the Maine Subsurface Wastewater Disposal Rules and the Well Drillers and Pump Installers Rules.

12.A.1.b. If a central water supply system is provided by the applicant, the location and protection of the source, and the design, construction and operation of the system shall conform to all pertinent Maine standards including the Maine Rules Relating to Drinking Water (10-1444 C. M.R. 231). An assessment detailing the design, operation and location of the proposed central water supply system, including the long term capacity of the
source of the water supply, must be provided and certified by a Registered Professional Engineer.

12.A.2. Hydrological Assessment

12.A.2.a. If the density of the whole parcel being proposed for subdivision is more than one unit per five acres, or if possible future subdivisions of the parcel in question is permitted in any of the deeds in the proposed lots, and such further subdivision could result in a density of greater than 1 to 5, a hydrological assessment, prepared by a Certified Geologist or Registered Professional Engineer is required.

12.A.2.b. Hydrological Assessment Components

Unless applicant requests in writing and receives a waiver from the Board to not require certain components of the assessment, a Hydrological Assessment requires the following information:

12.A.2.b.i. Detail of the overall design and layout of the water supplies and sewage disposal systems, showing compliance, as appropriate, with Section 12.A.1. and Section 12.A.2. and also the Maine Rules Relating to Drinking Water (10- 144A C. M. R. 231),

12.A.2.b.ii. An analysis and evaluation by the certifying agent assessing the adequacy of the proposed overall water management system design (water supply, sewage disposal, ground water preservation, and storm water management), as compared to the State of Maine standards and to currently prevailing good practices for islands similar to Westport Island. In addition, the analysis and evaluation shall include the following:

12.A.2.b.ii.subsection 1. Impact of the proposed subdivision on the quality and quantity of ground water resources available on the parcel in question and on properties abutting the parcel.

12.A.2.b.ii.subsection 2. Impact of any future subdivision that may be permitted on the parcel, on the quantity of ground water resources available on the parcel in question and on properties abutting the parcel. If future subdivision could significantly decrease the quantity of ground water resources available within the parcel and on properties abutting the parcel, an estimate of the practical limit to the density achievable without such adverse impact, shall be included in the hydrological assessment. This assessment is not necessary if the person doing the assessment concludes that the potential level of development will not lower the water table more than ten (10) feet at any point of the property lines of the proposed development. In
addition, covenants requiring Board approval for any future subdivision of any lot in the parcel shall be placed on the deeds of all lots within the parcel.

12.A.2.b.iii. A map showing the basic soils types,

12.A.2.b.iv. The depth to the water table at relevant points throughout the subdivision,

12.A.2.b.v. Drainage conditions throughout the area to be developed in the subdivision.

12.A.2.b.vi. Known data on the existing ground water quality and quantity in the area,

12.A.2.b.vii. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries,

12.A.2.b.viii. An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentration at any wells within the subdivision and at the subdivision boundaries.

12.A.2.b.ix. Projections of ground water quality and quantity shall be based on the assumption of drought conditions (assuming 60% of annual precipitation),

12.A.2.b.x. No subdivision shall increase any contaminant concentration in the ground water at any on-site well or at the subdivision boundary to more than the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water at an on-site well or at the subdivision boundary to more than the Secondary Drinking Water Standards.

12.A.2.b.xi. If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.

12.A.2.b.xii. If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.
12.A.2.b.xiii. Any waiver granted by the Board must be based on clear evidence provided by the applicant, indicating that circumstances unique to the parcel proposed to be subdivided, justify the waiver of a component of the assessment.

12.A.2.b.xiv. Subsurface waste water systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce ground water contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the Final Plat, and as restrictions in the deeds to the affected lot.

12.B. Sewage Disposal

12.B.1. Sewage disposal shall be private subsurface wastewater and sewage disposal systems or a private treatment facility.

12.B.2. The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator/Soil Scientist or registered Civil Engineer to be in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.

12.B.2.a. This evidence may include a test pit log showing the results of a lot by lot analysis demonstrating each lot’s suitability for subsurface sewage disposal or a high intensity soil survey by identifying soils boundaries within the subdivision and naming soils types, including a lot by lot determination of soils suitability for the intended uses. Wetland areas shall be identified on the survey. The Site Evaluator shall certify in writing that test pits within the proposed sewage disposal areas meet the requirements for a new system and are located in an area with enough acceptable soil to meet the Disposal Rules and accommodate the proposed waste volume, including a suitable safety factor.

12.B.2.b. Variances from the Subsurface Wastewater Disposal Rules promulgated by the State of Maine Department of Health, including but not limited to holding tanks and overboard discharge systems, are not allowed. Experimental wastewater disposal systems allowed by the Maine Department of Health may be approved by the Board if sufficient evidence is presented by the applicant that said system satisfies the criteria and relevant Town of Westport Island standards.

12.B.3. The design of any private sewage treatment facility must be certified by a Licensed Professional Engineer to meet all applicable State of Maine standards.
12.C. Soil Erosion and Sedimentation
An erosion and sedimentation control plan shall be prepared in accordance with the Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices, latest revision, prepared by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, which is incorporated herein by reference and made a part thereof. The plan shall be prepared either by a Professional Civil Engineer or by a Certified Professional in Erosion and Sediment Control (CPESC). At a minimum, the following items shall be discussed and provided:

12.C.1. A vicinity map showing the location of water bodies that may be affected by erosion and sedimentation from the project.

12.C.2. Existing and proposed drainage patterns, including drainage channels that drain to surrounding water bodies.

12.C.3. A sequence of work that outlines how the project will be constructed and specifically addresses how soil disturbance will be minimized during the construction process.

12.C.4. Clear definitions of the limits of work and any buffer areas that will remain undisturbed and a statement of how these areas will be protected during construction.

12.C.5. Description of temporary and permanent erosion control practices that will be used.


12.C.7. Identification of how and where collected sediment will be disposed.


12.C.9. Inspection and maintenance procedures, including schedule and frequency. The Board may request the review and endorsement of this plan by the Knox-Lincoln Soil and Water Conservation District. The applicant shall agree, as a part of the application, that the procedures outlined in the Soil Erosion and Sedimentation Control Plan shall be implemented during the site preparation, construction and clean up stages.

The name, address and telephone number of the person responsible for implementation of the plan shall be provided to the Code Enforcement Officer prior to the commencement of any construction.
12.D. Roads and Streets

12.D.1. Sight Distances

12.D.1.a. All points of access from the subdivision onto existing or proposed public or private roads shall be so designed in profile and grading and located to provide a minimum sight distance in each direction of 10 feet per each mile per hour of street design speed. The measurements shall be from the driver’s seat of a vehicle located on the exit driveway 10 feet behind the curb line or edge of traveled way, with the height of eye 3.5 feet to the top of an object 4.25 feet above the pavement.

12.D.1.b. All curves and changes in grade shall provide the following minimum sight distances based on the street design speed.

<table>
<thead>
<tr>
<th>Design Speed (mph)</th>
<th>15</th>
<th>20</th>
<th>25</th>
<th>30</th>
<th>35</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sight Distance (ft)</td>
<td>120</td>
<td>145</td>
<td>180</td>
<td>220</td>
<td>275</td>
</tr>
</tbody>
</table>

Sight distance shall be measured at the center of the road with a height of eye at 3 feet above the road surface and the height of object at 4 feet above the road surface.

Where necessary, corner lots shall be cleared of all growth and sight obstructions, including ground excavation, to achieve the required visibility.

Where street design speeds are less than 35 mph, the applicant will propose methods to warn drivers of oncoming road features and the recommended safe speed associated with that feature to insure that public welfare and safety are reasonably protected.

12.D.2. Street Design Standards

All proposed subdivision roads shall be private and the Final Plan shall include the following condition: “The proposed roads shown on this Plan and Plat are private roads to be maintained by the developer or the lot owners.”

12.D.2.a. Any road or driveway that intersects a state or state-aid highway shall conform to the requirements of the Maine Department of Transportation’s Highway Driveway and Entrance Rules including rules for curb cuts.

12.D.2.b. All streets in the subdivision shall be designated so that, in the opinion of the Board, they shall provide safe vehicular travel while discouraging movement through traffic.

12.D.2.c. The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing or planned streets, to topographical conditions, to public convenience and safety, and their
appropriate relation to the proposed use of the land to be served by such streets. Grades of streets shall conform as closely as possible to the original topography within the limits of these Standards.

12.D.2.d. Adequate off street parking, suitably surfaced, shall be provided in connection with lots designed for commercial and industrial uses.

12.D.2.e. All major subdivisions shall be designed to provide access to individual lots only by interior subdivision roads. Direct access from any public road to any lot in a proposed subdivision shall be prohibited unless the Board determines that physical conditions unique to the parcel justify the granting of a waiver from this requirement. A waiver may be granted only if one of the following conditions is met:

12.D.2.e.i. There is too little road to allow creation of a new way;

12.D.2.e.ii. The shape or physical condition of the parcel does not permit access to or creation of a street other than the existing public way;

12.D.2.e.iii. Common access will be utilized which will allow all proposed lots to be serviced by common curb cuts.

12.D.2.f. A turning cul de sac, or loop, suitable for town emergency vehicles to make a 360° turn, shall be provided at the terminal point of any road unless the Board specifically authorizes a turning “T” which can satisfy the same need.

12.D.2.g. All disturbed areas must be stabilized.

12.D.3. Road Construction Standards


| Minimum Right of Way                      | 50 feet |
| Minimum Road Width                       |        |
| Access for 1 to 4 lots                   | 14 feet |
| Access for 5 to 9 lots                   | 16 feet |
| Access for > 10 lots                     | 18 feet |
| Minimum Grade (100 ft. between Measurements) | 12 %   |
| Roadway Crown                            | ¼ inch/foot |
| Minimum Angle of Street Intersection     | 75°     |
| Minimum Shoulder Width                   | 3 feet  |
| Minimum Grade 75 Feet To Intersection    | 2 %     |
| Minimum Centerline Radius                | 120 feet|
| Minimum Aggregate Sub Base Course        | 12 inches |

12.D.3.b.i. Self-contained road construction methods are preferred such that movement of materials on and off site is minimized.

12.D.3.b.ii. The aggregate sub-base course shall be of crushed rock from a jaw crusher set between 4 and 6 inches, or from sand or gravel of hard durable particles free from vegetative matter, lumps, balls of clay and other deleterious substances. The gradation of the part that passes a four (4) inch square mesh sieve shall meet the following grading requirements:

<table>
<thead>
<tr>
<th>Sieve Designation</th>
<th>Percentage to Weight Passing</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. 200</td>
<td>0% to 7%</td>
</tr>
<tr>
<td>No. 40</td>
<td>0% to 30%</td>
</tr>
<tr>
<td>¼ inch</td>
<td>25% to 70%</td>
</tr>
</tbody>
</table>

12.D.3.b.iii. The intermediate base course shall be crushed rock from a jaw crusher set between 2 and 3 inches, or from sand or gravel of hard durable particles free from vegetative matter, lumps, balls of clay and other deleterious substances. The graduation of the part that passes through a three (3) inch square mesh sieve shall meet the following grading requirements:

<table>
<thead>
<tr>
<th>Sieve Designation</th>
<th>Percentage to Weight Passing</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. 200</td>
<td>0% to 5%</td>
</tr>
<tr>
<td>No. 40</td>
<td>0% to 20%</td>
</tr>
<tr>
<td>½ inch</td>
<td>45% to 70%</td>
</tr>
<tr>
<td>¼ inch</td>
<td>30% to 55%</td>
</tr>
</tbody>
</table>

12.D.3.b.iv. Top Cover Courses

The gravel top cover course shall be crushed rock from a cone crusher set at ¾ inch or gravel which shall meet the Department of Transportation Standard Specifications for top cover courses which prevail at the time.


12.D.4.a. Any new driveway shall be constructed and maintained to prevent water or runoff from reaching the paved or traveled portion of any street.
12.D.4.b. All ditches and drainage ways associated with the proposed streets and their intersection with existing streets or roads shall meet the requirements set forth in the Storm Water Management Section 12.F. and their design shall be considered and approved by the Professional Engineer as part of that analysis.

12.E. Site Clearing and Open Space or Common Land

12.E.1. The Final Plan shall, by notes on the Final Plat and deed restriction, limit the clear cutting of trees to those areas designated on the Final Plat.

12.E.2. Reservation or Dedication and Maintenance of Common Land, Facilities and Services

12.E.2.a. All common land, facilities and property shall be controlled by the owners of the lots or dwelling units by means of a lot owners’ association to preserve the Common Land in its natural condition. The Common Land shall not be designated as open space, permanently protected open space, public access open space, or forever wild open space.

12.E.2.b. Further subdivision of the common land and its use for other than non-commercial recreation, or conservation purposes, except for easements for utilities, shall be prohibited. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the common land.

12.E.2.c. The common land shall be shown on the Final Plat with appropriate notations on the Final Plat to indicate that it shall not be used for future building lots and shall not be designated as open space, permanently protected open space, public access open space or forever wild open space.

12.E.2.d. The Final Plat approval shall only be given if applicant agrees to adopt and record:

12.E.2.d.i. Covenants for mandatory membership in the lot owners’ association setting forth the owners’ rights, interests, and privileges in the association and the common property and facilities, to be included in the deed for each lot or dwelling,

12.E.2.d.ii. By-laws of the proposed lot owners’ association when necessary, specifying the responsibilities and authority of the association, the operating procedures of the association and providing for proper capitalization of the association to cover the costs of major repairs, maintenance and replacement of common facilities.
12.E.2.e. In combination, the documents referenced in Section 12.E.2.d. shall provide the following:

12.E.2.e.i. A homeowners’ association or similar approved legal entity shall have the responsibility of maintaining the common property or facilities.

12.E.2.e.ii. The association may levy annual charges against all owners of lots or dwelling units to defray the expense connected with the maintenance, repair and replacement of common property and facilities and tax assessments.

12.E.2.e.iii. The association shall have the power to place a lien on the property of members who fail to pay dues or assessments.

12.E.2.e.iv. The developer or subdivider shall maintain control of the common property and be responsible for its maintenance until the association accepts full responsibility for control and maintenance.

12.F. Storm Water Management
A Storm Water Management Plan prepared by a Registered Professional Engineer shall be designed so that the post development storm water runoff does not exceed the pre development storm water runoff for the twenty-four (24) hour duration of 2 year, 10 year and 25 year frequency storm events. The storm water plan shall be prepared in accordance with “Storm water Management for Maine. Best Management Practices” latest edition, prepared by the Maine Department of Environmental Protection, which is incorporated herein by reference and made a part thereof. The storm water plan shall include the following information for the pre and post development conditions: drainage area boundaries, hydrologic soils groups, ground cover type, time of concentration flow paths, modeling methodology, calculations, and background data. The Planning Board may require review and endorsement of the storm water plan and calculations by the Knox-Lincoln Soil and Water Conservation District.

12.G. Emergency Municipal Services

12.G.1. Roads, Streets and Driveways

12.G.1.a. Any road, street or driveway, public or private, within the subdivision shall provide turnaround capability for emergency vehicles within three hundred (300) feet of all primary structures serviced by said road, street or driveway.

12.G.1.b. Any road, street or driveway, public or private, within the subdivision shall be constructed such that emergency vehicles shall have unimpeded access and
egress between all primary structures within the subdivision and the nearest turnaround position.

Any proposal for a new major subdivision shall include a site fire protection plan. The plan shall provide adequate ingress and egress for emergency vehicles and identify a source(s) of water supply for firefighting as outlined by the National Fire Protection Association standards (NFPA 1142, Standards on Water Supplies for Suburban and Rural Fire Fighting), and/or other provisions for any additional elements as mutually agreed to with the Town’s Fire Chief as needed to ensure adequate fire protection. The plan shall be reviewed by the Town’s Fire Chief prior to the public hearing. The Fire Chief shall also be informed of the location of any existing or proposed underground propane tanks.

12.H. Financial and Technical Capacity

12. H.1. Financial Capacity

12.H.1.a. The applicant may show Financial Capacity through a demonstration that the property to be developed is owned in fee simple, with no outstanding economic encumbrances and has an assessed value large enough to cover cost of proposed public and quasi-public improvement or the cost, reasonably, to restore the project site to its original condition, whichever is greater or,

12.H.1.b. Make the offer of a budget for the construction of all necessary facilities, accompanied by a clear statement by a contractor who has worked recently in the local area that the proposed developments can be constructed for the budgeted amount. This offer must be accompanied by an irrevocable letter of credit, or a bond furnished by an insurance carrier insured to do business in Maine, sufficient to cover the budgeted amount.

12.I. Lots

12.I.1. The maximum number of lots in a major subdivision shall not exceed that number resulting from the division of the net residential area of property to be subdivided by the applicable minimum lot size.

12.I.2. Lot configuration and area shall be designed to provide for adequate off street parking and service facilities based upon the type of development proposed.

12.I.3. Lots with multiple frontages shall be avoided wherever possible. When lots do have frontage on two or more roads, the Plat and deed restrictions shall indicate that vehicular access shall be located only on the less traveled way.
12.1.4. Wherever possible, side lot lines shall be perpendicular to the street.

12.1.5. Each lot shall have a developable area for the construction of buildings and other improvements identified without utilizing land unsuitable for development. The developable area shall have a minimum width of 100 feet and a minimum depth of 100 feet except that one dimension may be decreased by up to 25% as long as the other dimension is increased by an equivalent amount. The developable area shall be located outside of any setback area and be free of wetlands, floodplains and slopes in excess of 35%. For the purposes of this paragraph, “wetlands” means those wetlands as identified on the National Wetland Inventory Map. “Floodplains” are as presented on the Flood Insurance Rate Map, and “slopes in excess of 35%” are as illustrated on the U.S. Geological Survey Map.

12.1. Setbacks – Each dwelling constructed in the Subdivision shall have a twenty (20) foot setback from each sideline and a forty (40) foot setback from its back line. In addition, the dwelling shall have a forty (40) foot setback from any road on which it fronts in the Limited Commercial/Residential District and the Commercial Fisheries/Maritime Activities District and a seventy-five (75) foot setback from any road on which it fronts in the Limited Development. Subdivisions are not permitted in the Resource Protection Districts.

12.K. Monuments
Permanent monuments shall be set at all corners and angle points of the subdivision lots and boundaries; and at all intersections and points of curvature. All road angle monuments shall be constructed of stone and shall be a minimum of four (4) inches by four (4) inches and four (4) feet long. All other monuments shall be constructed of a reasonably permanent material solidly embedded in the ground and capable of being detected by commonly used magnetic or electronic equipment. The monument shall clearly show the registration number or temporary certificate number of the Registered Land Surveyor responsible for the survey. Where the placement of a required monument at its proper location is impractical, it shall be permissible to set a reference monument close to that point.

12.L. Street Signs
Roads, which join or are in alignment with roads of abutting or neighboring properties, shall bear the same name. Names of new roads shall not duplicate, nor bear phonetic resemblance to the names of existing roads within the municipality or in neighboring communities and shall be subject to the approval of the 911 Officer or Deputy and the Board of Selectmen.

12.M. Surface Drainage

12.L.1. All improvements recommended in the drainage plan submitted pursuant to Section 12.F. shall be shown on the approved Plan.
12.M.2. Topsoil shall be considered part of the subdivision. Except for “surplus” topsoil for roads, parking areas and building excavations, it is not to be removed from the site.

12.M.3. Except for normal thinning and landscaping, existing vegetation shall be left intact to prevent soil erosion. The Board shall require a developer to take measures to correct and prevent soil erosion in the proposed subdivision as detailed in the Sedimentation and Erosion Plan submitted pursuant to Section 12.C.

12.M.4. To prevent soil erosion of shoreline areas, tree cutting on the shoreline shall conform to the Shoreland Zoning Ordinance of the Town of Westport Island, Maine.

SECTION 13 – INSPECTION AND ENFORCEMENT

13.A. Upon completion of each approved phase of construction and prior to the application for building permits for any lots, the applicant shall submit to the Board a signed and stamped statement by a Registered Professional Engineer stating that the project has been constructed in accordance with the approved plans.

13.B. It shall be the duty of the Board of Selectmen or their appointed agent, including, but not limited to, the Code Enforcement Officer and/or Local Plumbing Inspector, to enforce the Ordinance. The Board of Selectmen or their appointed agent(s) may conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to the approved application.

13.C. If the Board of Selectmen or their appointed agent finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the Final Plans, recordable documents and specifications filed by the Subdivider at the Registry of Deeds, the inspecting official shall so report in writing to the Board of Selectmen, the Planning Board, the Subdivider and the builder. The Board of Selectmen shall take any steps necessary to assure compliance with the approved Final Plan.

13.D. The applicant may request, following completion of all construction related to any phase of the subdivision, that the Planning Board review the project and certify that the conditions relating to that construction have been met.
13.E. Violations

13.E.1. No Final Plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a Final Plat has been approved by the Board in accordance with this Ordinance.

13.E.2. A person shall not convey, offer or agree to convey any land in a subdivision that has not been approved by the Planning Board and recorded in the Registry of Deeds.

13.E.3. A person shall not sell, lease or otherwise convey in fee any land in an approved subdivision, which is not shown on the Final Plat as a separate lot. The transfer of the entire subdivision is allowable.

13.E.4. No lots may be transferred or building permits applied for on an approved lot until construction of all improvements shown for that phase on the Final Plan are completed in accordance with Section 11. CRITERIA.

13.E.5. No public utility or any utility company of any kind shall provide new service to any lot in a subdivision for which a Final Plat has not been approved by the Planning Board.


13.E.7. Violations of the above provisions of this section are a nuisance and shall be punished in accordance with the provisions of Title 30-A M.R.S.A. Section 4452. The Board of Selectmen, or their authorized agent(s), are hereby also authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering penalties without court action.

SECTION 14 – APPEALS

14.A. Powers and Duties of the Board of Appeals

14.A.1. The Board of Appeals shall have the power 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 such 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
SUBDIVISION ORDINANCE

order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.

14.A.2. The Board of Appeals may authorize variances upon appeal, within the limitations set forth in this Ordinance.

14.B. Administrative Appeals

14.B.1. When the Board of Appeals reviews a decision of the Code Enforcement Officer, the Board of Appeals shall hold a de novo hearing. At this time the Board of Appeals 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.

14.B.2. When the Board of Appeals hears 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 that was not presented to the Planning Board, but may consider written or oral arguments concerning evidence presented to the Planning Board. 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.

14.C. Variance Appeals

14.C.1. Variance appeals may be granted only from dimensional requirements including, but not limited to, lot width, structure, height, per cent of lot coverage and setback requirements.

14.C.2. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.

14.C.3. The Board of Appeals shall not grant a variance unless it finds that:

14.C.3.a. The proposed structure or use would meet the provisions of the Ordinance, except for the specific provision which has created the non-conformity and from which relief is sought,

14.C.3.b. The strict application of the terms of this Ordinance would in undue hardship. The term “undue hardship” shall mean:
14.C.3.b.i. That the land in question cannot yield a reasonable return unless a variance is granted,

14.C.3.b.ii. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood,

14.C.3.b.iii. That the granting of a variance will not alter the essential character of the locality, and

14.C.3.b.iv. That the hardship is not the result of action taken by the applicant or prior owner.

14.C.4. Notwithstanding Section 14.C.3.b. the Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to an individual with a disability who resides in or regularly uses the dwelling. The Board of Appeals shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to egress from the dwelling by the person with the disability. The Board of Appeals 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 “structures necessary for access to or egress from the dwelling” shall include railings, wall or roof systems necessary for the safety or effectiveness of the structure.

14.C.5. 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.

14.C.6. For variances granted in the Shoreland Zone, a copy of each variance request including the application and all supporting materials supplied by the applicant, shall be forwarded by the municipal officers to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to any action by the Board of Appeals. Any comments received from the Commissioner prior to action by the Board of Appeals shall be made a part of the record and shall be taken into consideration by the Board of Appeals.

14.D. Appeal Procedure

An administrative 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, except for enforcement related matters. Such an appeal shall be made within thirty (30) days of the date of the official, written decision or action to be appealed from, and not
otherwise, except that the Board of Appeals, upon a showing of good cause, may waive the thirty (30) day requirement.

Applications for appeals shall be made by filing the Board of Appeals application with the Board of Appeals and payment of the application fee. Board of Appeals application forms and instructions and the Fee Schedule are available at the Town Office. The application is a written notice of the appeal which includes:

14.D.1.a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.

14.D.1.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.

14.D.2. Upon receiving an application for an administrative appeal, 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 or action to be appealed.

14.D.3. The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty (30) days of its receipt of a complete written application, unless this time period is extended by the parties.

14.D.4. A majority of the full voting membership of the Board of Appeals shall constitute a quorum for the purpose of deciding an appeal.

14.D.5. The person filing the appeal shall have the burden of proof.

14.D.6. The Board of Appeals 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.

14.D.7. The Board of Appeals shall state the reasons and basis for its decision, including a statement of the Findings of Facts and Conclusions of Law reached by the Board of Appeals. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant within seven (7) days of the Board of Appeals’ decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the Board of Selectmen.

14.E. Appeal to Superior Court

Any aggrieved party may appeal the Board of Appeals’ decision to the Superior Court within forty-five (45) days of the date of such decision, pursuant to Rule 80B of the Maine Rules of Civil Procedure.
SUBDIVISION ORDINANCE

14.F. Reconsideration
In accordance with 30-A M.R.S.A. §269 (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 original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board of Appeals’ members, originally voting on the decision and proper notification of the landowner, petitioner, Planning Board, Code Enforcement Officer, and other parties of interest, including abutters and those who testified at the original hearing. The Board of Appeals may consider additional hearings and receive additional evidence and testimony.

SECTION 15. - REVOCATION OF A PERMIT

15.A. A permit may be revoked only because of administrative error or fraud during the original application process.

15.B. Procedure
Any party, the Board of Selectmen or their appointed agent may present information regarding administrative error or fraud to the Planning Board.

15.B.1. Fraud

15.B.1.a. If the Planning Board determines that a significant fraudulent testimony may have been submitted, it shall hold a noticed public hearing. Notice shall be sent to the applicant and all others to whom notice was required to be sent for the original approval. If, following the hearing the Planning Board determines that there is credible information that the facts submitted in support of the application may be fraudulent, no matter the cause, the Planning Board may forward the request to the Board of Appeals that the permit be revoked.

15.B.1.b. The Board of Appeal shall hold a noticed public hearing following the receipt of a request for revocation from the Planning Board, providing that the Planning Board’s request was received within two years of the Planning Board’s final decision to approve the subdivision.

15.B.1.c. The Planning Board’s Chair or a properly approved representative shall attend the Board of Appeals” hearing and present appropriate evidence as to information submitted to it, its deliberations and subsequent decision. The burden of proof that fraud occurred shall however rest with the party claiming fraud.
15.B.1.d. The Board of Appeals may revoke a permit for a fraud upon finding that:

15.B.1.d.i. The facts presented by the applicant during the approval process were significantly and purposely in error, and

15.B.1.d.ii. Such facts were material to the decision to approve the application, and

15.B.1.d.iii. The availability of the true facts at the time of the application may have caused a denial of the application.

15.B.2. Administrative Errors
Appeal on the basis of administrative error shall be made only by admitted and statutory parties. It shall be made to the Board of Appeals and may only be entertained if the provisions and time frames that apply to an appeal of the decision of the Planning Board are maintained.

SECTION 16 - SEVERABILITY
A finding of invalidity or unconstitutionality of any section or provision of this Ordinance shall not invalidate any other section or provision thereof.

SECTION 17 - DEFINITIONS
Definitions for this Ordinance are found in 30 – A M.R.S.A. Section 4401 and more specifically, any word or term defined in the Town of Westport Island Shoreland Zoning Ordinance or the Town of Westport Island Building Code Ordinance shall have the definition contained in those Ordinances, unless defined differently below. If a conflict in definitions exists among the three town Ordinances and the State Statute, the State definitions shall apply. Other words and terms used in this Ordinance, and not found in the above cited Statute and Ordinances, shall have their customary dictionary meanings as found in the latest Webster New Collegiate Dictionary. Other words and terms used herein are defined as follows:

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

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 any application under the provisions of this Ordinance including a firm, association, organization, partnership, trust, estate, governmental agency, municipality, company, corporation, two or more individuals having a joint or common interest, or other legal entity, as well as an individual.
**SUBDIVISION ORDINANCE**

**Average Daily Traffic (ADT):** The predicted number of vehicles that enter and exit the premises during the day, based on the trip generation rates in the latest edition of “Trip Generation” published by the Institute of Transportation Engineers. For a single family detached residence, this rate is 1 peak hour trip.

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

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

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

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

**Coastal Wetlands:** All tidal and subtidal lands; all lands below any identifiable debris line left by tidal action; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land which is subject to tidal action during the highest tide level for the year, as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes. Note: All areas below the maximum spring tide levels are coastal wetlands. These areas may consist of rocky ledges, sand dunes and cobble beaches, mud flats, etc. in addition to salt marshes and salt meadows.

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

**Complete Application:** An application shall be considered complete upon submission of the required fee and all information required by this Ordinance, or by a vote by the Planning Board to waive the submission of required information pursuant to Section 5.B.2. The Planning Board shall issue a written statement to the applicant upon its determination that an application is complete.
**SUBDIVISION ORDINANCE**

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

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

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

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

**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.

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

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

**Driveway:** A private vehicular access way serving two lots or less.

**Final Plan:** The complete set of items required in Section 6.B. (Minor and Major Subdivisions) and Section 7.A (Major Subdivisions only) describing the proposed subdivision, which are to be submitted to the Planning Board for its review and decision.

**Final Plat:** The drawing(s) included in the Final Plan, which are described in Section 8.B.1, and which are signed by the Board upon Final Plan approval and filed with other recordable documents at the Registry of Deeds.

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

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

Freshwater Wetland: Freshwater swamps, marshes, bogs and similar areas other than forest wetlands, which are: 1) Ten (10) or more contiguous acres, or of less than ten (10) contiguous areas and adjacent to a surface water body excluding any river, stream or brook, such that, in a natural state, the combined surface area is in excess of ten (10) acres, and, 2) inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils, and not considered a part of a coastal wetland, river, brook or stream.

Frontage: That portion of a lot fronting upon and providing rights-of-way 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 Subdivision Ordinance, to be measured continuously along a single road line. Owners of lots fronting on two roads shall use the less travelled road for its “frontage”. On a corner lot frontage shall be measured to the point of intersection of the extension of the side lines of the roads. The minimum frontage for permitted uses within the Town of Westport Island must be met by contiguous frontage within the Town of Westport Island on an approved or accepted right-of-way in the Town of Westport Island. Alternatively, frontage may be considered to be shore frontage.

Minimum Lot Width: The closest distance between the side lines of a lot. When the two lot side lines extend into the Shoreland Zone, both lot lines shall be considered the side lot lines.

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

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

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

New Structure or Structures: Includes any structure for which construction begins on or after September 23, 1988. The area included in the expansion or an existing structure is deemed to be a new structure.
**Normal High-Water Line:** That line which is apparent from visible markings, changes in the character of the soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high water are considered part of the river or great pond. Note: In the case of tidal waters, setbacks are measured from the upland edge of the “coastal wetland”.

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

**Party:** Owners of record of immediately adjacent property; owners of record of property located immediately across a public road or right-of-way, other property owners who, having shown the Planning Board that their property may be affected by the proposed development under a specific criterion or standard, shall be admitted by the Planning Board with participation limited to that criterion or standard.

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

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

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

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

**Residential Dwelling Unit:** A room or group of rooms designed and equipped exclusively for use as permanent, seasonal or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. Recreational vehicles are not considered residential dwelling units.

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

**Sketch Plan:** Conceptual maps, renderings, and supportive data describing the project proposed by the applicant prior to submitting an application for subdivision approval.
**SUBDIVISION ORDINANCE**

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

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

**Structure:** Anything built for the support, shelter or enclosure of persons, animals, goods, or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, 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.

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

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

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

**Tract or Parcel of Land:** All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.
SECTION 1. – PURPOSE
The purpose of this Ordinance is to provide a system under which a Clustered Residential Development can be designed to harmoniously exist in a municipality such as Westport Island. Cluster residential development is a form of development, which allows for creation of smaller lots in return for setting aside a portion of the tract of land as permanent common space. Under this concept, the type and amount of development which can occur on the site remain the same as if the site were developed under the normal district regulations, but the arrangement of the buildings on the site may be varied to group them in one portion of the site, rather than spreading them uniformly over the entire parcel.

SECTION 2. – AUTHORITY
This Ordinance is adopted pursuant to and consistent with the Town’s Home Rule Authority under Title 30-A M.R.S.A. Section 3001 and Art. VIII, Pt. 2, Section 1 of the Maine Constitution.

SECTION 3. – APPLICABILITY
In all residential districts, the Planning Board may approve cluster residential developments as alternatives to conventional subdivisions. In clustered residential developments, the size of individual lots may be less than that required by town ordinances, provided that a sufficient area of the total parcel to be developed is set aside as permanent common space. The overall residential density of the development shall not exceed the density that would be permitted if the lots conformed to the district requirements.

SECTION 4. – ADMINISTRATION
   4.A. – Permits required

   4.A.1. Building Permit- The applicant shall obtain a Building Permit Application form at the Town Office and pay the required fee. See the Fee Schedule at the Town Office. The applicant shall complete the application form as well as the accompanying Soil and Erosion Control Plan and the notification to the Fire Chief of any existing or planned underground propane tanks. Any additional submission requirements shall also be obtained including any State and Federal requirements. The applicant may wish to confer with the Code Enforcement Officer as to the various requirements for a complete application.

   4.A.2. Site Evaluation for sewage and wastewater disposal – An approved site or sites for acceptable sewage and wastewater disposal shall be determined by a State of Maine Licensed Site Evaluator or Maine certified engineer. An HHE 200 form shall be completed and provided to the Local Plumbing Inspector (LPI) for a signature if all information is correct.
CLUSTER RESIDENTIAL DEVELOPMENT ORDINANCE

4.A.3. – Planning Board Review – A Planning Board Review is required for a Cluster Residential Development. The application shall be completed and the required fee paid at the Town Office before such a review shall be scheduled. The Planning Board shall hold a review within thirty-five (35) days. The applicant shall adhere to the Planning Board review and approval procedure outlined in the Subdivision Ordinance including the Sketch Plan review and the Preliminary and Final Plan and Plat for Minor or Major subdivisions, as applicable. The Planning Board shall render a decision to affirm, deny or affirm the application with conditions if the application is complete. The applicant shall be notified of the decision and the reason(s) for the decision. The applicant may appeal an unfavorable decision or action of the Planning Board to the Board of Appeals, as outlined in Section 8.

4.A.4. – Permit issued - If the Planning Board review results in an approval or approval with conditions, all material shall be provided to the Code Enforcement Officer who shall issue a permit for the project. If the application is approved with conditions, the Code Enforcement Officer shall determine that the conditions are or will be met.

4.B. Notwithstanding other provisions of this Ordinance and other Ordinances of the Town of Westport Island relating to space and bulk, the Planning Board in reviewing and approving proposed residential developments located on Westport Island, may modify said provisions related to lot size and dimensional requirements to permit innovative approaches to housing and environmental design in accordance with the following standards. This shall not be construed as granting variances to relieve hardship. In all other respects, the procedures and provisions of the Subdivision Ordinance of the Town of Westport Island shall control.

4.C. The purpose and intent of all land use ordinances of the Town of Westport Island shall be upheld.

4.D. There shall be compliance with all Federal, State and local Codes and Ordinances.

4.E. Each building shall be an element of an overall plan for site development.

4.F. There shall be no approval of any proposed development, which exceeds the allowable residential densities permitted in the district in which the Cluster Residential Development is located. For the purposes of this Ordinance, residential density shall be established by using the area of residential space available for residential development after deductions of vehicular rights-of-way and land not buildable because of drainage, subsurface conditions or other natural impediment.

4.G. Common Space - Residential common space shall be usable for recreational or other outdoor living purposes and for preserving large trees, tree groves, woods, ponds, streams, glens, rock outcrops, native plant life and wildlife cover. The use of any common space may be further limited or controlled at the time of Final Approval where necessary to protect
adjacent properties or uses. Residential common space shall be set aside for recreational and environmental enhancement of the development and shall be recorded as such. Provisions for such common land may include private covenants to preserve the integrity of common spaces and their use for agricultural or conservation purposes. The common space shall be accessible to the residents of the project. At a minimum, this use may include such activities as walking, picnics, fishing, swimming, cross-country skiing and other low intensity recreational uses unless otherwise provided for in the Planning Board approval. Common land shall not be designated as open space, permanently protected open space, public access open space or forever wild open space, as referenced in Title 36 M.R.S.A. Sections 1101-1121.

SECTION 5. – REQUIREMENTS WITHIN THE CLUSTER RESIDENTIAL DEVELOPMENT

The developer shall take into consideration the following points, and shall illustrate the treatment of spaces, paths, roads, service and parking areas and other features required in the proposal.

5.A. Orientation: The buildings and other improvements shall respect scenic vistas, natural features, and potential solar access.

5.B. Streets: Access from public ways, internal circulation and parking shall be designed to provide for vehicular and pedestrian safety and convenience, emergency and fire equipment, snow clearance, road maintenance, and delivery and collection services. Roads shall be laid out and constructed consistent with the requirements of the Subdivision Ordinance. The 911 Officer shall be contacted to determine that road names chosen are not similar in sound or designation to other roads on Westport Island and in neighboring communities. Boundaries of all lots and proposed driveways shall be designated by staking, so that the 911 Officer can determine 911 addresses for each lot.

5.C. Drainage: Adequate provision shall be made for storm waters, with particular concern for the effects of any effluent draining from the site. Erosion resulting from any improvements on the site shall be prevented by landscaping or other means.

5.D. Sewage Disposal: Adequate provision shall be made for sewage and wastewater disposal, and shall take into consideration soil conditions and potential pollution of surface or ground waters.

5.E. Water Supply: Adequate provision shall be made for both ordinary use as well as special fire needs.

5.F. Utilities: All utilities shall be installed underground where possible. Transformer boxes, pumping stations and meters shall be located so as not to be unsightly or hazardous to the public.

5.G. Recreation: Recreational facilities shall be provided consistent with the development proposal.
5.H. Buffering: Planting, landscaping, disposition and form of buildings and other improvements, or fencing and screening shall be utilized to integrate the proposed development with the landscape and the character of any surrounding development.

5.I – Ownership of the Land - The tract or parcel of land involved must be either in single ownership, or the subject of an application filed jointly by the owners of all the properties included.

5.J. – Financial and Technical Ability – The owner(s) or the appropriately designated agent shall provide evidence that the developer has the technical and financial ability to carry the project to its conclusion or to provide sufficient funding for the Town to return the site to its former condition in the event of failure of the owner to complete the project.

5.K – Common Space – There shall be no further subdivision of the common space, nor structure constructed upon it without further Planning Board review. In no event shall further subdivision or building cause the residential density to exceed the density permitted in that district.

5.K.1. - Any structure placed within the Common Space shall be limited to a small structure for storage of equipment and small bridges and steps. Such structures may be used to cross over bogs or swamps, or to access trails through the Common Space.

5.K.2. – Common Space Mapping – The Common Space shall be shown on the development plan with appropriate notation on the face thereof to indicate that the Common Space shall not be used for future building lots.

SECTION 6. DEVELOPMENT OF A NEIGHBORHOOD ASSOCIATION

6.A. Since any or all of the Common Space is to be reserved for use by the residents, the formation and incorporation by the developer of a neighborhood association shall be required prior to Final Plan Approval.

6.B. Covenants for mandatory membership in the association setting forth the owners’ rights and interest and privileges in the Association and the Common Land shall be approved by the Planning Board and included in the deed for each lot.

6.C. This Neighborhood Association shall have the responsibility for maintaining the Common Space and the operation and maintenance of local neighborhood recreational facilities within such Common Space.

6.D. The Association shall levy annual charges against all property owners to defray the expenses connected with the maintenance of the Common Space and neighborhood recreational facilities.
SECTION 7. – COMMON SPACE RESPONSIBILITY OF THE DEVELOPER

7.A. The developer or subdivider shall maintain control of the designated Common Land and be responsible for maintenance until development sufficient to support the Association has taken place, or alternatively, the objectives of clustering have been met. Such determination shall be made by the Planning Board upon request of the Neighborhood Association or the developer.

7.B. In no event shall individual lot size be reduced to less than 50% of that required by the district regulations.

SECTION 8 – APPEALS

If a person, firm or other legal entity is aggrieved by any aspect of this Ordinance, an appeal may be made to the Board of Appeals.

8.A. Any appeal to the Board of Appeals shall be filed on a Board of Appeals application form, and shall include all required submissions as well as the Board of Appeals application fee. See the Fee Schedule, application form and instructions at the Town Office.

8.B. All appeals shall be filed within thirty (30) days of the action or decision which is being appealed. The application shall specify all points and reasons for appeal.

8.C. The Board of Appeals shall hold an appellate hearing if the decision or action being appealed is from the Planning Board or a de novo hearing if the decision or action being appealed is from the Code Enforcement Officer, within thirty-five (35) days of the receipt of the completed application, and may affirm, modify or reverse the decision or action. The Board of Appeals shall inform the applicant of the decision in writing within seven (7) days of its decision.

8.B.4. Any aggrieved party may appeal the Board of Appeals’ decision to the Superior Court within forty-five (45) days of the date of such decision pursuant to Rule 80B of the Maine Rules of Civil Procedure.

SECTION 9. – SEVERABILITY

The invalidity or unconstitutionality of any section or provision of this Ordinance shall not invalidate any other section or provision thereof.
Shellfish Conservation Ordinance
Town of Westport Island

1. Authority: This ordinance is enacted in accordance with 12 M.R.S.A. Section 667I.

2. Purpose: To establish a shellfish conservation program for the Town of Westport Island which will insure the protection and optimum utilization of shellfish resources within its limits. These goals will be achieved by means which may include:

   A. Licensing.
   B. Limiting the number of shellfish harvesters.
   C. Restricting the time and area where digging is permitted.
   D. Limiting the minimum size of clams taken.
   E. Limiting the amount of clams taken daily by a harvester.

3. Shellfish Conservation Committee: The Shellfish Conservation Program for the Town of Westport Island will be administered by the Shellfish Conservation Committee consisting of five members and two alternates to be appointed by selectmen for a term of one to five years.

The Committee's responsibilities include:

   A. Establishing annually in conjunction with the Department of Marine Resources the number of shellfish digging licenses to be issued.
   B. Reviewing annually the status of the resource using the results of clam flat, harvester or dealer surveys and other sources of information and preparing in conjunction with and subject to the approval of the department a plan for implementing conservation measures.
   C. Submitting to the Board of Selectmen proposals for the expenditures of funds for the purpose of shellfish conservation.
   D. Keeping this ordinance under review and making recommendations for its amendments.
   E. Securing and maintaining records of shellfish harvest from the town's managed shellfish areas and closed areas that are conditionally opened by the Department of Marine Resources.
   F. Recommending conservation closures and openings to the Board of Selectmen or Council in conjunction with the Area Biologists of the Department of Marine Resources.
   G. Submitting an annual report to the Municipality and the Department of Marine Resources covering the above topics and all other committee activities.
4. Definitions

A. Resident: The term "resident" refers to a person who has been domiciled in this municipality for at least the previous six months next prior to the time their claim of such residence is made.

B. Nonresident: The term "nonresident" means anyone not qualified as a resident under this ordinance.

C. Shellfish, Clams and Intertidal Shellfish Resources: When used in the context of this ordinance the words "shellfish", "clams", and "intertidal shellfish resources" mean soft shell clams (Mya arenaria), quahogs (Mercenaria mercenaris), razor clams (Ensis directus), and surf clams (Spisula solidissima).

D. Municipality: Refers to the Town of Westport Island, Maine.

E. Municipal Officers: For this ordinance it refers specifically to Town elected Selectmen

5. Licensing: Municipal Shellfish Digging License is required. It is unlawful for any person to dig or take shellfish from the shores and flats of this municipality without having a current license issued by this municipality as provided by this ordinance.

A Commercial Digger must also have a valid State of Maine Commercial Shellfish License issued by the Department of Marine Resources.

A. Designation, Scope and Qualifications:

1) Resident Commercial Shellfish License: The license is available to residents of the municipality and entitles the holder to dig and take any amount of shellfish from the shores and flats of this municipality.

2) Nonresident Commercial Shellfish License: The license is available to nonresidents of this municipality and entitles the holder to dig and take any amount of shellfish from the shores and flats of this municipality.

3) Residential Recreational Shellfish License: The license is available to residents and real estate taxpayers of this municipality and entitles the holder to dig and take no more than one peck of shellfish in any one day for the use of himself and his family. No person holding a Commercial State of Maine Shellfish License will be permitted to hold a Residential Recreational Shellfish License.

4) Nonresident Recreational Shellfish License: The license is available to any person not a resident of this municipality and entitles the holder to dig and take not more than one peck of shellfish in any one day for the use of himself and his family. No person holding a Commercial State of Maine Shellfish License will be permitted to hold a Nonresidential Recreational Shellfish License.
5) License must be signed: The licensee must sign the license to make it valid.

B. Application Procedure: Any person may apply to the Town Clerk for the licenses required by this ordinance on forms provided by the municipality.

1) Contents of Application: The application must be in the form of an affidavit and must contain the applicant's name, current address, birth date, height, weight, signature and whatever information the municipality may require.

2) Misrepresentation: Any person who gives false information on a license application will cause said license to become invalid and void.

C. Fees: The fees for the licenses are as stated below and must accompany in full the application for the respective license. The Town Clerk shall pay all fees received to the Town Treasurer except for $1.00 of each license which will be retained by the clerk as payment for issuing the license. Fees received for shellfish licensing shall be used by the town for shellfish management, conservation and enforcement.

   Resident Commercial: $150
   Nonresident Commercial: $300
   Resident Recreational: $15
   Nonresident Recreational: $30

D.1. Limitation of Diggers: Clam resources vary in density and size distribution from year to year and over the limited soft clam producing area of the town. It is essential that the town carefully husband its shellfish resources. If, following the annual review of the town's clam resources, its size distribution, abundance and the warden's reports, as required by Section 3, the Shellfish Conservation Committee in consultation with the DMR area biologist determine limiting commercial or recreational shellfish licenses is an appropriate shellfish management option for the following year;

1) Prior to February 1st the committee shall reports its findings and document recommendations for the allocation of commercial and recreational licenses to be made available for the following license-year to the Commissioner of Marine Resources for concurrence.

2) After receiving approval of proposed license allocations from the Commissioner of Marine Resources and prior to March 1st, the Shellfish Conservation Committee shall notify the Town Clerk in writing of the number and allocation of shellfish licenses to be issued.

3) Notice of the number of licenses to be issued and the procedure for application shall be published in a trade or industry publication, or in a newspaper or combination of newspapers with general circulation, which the municipal officers consider effective in reaching persons affected, not less than 10 days prior to the
period of issuance and shall be posted in the municipal offices until the period concludes.

4) The Town Clerk shall issue licenses to residents and nonresidents as allocated from May 1st and until July 31st after which licenses shall be issued to residents and nonresidents on a first-come, first-served basis.

5) Licenses may be returned to the town voluntarily, and reissued to another person at the current fee according to the priorities established in this section.

D.2. Open License Sales: When the Shellfish Conservation Committee determines limiting shellfish licenses is not an appropriate shellfish management option for one or more license categories for the following year;

1) Notice of the dates, places, times and the procedures for the license sales shall be published in a trade or industry publication, or in a newspaper or combination of newspapers with general circulation, which the municipal officers consider effective in reaching persons affected, not less than 10 days prior to the initial sale date and shall be posted in the municipal offices. A copy of the notice shall be provided to Commissioner of Marine Resources.

2) For each commercial license category, the Town Clerk shall issue one license to nonresidents when six licenses are issued to residents and one more to nonresidents when four more are issued to residents; thereafter, one nonresident license will be issued for every ten additional resident license issued. For each recreational license category, the Town Clerk shall issue one license to a resident and one to a nonresidents; thereafter, one nonresident license will be issued for every ten additional resident license issued.

E. License Expiration Date: Each license issued under authority of this ordinance expires at midnight on last day of April next following date of issuance.

F. Reciprocal Harvesting Privileges: Licensees from any other municipality cooperating with this municipality on a joint shellfish management program may harvest shellfish according to the terms of this license.

G. Fee Waivers: Recreational shellfish license fees will be waived for applicants 65 years or older and 12 years or younger.

H. Suspension: Any shellfish licensee having three convictions for a violation of this ordinance shall have his shellfish license automatically suspended for a period of thirty (30) days.

1) A licensee whose shellfish license has been suspended pursuant to this ordinance may reapply for a license only after the suspension period has expired.

2) The suspension shall be effective from the date of mailing of a Notice of Suspension by the Town Clerk to the Licensee.
3) Any licensee whose shellfish license has automatically been suspended pursuant to this section shall be entitled to a hearing before the Shellfish Conservation Committee upon the filing of a written Request for Hearing with the Town Clerk within thirty (30) days following the effective date of suspension. The licensee may appeal the decision of the Shellfish Conservation Committee before the Board of Selectmen/Town Council by filing a written Request for Appeal with the Town Clerk within seven (7) days of the decision of the Shellfish Conservation Committee.

6. **Opening and Closing of Flats**: The Municipal Officers, upon the approval of the Commissioner of Marine Resources, may open and close areas for shellfish harvest. Upon recommendations of the Shellfish Conservation Committee and concurrence of the Department of Marine Resources area biologist that the status of shellfish resource and other factors bearing on sound management indicate that an area should be opened or closed, the Municipal Officers may call a public hearing, and shall send a copy of the notice to the Department of Marine Resources. The decision of the Municipal Officers made after the hearing shall be based on findings of fact.

7. **Minimum Legal Size of Soft Shell Clams**: It is unlawful for any person to possess soft shell clams within the municipality which are less than two (2) inches in the longest diameter except as provided by Subsection B of this section.

   A. **Definitions**:

   1) **Lot**: The word "lot" as used in this ordinance means the total number of soft shell clams in any bulk pile. Where soft shell clams are in a box, barrel, or other container, the contents of each box, barrel, or other container constitutes a separate lot.

   2) **Possess**: For the purpose of this section, "possess" means dig, take, harvest, ship, transport, hold, buy and sell retail and wholesale soft shell clam shell stock.

   B. **Tolerance**: Any person may possess soft shell clams that are less than two inches if they comprise less than 10% of any lot. The tolerance shall be determined by count of not less than one peck nor more than four pecks taken at random from various parts of the lot or by a count of the entire lot if it contains less than one peck.

   C. **Penalty**: Whoever violates any provision of this section shall be punished as provided by 12 M.R.S.A. Section 6681.

8. **Enforcement**: This ordinance shall be enforced by the certified municipal shellfish conservation warden, or by any law enforcement officer appointed by the town, who within one year of appointment must be certified by the commissioner of marine resources.
9. **Possession of License**

A. When any person is engaged in an activity, which is licensed under this ordinance, he/she shall, on the request of a Law Enforcement Officer in uniform, exhibit his/her license.

B. A failure to exhibit a license within a reasonable amount of time, when requested, shall be prima facie evidence that the person is not licensed.

10. **Consent to Inspection:**

A. Any person who signs an application for a license or receives a license under this ordinance has a duty to submit to inspection and search for violations related to the licensed activities by a Law Enforcement Officer under the following conditions:

   a. Watercraft or vehicles and the equipment located o the watercraft or vehicles which are primarily in a trade or business requiring a license under this ordinance may be searched or inspected at any time.

B. Any person who signs an application for a license or receives a license under this ordinance has a duty to permit seizure of evidence of violation of this ordinance found during an inspection or search.

C. Refusal to permit inspection or seizure shall be a violation of this ordinance.

11. **Penalty:** A person who violates this ordinance shall be punished as provided by 12 M.R.S.A. Section 6671 (10).

12. **Effective Date:** This ordinance, which has been approved by the Commissioner of Marine Resources, shall become effective after its adoption by the municipality provided a certified copy of the ordinance is filed with the Commissioner within twenty (20) days of its adoption.

13. **Period of Ordinance:** This ordinance shall remain in effect until repealed by the town or rescinded by the Commissioner of the Department of Marine Resources.

14. **Separability:** If any section, subsection, sentence or part of this ordinance is for any reason held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining portions of this ordinance.

15. **Repeal:** Any ordinance regulating the harvesting or conservation of shellfish in the town and any provisions of any other town ordinance which is inconsistent with this ordinance is hereby repealed.
Conservation Credit Program Guidelines

This system has been established in order to set priorities in issuing commercial non-resident and commercial resident shellfish licenses. Number of licenses is to be determined annually by the Shellfish Committee.

Applicants who have completed at least ten (10) hours of conservation work approved by the Shellfish Committee, and earned during the prior license year, will be considered finalists. All applicants will accumulate hours according to the following schedule.

Qualifying conservation work includes:

1. attendance at posted committee meetings - 2 hours
2. participation in surveys - 4 hours
3. participation in seedings - 4 hours
4. additional conservation efforts as may be approved by the committee - hours per duration of activity.

The finalist with the greatest number of hours (ten or above), will receive the license. In the event of a tie, the license will go to the person with the greatest seniority as a Westport shellfish harvester or, if necessary, by drawing. Should there be no eligible finalist(s), procedure returns to first come, first served per state regulation.

The program will be managed by an appointed committee member or members, and cards will be kept on file for examination and tallies by the appointed manager. All hours will be presented on an official system of 3x5 cards showing the following:

WESTPORT ISLAND SHELLFISH RESIDENT & NON-RESIDENT COMMERCIAL CONSERVATION CREDIT PROGRAM

HARVESTER CREDIT FORM

HARVESTER NAME ____________________________

HARVESTER LICENSE NO. (if existent) ____________________________

CREDIT ACTIVITY ____________________________

ACTIVITY DATE ____________________________

CREDITS AWARDED ____________________________

COMMITTEE MEMBER SIGNATURE AND DATE ____________________________

Adopted 4/12/05
DEPARTMENT OF MARINE RESOURCES

July 14th, 2008

Effective July 18th, 2008, and in accordance with Public Law 2008 Chapter 692, the Department of Marine Resources (DMR) will no longer be posting advertisements in newspapers notifying the public of shellfish harvesting area openings or closings. This will apply to all notices related to any changes of area classifications that may result from bacteriological pollution and/or Paralytic Shellfish Poisoning (Red Tide).

This information will continue to be available from the following sources:
- DMR’s Shellfish Sanitation Hotline: 1-800-232-4733;
- DMR’s Bacteriological Closure website: http://www.maine.gov/dmr/rm/public_health/closures/closedarea.htm; or

Please notify Deputy Commissioner David Etnier (207-624-6553) should you encounter any difficulties given this change in notification law.
FLOODPLAIN MANAGEMENT ORDINANCE
FOR THE
TOWN OF WESTPORT ISLAND, MAINE

ENACTED: November 7, 2006
REVISED: June 25, 2011
# Floodplain Management Ordinance

## Contents

<table>
<thead>
<tr>
<th>Article</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. Purpose and Establishment</td>
<td>2</td>
</tr>
<tr>
<td>II. Permit Required</td>
<td>2</td>
</tr>
<tr>
<td>III. Application for Permit</td>
<td>2</td>
</tr>
<tr>
<td>IV. Application Fee and Expert's Fee</td>
<td>4</td>
</tr>
<tr>
<td>V. Review Standards for Flood Hazard Development Permit Applications</td>
<td>4</td>
</tr>
<tr>
<td>VI. Development Standards</td>
<td>5</td>
</tr>
<tr>
<td>VII. Conditional Use Review</td>
<td>10</td>
</tr>
<tr>
<td>VIII. Certificate of Compliance</td>
<td>11</td>
</tr>
<tr>
<td>IX. Review of Subdivisions and Development Proposals</td>
<td>11</td>
</tr>
<tr>
<td>X. Appeals and Variances</td>
<td>12</td>
</tr>
<tr>
<td>XI. Enforcement and Penalties</td>
<td>14</td>
</tr>
<tr>
<td>XII. Validity and Severability</td>
<td>14</td>
</tr>
<tr>
<td>XIII. Conflict with Other Ordinances</td>
<td>14</td>
</tr>
<tr>
<td>XIV. Definitions</td>
<td>14</td>
</tr>
<tr>
<td>XV. Abrogation</td>
<td>19</td>
</tr>
</tbody>
</table>
ARTICLE I - PURPOSE AND ESTABLISHMENT

Certain areas of the Town of Westport Island, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of Westport Island, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of Westport Island, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The Town of Westport Island has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352, 4401-4407, and Title 38 MRSA, Section 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Westport Island having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Westport Island, Maine.

The areas of special flood hazard, are identified by the Federal Emergency Management Agency in a map entitled “Flood Hazard Boundary Map - Town of Westport Island, Maine, Lincoln County,” dated May 31, 1977, which is hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II - PERMIT REQUIRED

Before any construction or other development (as defined in Article XIV), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer except as provided in Article VII. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Westport Island, Maine.

ARTICLE III - APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer and shall include:

A. The name, address and phone number of the applicant, owner, and contractor;

B. An address and a map indicating the location of the construction site;

C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;

D. A statement of the intended use of the structure and/or development;
E. A statement of the cost of the development including all materials and labor;

F. A statement as to the type of sewage system proposed;

G. Specification of dimensions of the proposed structure and/or development;

[Items H-K.2. apply only to new construction and substantial improvements.]

H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or to a locally established datum, of the:

1. base flood at the proposed site of all new or substantially improved structures, which in Zone A is determined:
   (a) from any base flood elevation data from federal, state, or other technical sources (such as FEMA’s Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Article VI.J. and IX.D.;
   
   (b) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
   
   (c) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.

2. highest and lowest grades at the site adjacent to the walls of the proposed building;

3. lowest floor, including basement; and whether or not such structures contain a basement; and,

4. level, in the case of non-residential structures only, to which the structure will be floodproofed;

I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;

J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;

K. The following certifications as required in Article VI by a registered professional engineer or architect:

1. a Floodproofing Certificate (FEMA Form 81-65, 03/09, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;

2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.K.2.a.;

3. a certified statement that bridges will meet the standards of Article VI.L.;
4. a certified statement that containment walls will meet the standards of Article VI.M.;

L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,

M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

A non-refundable application fee, set by the Board of Selectmen, shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Code Enforcement Officer and/or Board of Appeals need the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer shall:

A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;

B. Utilize, in the review of all Flood Hazard Development Permit applications:
   1. the base flood data contained in the “Flood Hazard Boundary Map - Town of Westport Island, Maine,” as described in Article I;
   2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.; Article VI.J.; and Article IX.D., in order to administer Article VI of this Ordinance; and
   3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b., the community shall submit that data to the Maine Floodplain Management Program in the State Planning Office.

C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;

E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;

F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:

1. A two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, “as built”, for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, or H. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,

2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.G.1.,2., and 3. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,

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

For development that requires review and approval as a Conditional Use, as provided for in this Ordinance, the Flood Hazard Development Permit Application shall be acted upon by the Planning Board as required in Article VII.

G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article X of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VIII of this Ordinance.

ARTICLE VI - DEVELOPMENT STANDARDS

All developments in areas of special flood hazard shall meet the following applicable standards:
A. **All Development** - All development shall:

1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. use construction materials that are resistant to flood damage;
3. use construction methods and practices that will minimize flood damage; and,
4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.

B. **Water Supply** - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

C. **Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.

D. **On Site Waste Disposal Systems** - On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.

E. **Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.

F. **Residential** - New construction or substantial improvement of any residential structure located within Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B; or Article IX.D.

G. **Non Residential** - New construction or substantial improvement of any non-residential structure located within Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B; or Article IX.D., or together with attendant utility and sanitary facilities shall:

1. be floodproofed to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B; or Article IX.D., so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
2. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
3. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
H. **Manufactured Homes** - New or substantially improved manufactured homes located within Zone A shall:

1. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B; or Article IX.D.;

2. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,

3. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
   
   a. over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
   
   b. frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
   
   c. all components of the anchoring system described in Article VI.H.3.a.& b. shall be capable of carrying a force of 4800 pounds.

I. **Accessory Structures** - Accessory Structures, as defined in Article XIV, located within Zone A, shall be exempt from the elevation criteria required in Article VI.F. & G. above, if all other requirements of Article VI and all the following requirements are met. Accessory Structures shall:

1. be 500 square feet or less and have a value less than $3000;

2. have unfinished interiors and not be used for human habitation;

3. have hydraulic openings, as specified in Article VI.K.2., in at least two different walls of the accessory structure;

4. be located outside the floodway;

5. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,

6. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

J. **Floodways** - Encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in a floodway which, in Zone A riverine areas, is the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that
the cumulative effect of the proposed development, when combined with all other existing
development and anticipated development:

1. will not increase the water surface elevation of the base flood more than one foot at any point
   within the community; and,

2. is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses,"
   Flood Insurance Study - Guidelines and Specifications for Study Contractors, (FEMA 37/
   January 1995, as amended).

K. Enclosed Areas Below the Lowest Floor - New construction or substantial improvement of any
structure in Zone A that meets the development standards of Article VI, including the elevation
requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles,
"stilts," or crawlspaces may be enclosed below the base flood elevation requirements provided all the
following criteria are met or exceeded:

1. Enclosed areas are not "basements" as defined in Article XIV;

2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior
walls by allowing for the entry and exit of flood water. Designs for meeting this requirement
must either:
   a. be engineered and certified by a registered professional engineer or architect; or,
   b. meet or exceed the following minimum criteria:
      (1) a minimum of two openings having a total net area of not less than one square inch for
every square foot of the enclosed area;
      (2) the bottom of all openings shall be below the base flood elevation and no higher than
one foot above the lowest grade; and,
      (3) openings may be equipped with screens, louvers, valves, or other coverings or devices
provided that they permit the entry and exit of flood waters automatically without any
external influence or control such as human intervention, including the use of electrical
and other non-automatic mechanical means;

3. The enclosed area shall not be used for human habitation; and,

4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

L. Bridges - New construction or substantial improvement of any bridge in Zone A shall be designed
such that:

1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at
least one foot above the base flood elevation utilizing information obtained pursuant to Article
III.H.1.; Article V.B; or Article IX.D.; and

2. a registered professional engineer shall certify that:
a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.J.; and

b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

M. **Containment Walls** - New construction or substantial improvement of any containment wall located within Zone A shall:

1. have the containment wall elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B.; or Article IX.D.

2. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

3. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.

N. **Wharves, Piers and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in Zone A in and over water and seaward of the mean high tide if the following requirements are met:

1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and

2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

O. **Coastal Floodplains** -

1. All new construction located within Zone A shall be located landward of the reach of mean high tide except as provided in Article VI.O.2.

2. Conditional Use - Lobster sheds and fishing sheds may be located seaward of mean high tide and shall be exempt from the elevation requirement in Article VI.G. only if permitted as a Conditional Use following review and approval by the Planning Board, as provided in Article VII, and if all the following requirements and those of Article VI.A., VI.J., and VI.K. are met:

   a. The conditional use shall be limited to low value structures such as metal or wood sheds 200 square feet or less and shall not exceed more than one story.

   b. The structure shall be securely anchored to the wharf or pier to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
c. The structure will not adversely increase wave or debris impact forces affecting nearby buildings.

d. The structure shall have unfinished interiors and shall not be used for human habitation.

e. Any mechanical, utility equipment and fuel storage tanks must be anchored and either elevated or floodproofed to one foot above the base flood elevation.

f. All electrical outlets shall be ground fault interrupt type. The electrical service disconnect shall be located on shore above the base flood elevation and when possible outside the Special Flood Hazard Area.

ARTICLE VII - CONDITIONAL USE REVIEW

The Planning Board shall hear and decide upon applications for conditional uses provided for in this Ordinance. The Planning Board shall hear and approve, approve with conditions, or disapprove all applications for conditional uses. An applicant informed by the Code Enforcement Officer that a Conditional Use Permit is required shall file an application for the permit with the Planning Board.

A. Review Procedure for a Conditional Use Flood Hazard Development Permit

1. The Flood Hazard Development Permit Application with additional information attached addressing how each of the conditional use criteria specified in the Ordinance will be satisfied, may serve as the permit application for the Conditional Use Permit.

2. Before deciding any application, the Planning Board shall hold a public hearing on the application within thirty days of their receipt of the application.

3. If the Planning Board finds that the application satisfies all relevant requirements of the ordinance, the Planning Board must approve the application or approve with conditions within 45 days of the date of the public hearing.

4. A Conditional Use Permit issued under the provisions of this Ordinance shall expire if the work or change involved is not commenced within 180 days of the issuance of the permit by the Planning Board.

5. The applicant shall be notified by the Planning Board in writing over the signature of the Chairman of the Planning Board that flood insurance is not available for structures located entirely over water or seaward of mean high tide.

B. Expansion of Conditional Uses

1. No existing building or use of premises may be expanded or enlarged without a permit issued under this section if that building or use was established or constructed under a previously issued Conditional Use Permit or if it is a building or use which would require a Conditional Use Permit if being newly-established or constructed under this Ordinance.
ARTICLE VIII - CERTIFICATE OF COMPLIANCE

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer, an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, or H.

B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.

C. Within 10 working days, the Code Enforcement Officer shall:
   1. review the Elevation Certificate and the applicant’s written notification; and,
   2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

ARTICLE IX - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

A. All such proposals are consistent with the need to minimize flood damage.

B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.

C. Adequate drainage is provided so as to reduce exposure to flood hazards.

D. All proposals include base flood elevations, flood boundaries, and in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.

E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land area within a Special Flood Hazard Area, are to be constructed in accordance with Article VI of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document.
previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

ARTICLE X - APPEALS AND VARIANCES

The Board of Appeals of the Town of Westport Island may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this Ordinance.

The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

B. Variances shall be granted only upon:
   1. a showing of good and sufficient cause; and,
   2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,
   3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
   4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
      a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
      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; and,
      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.

C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.

D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
   1. other criteria of Article X and Article VI.J. are met; and,
   2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:

1. the development meets the criteria of Article X, paragraphs A. through D. above; and,

2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure’s continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

F. Any applicant who meets the criteria of Article X, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:

1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as $25 per $100 of insurance coverage;

2. such construction below the base flood level increases risks to life and property; and,

3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

G. Appeal Procedure for Administrative and Variance Appeals

1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.

2. Upon being notified of an appeal, 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.

3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.

4. The person filing the appeal shall have the burden of proof.

5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.

6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.

7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.
ARTICLE XI - ENFORCEMENT AND PENALTIES

A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.

B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.

C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, may submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of;

1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;

2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;

3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;

4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,

5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE XII - VALIDITY AND SEVERABILITY

If any section or provision of this Ordinance is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

ARTICLE XIII - CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

ARTICLE XIV - DEFINITIONS

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

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

Adjacent Grade - means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
Area of Special Flood Hazard - means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Hazard Boundary Map cited in Article I of this Ordinance.

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

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

Building - see Structure.

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

Code Enforcement Officer - A person certified under Title 30-A MRSA, Section 4451 (including exceptions in subsection 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances.

Conditional Use - means a use that because of its potential impact on surrounding areas and structures, is permitted only upon review and approval by the Planning Board pursuant to Article VII.

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

Elevated Building - means a non-basement building

a. built, in the case of a building in Zone A, to have the top of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and

b. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zone A, Elevated Building also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.K.

Elevation Certificate - An official form (FEMA Form 81-31, 03/09, as amended) that:

a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,

b. is required for purchasing flood insurance.

Flood or Flooding - means:

a. A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

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

**Flood Hazard Boundary Map (FHBM)** - means an official map of a community, issued by the Federal Insurance Administration, where the boundaries of the base flood have been designated.

**Floodplain or Flood-prone Area** - means any land area susceptible to being inundated by water from any source (see flooding).

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

**Floodplain Management Regulations** - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

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

**Floodway** - see **Regulatory Floodway**.

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

**Functionally Dependent Use** - means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

**Historic Structure** - means any structure that is:

a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;

c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

1. By an approved state program as determined by the Secretary of the Interior, or

2. Directly by the Secretary of the Interior in states without approved programs.

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

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

**Manufactured Home** - means 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. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

**Manufactured Home Park or Subdivision** - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

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

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

Westport Island Floodplain Ordinance
New Construction - means structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

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

100-year flood - see Base Flood.

Regulatory Floodway -

a. means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and

b. in Zone A riverine areas, the floodway is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

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

Special Flood Hazard Area - see Area of Special Flood Hazard.

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

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

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

Substantial Improvement - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:
a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

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

**Variance** - means a grant of relief by a community from the terms of a floodplain management regulation.

**Violation** - means the failure of a structure or development to comply with a community's floodplain management regulations.

**ARTICLE XV - ABROGATION**

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).
SITE PLAN REVIEW ORDINANCE

Adopted by the Town of Westport Island on November 7, 2006

Amended on June 29, 2013
# TABLE OF CONTENTS

SITE PLAN REVIEW ORDINANCE OF THE TOWN OF WESTPORT ISLAND

SECTION 1 – PURPOSE..........................................................................................................................3
SECTION 2 – AUTHORITY.........................................................................................................................3
SECTION 3 – APPLICABILITY..................................................................................................................3
SECTION 4 – ADMINISTRATION AND AMENDMENTS.........................................................................5
SECTION 5 – ADMINISTRATIVE PROCEDURE – APPLICATION PROPOSAL PROCEDURE...5
SECTION 6 – FINAL SITE PLAN APPLICATION REQUIREMENTS..........................................................8
SECTION 7 – FINAL PLAN REVIEW AND APPROVAL..........................................................................13
SECTION 8 – FEES..............................................................................................................................16
SECTION 9 – REVISIONS TO APPROVED PLAN.................................................................................17
SECTION 10 – CRITERIA.........................................................................................................................18
SECTION 11 – STANDARDS ..................................................................................................................20

11.A. – Water Supply and Ground Water Quality and Quantity................................................20
11.B. - Sewage Disposal......................................................................................................................24
11.C. - Soil Erosion and Sedimentation...............................................................................................25
11.D. - Streets and Roads......................................................................................................................26
11.E. - Site Clearing and Common Land..............................................................................................29
11.F. - Storm Water Management........................................................................................................29
11.G. - Emergency Municipal Services..............................................................................................30
11.H. - Financial and Technical Capacity............................................................................................30
11.I. - Monuments.................................................................................................................................31
11.J. - Road Names and 911 Addresses.................................................................................................31
11.K. - Surface Drainage.........................................................................................................................31
11.L. - Utilization of the Site..................................................................................................................31
11.M.- Utilities........................................................................................................................................32
11.N. - Natural Features........................................................................................................................32
11.O. - Harmful, Hazardous, Special and Radioactive Materials....................................................32
11.P.- Solid Waste Management.............................................................................................................33
11.Q.- Dust, Gases, Odors and Radiation...............................................................................................33
11.R.- Lighting.........................................................................................................................................33
11.S. - Noise...........................................................................................................................................33
11.T. - Facades.........................................................................................................................................34
11.U. - Construction Standards.............................................................................................................34
11.V. - Signs.............................................................................................................................................34
11.W.- Minumum Lot Standards............................................................................................................35
11.X.- Principal and Accessory Structures............................................................................................35
SECTION 12 – INSPECTION AND ENFORCEMENT...........................................................................36
SECTION 13 – APPEALS.........................................................................................................................38
SECTION 14 – REVOCATION OF A PERMIT.......................................................................................39
SECTION 15 – SEVERABILITY..............................................................................................................40
SECTION 16 – DEFINITIONS.................................................................................................................40
SECTION 1—PURPOSE
The Site Plan Review provisions set forth in this 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 that nonresidential construction is designed and developed 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 is adopted pursuant to and consistent with the Town’s Home Rule authority under 30-A M.R.S.A. Section 3001 and Art. VII, Pt. 2 Section 1 of the Maine Constitution.

SECTION 3—APPLICABILITY
3.A. All Town of Westport Island Ordinances and Regulations apply, as appropriate and relevant, to any project covered by this Site Plan Review Ordinance. Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or any other ordinance, regulation or statute, the more restrictive provision shall control.

3.B. A person who has right, title, or interest in a parcel of land must obtain Site Plan approval and where appropriate, Subdivision Ordinance approval prior to commencing any of the following activities on the parcel:

3.B.1. Obtaining a building or plumbing permit for the activities, or undertaking any significant alteration or improvement of the site including grubbing or grading,

3.B.2. The construction or placement of any new building or structure including accessory buildings and structures for nonresidential uses,

3.B.3. The expansion or relocation of an existing nonresidential building or structure including accessory buildings or structures,

3.B.4. The expansion of an existing nonresidential use,

3.B.5. The conversion of an existing nonresidential use, in whole or in part, to another nonresidential use,
3.B.6. The conversion of an existing building or structure, in whole or in part, from a residential use to a nonresidential use,

3.B.7. The establishment of a new, or the expansion of an existing nonresidential use, even if no buildings or structures are proposed, including, but not limited to, uses such as gravel pits, mineral extraction activities, cemeteries, golf courses, and other nonstructural uses.

3.B.8. The conversion of an existing nonresidential building or structure, in whole or in part, into one (1) or two (2) residential dwelling units,

3.B.9. The construction or expansion of paved areas or other impervious surface, including walkways, access drives, and parking lots involving an area of more than two thousand five hundred (2,500) square feet within any five (5) year period on nonresidential uses,

3.B.10. The resumption of a previously approved use that has been discontinued for a period of five (5) years.

3.C. The following activities shall not require Site Plan approval:

3.C.1. The construction, alteration, or enlargement of a single family or two family dwelling, including accessory buildings and structures,

3.C.2. The placement, alteration, or enlargement of a single or two family manufactured home or mobile home dwelling, including accessory buildings and structures on individually owned lots,

3.C.3. Agricultural activities, including agricultural buildings and structures, providing that such activities do not produce objectionable odors at the property line beyond that of a typical single family residence, and that such activity meets the requirements of Sections 11.A., B., C., F. and V.

3.C.4. Timber harvesting and forest management activities, providing that scenic buffers are maintained on all property lines according to requirements of Section 11.N.,

3.C.5. The establishment and modification of home occupations,

3.C.6. Activities involving nonresidential buildings or activities that are specifically excluded from review by the provisions of this section.

3.D. Non-conforming Enterprises

3.D.1. Enterprises which were in place at the time of the adoption of this Ordinance do not require a Site Plan Review for pre-existing structures and uses,
3.D.2. Enterprises which were in place at the time of the adoption of this Ordinance are subject to the provisions of 3.B. regarding expansion and changes in use,

3.D.3. Site Plan Reviews for Expansion to Enterprises which were in place at the time of the adoption of this Ordinance will be restricted to the existing expansion unless the Planning Board, determines that the expanded enterprise significantly impacts public health and safety, in which case the Board’s review of the pre-existing aspects of the enterprise will be confined to criteria and standards associated with the public health and safety,

3.D.4. A non-conforming enterprise which is discontinued for a period exceeding one year, or which is superseded by a conforming enterprise, 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 one year extension to that time period.

SECTION 4 – ADMINISTRATION AND AMENDENTS

4.A. The Town of Westport Island Planning Board, shall be responsible for administering the provisions of this Ordinance.

4.B. The Town of Westport Island Planning Board, hereinafter called the Board, is authorized to review and act on all Site Plan Review Applications.

4.C. This Ordinance may be amended by majority vote of the Legislative Body of the Town of Westport Island after a Public Hearing held by the Planning Board and the Board of Selectmen. Notice of the hearing shall be posted at least fourteen (14) days prior to such hearing and advertised in a newspaper of general circulation in the municipality at least two (2) times with the date of first publication being at least fourteen (14) days prior to the hearing and the second at least seven (7) days prior to the hearing.

SECTION 5 – ADMINISTRATIVE PROCEDURE – APPLICATION PROPOSAL PROCEDURE

5.A. Pre-Application Meeting, Sketch Plan and On-Site Inspection

5.A.1. Purpose
The purpose of the Pre-Application Meeting and On-Site Inspection is for the applicant to present general information regarding the proposed project to the Board and receive the Board’s comments prior to the expenditure of substantial sums of money on surveys, soils identification and engineering.

5.A.2. Procedure
5.A.2.a. The applicant shall present a Pre-Application Sketch Plan.
5.A.2.b. The Board may ask questions and make suggestions, which may be incorporated by the applicant into the application.
5.A.2.c. Following discussions on the Sketch Plan, the Board, on its own motion, or the applicant may request that the Board conduct a Site Visit.

5.A.3. Submission

5.A.3.a. The Pre-Application Sketch Plan shall show in simple sketch form the proposed site including layout of streets, lots, buildings, abutting properties and their principal use, and other features in relation to existing conditions, the nature of the proposed use and potential development and any issues or questions about other municipal ordinances and regulations. The Sketch Plan, which does not have to be engineered and may be a free hand penciled sketch, shall be supplemented with general information to describe the existing conditions of the site and the proposed development. Topographical site conditions such as steep slopes, wet areas and vegetative cover shall be identified in a general manner. The Sketch Plan shall be superimposed on or accompanied by a copy of the assessor’s map(s) on which the land is located. The Sketch Plan shall be accompanied by:

5.A.3.a.i. A copy of a portion of the U. S. G. S. topographic map of the area showing the outline of the proposed project.
5.A.3.a.ii. Copies of those portions of any county or town soil surveys and/or hydrogeological studies covering the proposed project, showing the outline of the proposed project.
5.A.3.a.iii. Areas to be contoured at greater than a five (5) foot contour interval on the plan to be submitted in the final application shall be discussed and approved at the Pre-Application meeting.

5.A.3.b. Any lot clearing or temporary road construction necessary to conduct any assessments or tests necessary to support the application is subject to normal town ordinances, regulations, and standards including, but not limited to, building permits, written plans for temporary erosion and sedimentation control as well as permanent stabilization measures following testing. The applicant may include a list of any such efforts and a tentative schedule as to when they will commence especially if they deem it useful to the review process to have representatives of the Board or other potential parties present during the testing.

5.A.4. On-Site Inspection:
The purpose of the Pre-Application Site Visit is purely informational, for those involved in a future review to understand more fully the Final Plans when submitted. Prior to the On-Site Inspection, the applicant shall place “flagging” at fifty (50) foot intervals along the approximate centerline of all proposed roads, parking areas and the corners of all proposed structures. The applicant shall also locate the approximate frontage center of proposed lots or structures with road frontage, or the approximate entrance location of any roads and driveways proposed to provide access to non-frontage lots or structures. The Board shall not conduct On-Site Inspections when there is more than one foot of snow on the ground.
SITE PLAN REVIEW ORDINANCE

5.A.5. Rights Not Vested
The Pre-Application Meeting, the submittal or review of the Sketch Plan or the On-Site Inspection shall not be considered the initiation of the substantive review process for the purposes of bringing the proposed project under the protection of Title 1 M.R.S.A. Section 302.

5.B. Final Plan Application

5.B.1. Within six (6) months after the Pre-Application Meeting, the applicant shall submit an application for approval of a Final Plan (see Section 6 for a list of items required).
If an applicant cannot submit the Final Plan within six (6) months, the applicant may request an extension. Such a request for an extension to the filing deadline shall be filed, in writing, with the Board prior to the expiration of the filing period. In considering the request for an extension, the Board shall make findings that the applicant has made due progress in preparation of Final Plans and in pursuing approval of those Final Plans before other agencies, and that municipal ordinances or regulations which may impact on the proposed development have not been amended. After six (6) months from the date of the Pre-Application Meeting, if an extension has not been requested and approved by the Board, the applicant must begin a new application process starting with a request for a Pre-Application Meeting. (Section 5.A.)

5.B.2. At the meeting where the Final Plan is presented, the application shall note: 1) any requirements of the application which are not applicable or for which a waiver is requested, and 2) any criterion or standard which is not applicable and therefore not addressed. An acceptable reason for requesting a waiver of a requirement, criterion or standard would be that the proposed enterprise will have no greater adverse impact than a single family residence. The Board shall vote to consider the applicant’s request to assert such positions at the public hearing. The Board shall prepare written findings to document all decisions regarding waiver requests.
Based on all materials presented and decisions regarding requests for waivers or non-applicability of a requirement, criterion or standard, the Board shall vote as to whether the application is complete. The Board shall notify the applicant in writing within thirty (30) days of the Board’s determination that the application is complete. If the application is deemed not complete, the Board shall notify the applicant in writing within thirty (30) days of its decision, as to what specific additional materials are needed to declare the application complete.

5.B.3. The Board shall consult experts as they deem necessary in their deliberations, providing that the Board only select such experts that have been previously discussed with the parties. The Board may require the owner or the owner’s agent to deposit in escrow an amount of money sufficient to cover the costs of any professional review and/or consultation of the Final Site Plan Review application, which the Board may feel is reasonably necessary to protect the general welfare of the Town of Westport Island.
SITE PLAN REVIEW ORDINANCE

Maximum amounts for this escrow payment are to be established by the Board of Selectmen. This escrow payment shall be made to the Town Treasurer before the Board engages any outside party to undertake the review and to make recommendations to the Board. Payments made from this escrow account shall be requested by the Planning Board and authorized by the Board of Selectmen. Any part of this escrow payment in excess of the final costs for review shall be returned to the owner or the owner’s agent.

SECTION 6 – FINAL SITE PLAN APPLICATION REQUIREMENTS

The Final Plan shall include or be accompanied by the following information:

6.A. General Information

6.A.1. Record owner’s name, address and phone number and applicant’s name, address and phone number of the applicant, if different,

6.A.2. Proposed name of the enterprise or identifying title. A general description of the proposed use, purpose or nature of the enterprise and the projected cost of the development of the project,

6.A.3. Names and addresses of all property owners abutting the parcel(s) involved, and also those property owners within one thousand (1000) feet of any and all property boundaries, along with the principal use of each property,

6.A.4. Sketch map showing general location of the site within the municipality based upon the tax maps,

6.A.5. Boundaries of all contiguous properties under the total or partial control of the owner or applicant regardless of whether all or part is being developed at this time,

6.A.6. The tax Map and Lot number of the parcel or parcels on which the project is located,

6.A.7. A copy of the deed to the property, an option to purchase the property or other documentation to demonstrate right, title or interest in the property on the part of the applicant,

6.A.8. The name, registration number, and seal of the person(s) who prepared the plan and all licensed professionals who contributed to the elements of the plan, if applicable,

6.A.9. Evidence of the applicant’s technical and financial capability to carry out the project as proposed.
6.B. Final Plan and Backup Documentation

A Final Plan consisting of one or more maps or drawings drawn to a scale of not more than one hundred (100) feet to the inch. Final Plans for enterprises with associated parcels containing more than one hundred (100) acres may be drawn at a scale of not more than two hundred (250) feet to the inch, provided all necessary detail can easily be read. Final Plans shall be no larger than twenty-four (24) inches by thirty-six (36) inches in size, and shall have a margin of two (2) inches outside of the border on the left side for binding and a one (1) inch margin outside the border along the remaining sides. Space shall be reserved on the Final Plan for endorsement by the Board. The Final Plan should contain the following information:

6.B.1. Existing Pre Development Conditions

The following items listed below should be presented in detail and also to the maximum extent possible, represented on a map or maps (drawing or drawings) referred to as “Map 1 – Existing Conditions”. This map and additionally required materials should be part of Final Plan Submission.

6.B.1.a. Zoning classification(s), including overlay and/or sub-districts, of the property and the location of zoning district boundaries if the property is located in two (2) or more districts or sub-districts or abuts a different district.

6.B.1.b. A standard boundary survey of the parcel(s) involved, giving complete descriptive data by bearing and distance including the number of acres within the parcel(s) associated with the proposed enterprise, location of property lines, existing buildings, vegetative cover type, watercourses and other essential existing physical features, developed and certified by a Professional Land Surveyor. The Existing Conditions Map shall indicate the type of monuments found at each lot corner.

6.B.1.c. Contour lines at not more than five (5) foot intervals, or at the interval specified by the Board, showing elevations in relation to mean sea level. Appropriate elevations must be provided as necessary to determine the direction of the flow.

6.B.1.d. Location and size of any existing sewer and water mains, culverts and drains, on-site sewage disposal systems, wells, underground tanks or installations, power and telephone lines and poles on the property to be developed, on abutting roads, or land that may serve the development. The Fire Chief shall be notified of the location or proposed location of any underground propane tanks

6.B.1.e. Location, names and present widths of existing public and/or private roads and rights-of-way within or adjacent to the proposed development.

6.B.1.f. The location, dimensions (horizontal and vertical) including ground floor elevation of all existing buildings on the site.
6.B.1.g. The location and dimensions of existing driveways, parking and loading areas, walkways and sidewalks on or immediately adjacent to the site.

6.B.1.h. Location of intersecting roads or driveways within two hundred (200) feet of the site.

6.B.1.i. The location of rivers, streams, brooks, open drainage courses, wetlands, stone walls, graveyards, fences, stands of trees, and other important or unique natural areas and site features, including but not limited to, deer wintering areas, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers, the location of any trail, trail system or greenbelt that crosses the property and historic and/or archaeological resources, together with a description of such features. Wetlands boundaries need to be delineated by a Certified Professional Wetlands Scientist.

6.B.1.j. The direction of existing surface water drainage across the site.

6.B.1.k. The location, front view, dimensions and lighting of existing signs.

6.B.1.l. Location and dimensions of any existing easements and copies of existing covenants or deed restrictions.

6.B.1.m. The location of the nearest fire hydrant, dry hydrant or other water supply for fire protection.

6.B.1.n. If any portion of the parcel(s) involved is in a flood prone area, the boundaries of any flood hazard areas and the 100 year flood elevation shall be delineated.

6.B.2. Proposed Development

The following items listed below should be presented in detail and also to the maximum extent possible, represented on a map or maps (drawing or drawings) referred to as “Map 2 – Proposed Development Activity”. This map and additional required materials should be part of the Final Plan Submission.

6.B.2.a. The type of water supply and sewage disposal systems to be employed and the location of all test sites for water supply and sewage disposal and any related structures.

6.B.2.a.i. A water usage estimate prepared in accordance with Section 11.A.1. by a Certified Geologist or Registered Professional Engineer experienced in hydrogeology, including estimated demand for water together with the design, location, and dimensions of all provisions for water supply, and certified evidence of their adequacy for the proposed use as described in Section 11.A.1.
SITE PLAN REVIEW ORDINANCE

For estimated well water usage exceeding threshold levels specified in Section 11.A.2. a hydrogeological assessment including acceptable results of a 72 hour well pump test as described in Section 11.A.2. and associated erosion and sedimentation control plans for before, during and after the tests are required.

6.B.2.a.ii. Estimated demand for sewage disposal together with the design, location and dimensions of all provisions for wastewater disposal and certified evidence of their adequacy for the proposed use as described in Section 11.B. including soils test pit data if on-site sewage disposal is proposed. If a private sewage disposal system is proposed, location and results of tests to ascertain subsurface soil ground water conditions and depths to maximum ground water level. An approved sewage disposal site or sites determined by a State of Maine Licensed Site Evaluator or a Soils Engineer shall be a part of the requirements. A completed HHE 200 form, approved and signed by the Local Plumbing Inspector must be submitted with the application. For estimated sewage disposal over 500 gallons per day, certified approved backup systems as applicable under standards Section 11.B. shall be included.

6.B.2.b. The direction of proposed surface water drainage across the site and from the site, with an assessment of impacts on downstream properties shall be included, as well as the location and size of existing and proposed sewers, water mains, culverts and drainage ways on or adjacent to the parcel(s) associated with the enterprise.

6.B.2.c. Provisions for handling all solid wastes, including hazardous and special wastes and the location and proposed visual screening of an on-site collection of storage facilities.

6.B.2.d. The location, dimensions, and materials to be used in the construction of proposed driveways, parking and loading areas, and walkways and any changes to traffic flow onto or off-site.

6.B.2.e. A detailed description of all enterprise airborne emissions and control methods employed to meet the appropriate standards of this Ordinance.

6. B.2.f. The locations, dimensions and ground floor elevations of all buildings or building expansions proposed on the site.

6.B.2.g. The location of all utilities, including fire protection systems.

6.B.2.h. A complete set of any architectural or construction drawings to be employed in the construction or modification of any enterprise structures.
SITE PLAN REVIEW ORDINANCE

6.B.2.i. A description of the methods to be used to harmonize the enterprise into the rural and residential character of the surrounding neighborhood including:
- Proposed landscaping and buffering.
- Location, front view, materials, and dimensions of proposed signs, together with the method for securing the signs,
- Location and type of exterior lighting,
- Facades.

6.B.2.j. The dimensions and location of any proposed roads, parking areas, driveways, public improvements or common areas shown upon the official map and the Comprehensive Plan, if any, within the parcel(s) associated with the enterprise. Road names and lines, pedestrian ways, lots, easements, and areas to be reserved for public use shall also be shown upon the official map.

6.B.2.k. The 911 Officer or Deputy shall determine that road names chosen are not similar in sound or designation to other roads on Westport Island or in neighboring communities. Boundaries of all undeveloped lots and proposed driveways shall be designated by staking to facilitate the 911 Officer’s or Deputy’s determination of 911 addresses for each lot.

6. B.2.l. Any analyses, reports, etc. required to support adherence to a standard or to demonstrate compliance with a criterion, and the names and addresses of any individuals or organizations and credentials thereof, who prepared and/or certified them.

6.B.2.m. An erosion and sedimentation control plan in conformance with Section 11.C.

6.B.2.n. The applicant shall submit information on the location of the development to the following address to determine if the enterprise has any negative impact on historic areas:

State Historic Preservation Officer
Maine Historic Preservation Commission
55 Capitol Avenue
State House Station 55
Augusta, Maine 04333

The information submitted above shall include a request that the Westport Island Planning Board be notified of any comments. The applicant shall submit to the Board proof of such notification, including a copy of the letter to the State Historic Preservation Officer.

6.B.2.o. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours, and the sight distances for each proposed road and
SITE PLAN REVIEW ORDINANCE

driveway that intersects an existing or proposed public or private road. Road and Street Plans consistent with Road and Street Standards, Section 11.D. shall be required. Trip generation estimates shall be consistent with methods recommended in the latest edition of “Trip Generation”, published by the Institute of Transportation Engineers.

6.B.2.p. A detailed layout of all parking lots and parking spaces consistent with standards in Section 11.D. For enterprises with more than 30 parking spaces or that will generate more than 100 vehicle trips per day, a traffic impact analysis prepared by a Registered Professional Engineer with expertise in traffic engineering shall be required. The analysis shall indicate the expected average daily vehicular trips, peak hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of services on the road giving access to the enterprise and neighboring roads that may be affected, and recommended improvements to maintain the desired level of service on the affected roads.

6.B.2.q. The Final Plan shall include final designs of any bridges, or culverts and drainage ways, which may be required on or adjacent to the property to be developed.

6.B.2.r. A time phased project plan including:
1) A complete list of facilities and construction items proposed and to be completed by the applicant prior to the applicant’s preferred dates for occupation of the premises and commencing enterprise operations, with the proposed date for completion of each listed facility or item,
2) A time phased complete list of all facilities and construction items proposed to be completed after the preferred date for commencement of enterprise operations,
3) The milestones in the project where certified notice of completion will be provided to the Board.

6.B.2.s. A Storm Water Management Plan in accordance with the requirements of Section 11.F.

6.B.2.t. Description of permanent reference monuments in accordance with Standards Section 11.I. and their location noted and referenced “X” on the Final Plan.

SECTION 7 – FINAL PLAN REVIEW AND APPROVAL

7.A. Final Plan
7.A.1. Projects subject to State Review
If the proposed project requires a permit under the Site Location of Development Act, the Storm Water Management Law or the Natural Resources Protection Act or is
otherwise under the jurisdiction of the Maine Department of Environmental Protection or Transportation, the Final Plan shall not be executed until all such approvals are obtained. See Section 7.B. The applicant shall submit any conclusions of law and findings of fact to the Board, and all recognized parties. The Board may consider them in formulating its own Findings of Fact and Conclusions of Law.

7.A.2. Final Plan Procedure

7.A.2.a. All public hearings for Site Plan Reviews brought before the Planning Board shall be recorded by electronic means and the recording filed with the Town Clerk of Westport Island. Any party with the consent of the Chair of the Planning Board may arrange for a court reporter to be present at a hearing. All costs incurred are the responsibility of the requesting party. If a written transcript is produced, a single copy is to be provided to the Board. Rights to the transcript remain the property of the party producing it. Copies may only be obtained from that party following agreement of the payment of a reasonable proportionate share of the cost of producing it.

7.A.2.b. When an application is filed with the reviewing authority, the applicant shall file a notice of application by first class mail to all abutting land owners, notifying them of their party status. The filed application shall include certification that the above notice has been made. The reviewing authority shall give the applicant a dated receipt for the filing of the application. Within thirty (30) days of the receipt of the application, the applicant shall be notified if the application is deemed to be complete or not complete. A hearing which may include an On-Site Inspection, shall be held within thirty (30) days of the determination that the application is complete. Notice of this hearing shall be given to the applicant and published two (2) times in local newspapers. The date of the second publication must be at least seven (7) days before the hearing. The Board may request that the Fire Chief, Road Commissioner or Local Plumbing Inspector comment either at the public hearing or in writing to all statutory parties prior to the hearing, upon the adequacy of their departments’ existing capital facilities to service the proposed enterprise. The applicant shall be responsible at any hearings held by the Board for answering any questions about the project, and providing information relative to the application.

7.A.2.c. At the public hearing the Chairman of the hearing shall review requests for party status, granting status for those who meet the standards for party status under Maine Land Use Law. Non-statutory parties may be granted full or selective status for certain criteria, based solely upon a demonstration of potential impacts upon their properties under specific criteria. All decisions on non-statutory party status shall be by vote of the Board. All testimony shall be sworn and the Chair shall administer the oath individually to each person who wishes to present testimony.
SITE PLAN REVIEW ORDINANCE

The Chair shall request testimony upon each criterion and standard contained in this Ordinance. The applicant has the burden of proof and will present information as required to show that the requirements of the criterion and/or standard are met, or offer an alternative and provide evidence that the proposed alternative meets the spirit and requirements of the criterion or standard. If the Board previously allowed the applicant to request a waiver of a requirement, criterion or standard, the applicant has the burden of proof to provide information to show that the proposed enterprise will have no greater adverse impact than a single family residence in that regard. Following the applicant’s presentation of evidence intended to show that the proposed enterprise will conform with each specific criterion and each specific standard or to request a waiver as described above, the burden of proof with regard to that criterion or standard shifts to the other parties present. An admitted party may then present evidence as to whether the applicant has satisfied the criterion or standard.

After all testimony and evidence, arguments and rebuttals have been heard, the Board shall decide by vote whether the applicant has met the burden of proof and has satisfied each criterion and/or standard.

7.4.2.d. Within thirty (30) days from the date of completion of the public hearing, the Board shall issue an order denying, approving, or approving with conditions the application. If the Board finds that all the criteria and standards cited above have been met, it shall vote to approve the application. If the Board finds that any of the criteria or standards cited above have not been met, the Board shall either deny the application or approve the application with conditions to ensure the intent of all of the criteria and standards will be met by the proposed enterprise. The Board shall issue conclusions, findings of fact and conditions in writing specifying its reasons for approval, conditional approval or disapproval, which shall be provided to the applicant and all admitted parties. The Board shall require the applicant to record all conclusions of law, findings of fact and conditions in the Office of the Town Clerk of Westport Island simultaneously with the filing of the approved Final Plan at the same Office. The decision of the Board relative to the Final Plan shall be considered the appealable decision of the Planning Board.

7.8. Final Plan Filing Approval
Within six (6) months of the Final Plan Approval, at a regular meeting of the Planning Board, the applicant shall submit two (2) complete sets of the Final Plan Filing, which shall include any revisions agreed to at the Final Plan Approval, and all other required recordable documents (including but not limited to, Findings of Fact, Conclusions of Law and conditions) and all items listed in Section 7.8.1. One (1) set is to be filed at the Office of the Town Clerk of the Town of Westport Island and the second set is to be for the applicant’s record. The Final Plan drawings and maps of the Final Plan Filing shall consist of reproducible, stable-based transparencies.
SITE PLAN REVIEW ORDINANCE

7.B.1. The Final Plan Filing shall include the following:
7.B.1.a. All of the information outlined in Section 6.
7.B.1.b. The name, registration number and seal of the Land Surveyor or Engineer or Planning Consultant who prepared the Plan.
7.B.1.c. All Findings of Fact and Conclusions of Law including conditions of approval, if any, required by the Board.
7.B.1.d. A statement indicating that any change or modification to any aspect of the approved Plan shall be considered an amendment to the Plan and shall require approval of the Board.
7.B.1.e. A signed statement verifying that all necessary State approvals have been obtained including Findings of Fact issued with those approvals.

7.B.2. The Board shall review the Final Plan, and all recordable documents to insure consistency with agreements/conditions/covenants set forth at the Final Plan approval, and if they are complete and consistent, the Board shall sign the Final Plan. If the Board determines that changes have been made beyond those agreed to or required by conditions of the Final Plan Approval, they will follow the procedure described in Section 9. “Revisions to Approved Final Plan”.

7.B.3. No changes, erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Board and endorsed by the signatures of the Board members on the Final Plan.

7.B.4. The approval by the Board of a Final Plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any road, easement, or any open space included in such Final Plan.

SECTION 8. – FEES
8.A. Applications All applications for Final Plan of a Site Plan Review shall be accompanied by a fee to be determined by the Board of Selectmen and posted on the Fee Schedule at the Town Office. In addition, as provided for in Section 5.B.3. the applicant shall pay reasonable review costs incurred by the municipality, including but not limited to, review of the Application by subject experts or by legal counsel. A tentative budget for such review and counsel shall be discussed and agreed to by the Applicant prior to the filing of the Application.

Fees for Revisions to Approved Final Plan shall be determined by the Board of Selectmen and posted on the Fee Schedule at the Town Office. Such fees shall recover the town’s costs to review and administratively process the Revision.
8.B. The Board of Selectmen shall establish and make available to the public, a Fee Schedule for ongoing periodic enterprise inspections as specified in Standards Section 11. of this Ordinance. Such fees shall be set forth to recover Town’s costs of administering the inspection process. The Fee Schedule shall be posted at the Town Office.

SECTION 9 – REVISIONS TO APPROVED FINAL PLAN

9.A. Procedures

9.A.1. An applicant for a review to a previously approved Final Plan shall, at least ten (10) days prior to a scheduled meeting of the Board, request to be placed on the Board’s agenda. If the revision involves major departures from the plans previously approved, the procedure for Final Plan approval shall be followed. If the revision involves only minor modifications of the approved Final Plan, the Board may vote to approve the Revised Final Plan at that meeting, or may, because of the nature of the revisions, vote to use some or all of the procedures for Final Plan approval. For all Board decisions regarding proposed revisions, the Board shall make Findings of Fact and Conclusions of Law and/or conditions as to those decisions. For all approved revisions, with or without conditions, the Board’s Findings shall state that the Revised Final Plan meets the criteria and standards of this Ordinance. Issuance of Findings of Fact and Conclusions of Law, and conditions, if applicable, shall be in no more than thirty (30) days from the decision. The Applicant assumes the risk of proceeding with the revised project until the revision is approved.

9.A.2. If at any time during the construction of the required improvements it is demonstrated to the satisfaction of the Code Enforcement Officer and/or Local Plumbing Inspector that unforeseen conditions make it necessary or preferable to modify the location or design of any required improvement, the Code Enforcement Officer and/or the Local Plumbing Inspector may, authorize minor modifications, provided these modifications are within the spirit and intent of the Board’s approval and do not extend to the waiver or substantial alteration of the function of any improvements required by the Board. The Code Enforcement Officer shall issue any authorization under this section in writing to the Board. The Board may require the filing of a Revised Final Plan depending on the extent of the modification.

9.B. Scope of Review

The Board’s scope of review under Section 9.A.2. and the Code Enforcement Officer and/or the Plumbing Inspector’s review under Section 9.A.2. shall be limited to those portions of the Final Plan which are proposed to be changed. All Findings of Fact and authorizations shall be filed in the Town Office.
SECTION 10. - CRITERIA

10.A. When reviewing any proposed Site Plan Review Application for approval, the Board shall determine whether the proposed enterprise meets the following criteria. The proposed enterprise:

10.A.1. Will not result in undue water or air pollution. In making this determination the Planning Board shall consider: the elevation of land above sea level and its relation to the flood plains; the nature of the soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; the availability of streams for disposal of effluents; and the applicable State and Local health and water resources rules and regulations;

10.A.2. Has sufficient water available for the reasonably anticipated needs of the enterprise;

10.A.3. Will not cause an unreasonable burden on an existing water supply, if one is to be used;

10.A.4. Will not cause unreasonable soil erosion or reduction in the land’s capacity to hold water so that a dangerous or unhealthy condition results;

10.A.5. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways, public roads or roads necessary for access to or within the proposed enterprise;

10.A.6. Will provide for adequate solid and sewage waste disposal;

10.A.7. Will not cause an unreasonable burden on the ability of the Town of Westport Island to dispose of solid waste and sewage with respect to the use of municipal facilities existing or proposed;

10.A.8. Will not place an unreasonable burden on the ability of the Town of Westport Island to provide municipality or government services;

10.A.9. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic site, significant wildlife habitat or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.

10.A.10. Conforms to the Subdivision Ordinance, Comprehensive Plan, Floodplain Management Ordinance, Shoreland Zoning Ordinance, Building Code Ordinance, and any other duly adopted Town Ordinance or Regulation. In making this determination, the municipal review authority may interpret these Ordinances and any other applicable Regulations.
10.A.11. Has the adequate financial and technical capacity to complete the project while meeting the criteria and standards of this and any other applicable Ordinance.

10.A.12. Will not adversely affect, whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, pond, lake, river, or tidal waters as defined in the Mandatory Shoreland Zoning Act, Title 38, chapter 3, subchapter 1, article 2-B, the quality of each body of water or unreasonably affect the shoreline of such body of water.

10.A.13. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.

10.A.14. If any part of the proposed enterprise is in a flood prone area, shall determine the 100 year flood elevation and flood hazard boundaries within the parcel(s) and include a condition of Final Plan Approval requiring that the principal structures in the enterprise will be constructed with their lowest floor, including the basement, at least one foot above the 100 year flood elevation.

10.A.15. Has identified all freshwater wetlands on any maps submitted as part of the application, regardless of the size of these wetlands.

10.A.16. Has identified on any maps submitted as part of the application, any river, stream or brook as defined in the Natural Resources Protection Act, Title 38, Section 480-B, within or abutting the proposed enterprise.

10.A.17. Will provide for adequate storm water management.

10.A.18. Will not cause an unreasonable burden on the ability of the municipality to provide emergency services.

10.A.19. Will fit harmoniously into the rural and residential character as described in the Town of Westport Island Comprehensive Plan.

10.A.20. Will provide for safe handling of all materials and chemicals utilized on the site.

10.A.21. Will provide for safe disposal of all waste materials generated on the site, minimizing the probability of accidental discharge to the environment.

10.A.22. Will provide a proposed time-phased project plan for the completion of facilities and construction items and the proposed dates for occupancy of the premises and commencement of enterprise operations and show how this plan provides for adequate public health and safety.
10.A.23. Will not produce dust, fumes, odors, gases, light or radiation at the lot lines, any greater than that produced by an average single family residence as determined by the Planning Board.

SECTION 11. – STANDARDS
The following Standards are in addition to the requirements of the Town of Westport Island Criteria, (Section 10). Compliance with these Standards may be used to show partial or full compliance with the requirements of the associated judgemental criteria. The following Standards are intended to protect the general welfare of the Town of Westport Island in keeping with the Comprehensive Plan. They are intended to influence the development of enterprises that have potentially greater adverse impact than a single family residence.

11.A. Water Supply and Ground Water Quality and Quantity
11.A.1. Water Supply
11.A.1.a. When a proposed enterprise’s water supply shall be from wells:
   i. A detailed estimate of water usage by the enterprise must be developed by a Licensed Professional Engineer as part of the required review (average daily usage calculations required for each week throughout the year).
   ii. Individual wells shall be sited on the Final Plan and shall be sited at the approved location. Alternate locations may be approved by the Board upon request.
   iii. Lot design shall permit placement of wells, subsurface wastewater disposal areas, and where necessary, reserve sites for subsurface wastewater disposal areas in full compliance with the Maine Subsurface Wastewater Disposal Rules and the Well Drillers and Pump Installers Rules.

11.A.1.b. If a central waste supply system is provided by the applicant, the location and protection of the source, the design, construction and operation of the system shall conform to all pertinent Maine standards, including the Maine Rules Relating to Drinking Water (10-144 A.C.M.R. Section231). An assessment detailing the design, operation and location of the proposed central water supply system, including the long term capacity and endurance of the source of water supply, must be provided and certified by a Registered Professional Engineer.

11.A.2. Hydrogeological Assessment
11.A.2.a. When a proposed enterprise’s water supply shall be from wells, and if the area of the whole parcel being proposed for the enterprise is less than five (5) acres and the estimated peak week water usage is greater than three hundred (300) gallons per day, or if the area of the whole parcel being proposed for the enterprise is greater than five (5) acres and the estimated peak week water usage of the enterprise is greater than four hundred (400) gallons per day, or if potential growth in the enterprise could result in water usage greater than four hundred (400) gallons per day, a hydrogeological assessment including a seventy-two (72) hour pump test,
coordinated and prepared by a Certified Geologist or Registered Professional Engineer is required. Unless the applicant requests in writing and receives a waiver from the Board to not require certain components of the assessment, a hydrogeological assessment requires all of the following information:

i. Detail of the overall design and layout of the water supplies and sewage disposal systems and showing compliance as appropriate with Section 11.A.1.a. and b. above, and also the Maine Rules Relating to Drinking Water (10-144 A.C.M.R. 231).

ii. A seventy-two (72) hour (minimum) pump test on all wells to be utilized by the site. The test is described below:

1) The applicant and the certifying agent must prepare an estimate of the average water usage (average water usage calculation for each week throughout the year).

2) All wells to be utilized will be dug and pumped at maximum sustainable rates for seventy-two (72) hours. Maximum sustainable pump rate at the end of the test must exceed the highest estimated weekly usage in section i above. Before, during and after the seventy-two (72) hour test, the level of nearby streams, ponds, and water supplies on properties within 1500 feet must be monitored and shown not to be adversely impacted by the test. If such monitoring is not possible, a request for waiver of this requirement must be made to the Planning Board sixty (60) days prior to the actual testing, and the Planning Board must approve the request for waiver prior to test commencement. The waiver request must discuss the reasons that such monitoring cannot be conducted and describe what methods in the test to assure that the effects on adjacent water supplies will not be adverse. Water samples of all water supplies in the test, both before and after the seventy-two (72) hour test, must be taken and submitted to an independent certified lab for analysis. The test will be conducted by a Licensed Professional Engineer and a complete report of the test, including the laboratory analysis, will be submitted with the Plan. This report shall include an assessment of the adequacy of the proposed overall water management system design (water supply, sewage disposal, ground water preservation and storm water management), as compared to the State of Maine standards and to currently good practice for islands similar to Westport Island, as determined by the Planning Board of Westport Island. In addition, the analysis and evaluation shall include the following:

a) A statement that the enterprise will have no adverse impact on the quality and quantity of ground water resources available on the parcel in question and on properties abutting the parcel.
SITE PLAN REVIEW ORDINANCE

b) An estimate of the maximum daily water usage of the proposed water supply system without adverse effect on quality and quantity of ground water resources available on the parcel in question and on properties abutting the parcel. This limit shall be placed on the deed(s) of all lots within the parcel.

c) Any lot clearing or temporary road construction necessary to conduct the drilling and testing are subject to normal town standards including building permits and a written plan for temporary erosion and sedimentation protection as well as permanent stabilization measures to follow after testing, regardless of the test result. A copy of the erosion and sedimentation plan for areas impacted by the seventy-two (72) hour test will accompany the test report as part of the Site Plan submission.

iii. A map showing the basic soils types.

iv. The depth to the water table at relevant points throughout the parcel(s) involve.

v. Drainage conditions throughout area to be developed in the enterprise.

vi. Known data on the existing ground water quality and quantity in the area.

vii. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the parcel(s) and within two hundred (200) feet of the parcel(s) boundaries.

viii. An analysis and evaluation of the effect of the enterprise on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentration at any wells within the parcel(s) of the enterprise and at their boundaries.

ix. Projections of ground water quality and quantity shall be based on the assumption of drought conditions (assuming 60% of normal average precipitation).

x. No enterprise shall increase any contaminant concentration in the ground water at any on site well or at the enterprise boundary to more than the Primary Drinking Water Standards. No enterprise shall increase any contaminant concentration in the ground water at any on site well or at the enterprise boundary to more than the Secondary Drinking Water Standards.

xi. If ground water contains contaminants in excess of the primary standards, and the enterprise is to be served by on site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated to comply with standards.
xii. If ground water contains contaminants in excess of the secondary standards, the enterprise shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.

xiii. Any waiver granted by the Board must be based on clear evidence provided by the applicant that circumstances unique to the parcel proposed for the enterprise justify the waiver of a component of the assessment and pose no threat to public health and safety.

xiv. Subsurface wastewater disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce ground water contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the Final Plan, and as restrictions in the deeds to the affected lots.

11.A.2.b. If the whole area of the parcel(s) being proposed for the enterprise is greater than five (5) acres and if the peak week estimated water usage of the enterprise, at present and in the future, is less than 500 gallons per day, normal state and local requirements apply to the enterprise development project. An inspection of the water and sewage disposal systems by the Local Plumbing Inspector shall be conducted at three (3) year intervals to confirm peak week usage and flow rates remain below the five hundred (500) gallons per day flow rate threshold. The Local Plumbing Inspector may require the enterprise to install a water meter and initiate a monitoring schedule or other method to determine if an expansion of use has occurred.

11.A.2.c. A water meter shall be installed to monitor usage for any enterprise with estimated peak week usage greater than five hundred (500) gallons per day or where water is an input requirement of the operating process of the enterprise. Water Usage shall be monitored by the enterprise and inspected and certified as consistent with the originally estimated usage by the Local Plumbing Inspector on a schedule to be established by the Local Plumbing Inspector and approved by the Board. This schedule shall be noted on the Final Plan. The enterprise is responsible for insuring inspections are accomplished on schedule and keeping the water meter fully functional. Failure to comply shall be a violation and subject to penalties as determined by the Board of Selectmen for non compliance, and legal actions to cease or minimize enterprise operations until full functionality is restored.

Actual peak water usage rates greater than 20% or more than the previously approved estimate to a level greater than 500 gallons per day shall trigger a new site plan review as an Expansion of the Enterprise (See Section 12.E.).
SITE PLAN REVIEW ORDINANCE

11.B. – Sewage Disposal
A detailed estimate of sewage flow and chemical analysis of effluent generated by the enterprise must be developed by a State of Maine Licensed Professional Engineer as part of the required review. (average daily sewage flow calculations required for each week throughout the year.)

If the sewage flow of the new or expanded use under this Ordinance is subsurface and to be shared with the flow of another separate use, under the same or different ownership, the estimate of sewage flow and effluent analysis must be combined to include all uses.

11.B.1. Sewage disposal shall be private subsurface wastewater disposal systems or a private treatment facility.

11.B.2. The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator/Soil Scientist to be in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.

11.B.2.a. This evidence may include a test pit log showing the results of an analysis demonstrating suitability for subsurface sewage disposal or a high intensity soil survey by identifying soils boundaries within the parcel(s) and naming soils types, including determination of soils suitability for the intended uses. Wetland areas shall be identified on the survey. The Site Evaluator shall certify in writing that test pits within the proposed sewage disposal area(s) meet the requirements for a new system and are located in an area with enough acceptable soils to meet the Disposal Rules and accommodate the proposed waste volume, including a suitable safety factor.

11.B.2.b. Variances from the Subsurface Wastewater Disposal Rules promulgated by the State of Maine Department of Health, including but not limited to, holding tanks and overboard discharge systems are not allowed.

11.B.3. The design of any private sewage treatment facility must be certified by a Maine Licensed Professional Engineer to meet all applicable State of Maine standards.

11.B.4.a. If the area of the whole parcel being proposed for the enterprise is less than five (5) acres and the estimated peak week water usage is less than three hundred (300) gallons per day, or if the area of the parcel being proposed is greater than five (5) acres and the estimated peak week water usage of the enterprise is less than five hundred (500) gallons per day, normal state and local requirements apply to the project.

11.B.4.b. For continued peak week average subsurface sewage flow estimates exceeding the threshold levels in Section 11.B.4.a.
1) Systems must have a dual alternating processing and distribution capability (e.g., leach fields), each processing and distribution capability designed to handle the peak week estimated flow. The system design must be stamped by a Licensed Civil Engineer and approved by a Licensed Site Evaluator certified by the State of Maine.

2) Final installation of the system must be inspected and approved by the Local Plumbing Inspector and certified by the same Licensed Civil Engineer cited in Section 11.B.4.b. subsection 1) above, in accord with the approved Final Plan.

11.B.5. Effluent Treatments If the effluent of the enterprise includes process waste from enterprise operations or includes chemicals or substances different in content or higher in concentration than that typical of a single family residence, the effluent must be treated or processed in a system approved by the Maine Department of Health such that the effluent that enters the subsurface distribution system meets State of Maine Domestic Sewage Disposal standards and is typical of or better (in chemical content and concentration) than the domestic waste water associated with a single family residence.

11.B.6. Sewage treatment and disposal systems shall be inspected and certified as fully functional by the Local Plumbing Inspector on a schedule to be established by the Local Plumbing Inspector and approved by the Board. This schedule shall be noted on the Final Plan. The enterprise is responsible for insuring inspections are accomplished on schedule and for keeping the system fully functional. Failure to comply shall be a violation and subject to penalties to be determined by the Board of Selectmen and legal action until full functionality is restored.

11.C. Soil Erosion and Sedimentation
All building, site and roadway design and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible, such that filling, excavating and earth moving activity must be kept to a minimum. Parking lots on sloped sites must be terraced to avoid cut and fill, and/or the need for retaining walls. Natural vegetation must be preserved and protected whenever possible.

An Erosion and Sedimentation Control Plan shall be prepared in accordance with the Maine Erosion and Sedimentation Control Handbook for Construction, Best Management Practices, latest revision, prepared by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, which is incorporated herein by reference and made a part thereof. This plan shall be prepared either by a Professional Civil Engineer or by a Certified Professional in Erosion and Sedimentation Control (CPESC). At a minimum the following items shall be discussed and provided:

11.C.1. A vicinity map showing the location of water bodies that may be affected by erosion and sedimentation from the project;
11.C.2. Existing and proposed drainage patterns, including drainage channels that drain to surrounding water bodies;

11.C.3. A sequence of work that outlines how the project will be constructed and specifically addresses how soil disturbance will be minimized during the construction process;

11.C.4. Clear definition of the limits of work and buffer areas that will remain undisturbed and a statement of how these areas will be protected during construction;

11.C.5. Description of temporary and permanent erosion control practices to be used;

11.C.6. Identification of the locations of the temporary and permanent erosion control practices;

11.C.7. Identification of how and where, collected sediment will be disposed;

11.C.8. Dust control measures;

11.C.9. Inspection and maintenance procedures including scheduling and frequency. The Board may request the review and endorsement of this plan by the Knox-Lincoln Soil and Water Conservation District. The applicant shall agree as a part of the application that the procedures outlined in the Soil Erosion and Sedimentation Control Plan shall be implemented during the site preparation, construction and clean up stages. The name, address, and telephone number of the person responsible for implementation of the Plan shall be provided to the Code Enforcement Officer and the Local Plumbing Inspector prior to the commencement of any construction.

11.D. Streets and Roads

11.D.1. For enterprises that generate less than an average of thirty (30) vehicle trips per day and whose ways of access and egress are not shared by another parcel in different ownership, normal road and driveway zoning standards apply. For enterprises that generate an average of thirty (30) or greater vehicle trips per day or whose ways of access and egress are shared by another parcel in different ownership, the Town of Westport Island Subdivision Ordinance, Road and Street Standards shall apply with one modification:

**Minimum Road Width**

<table>
<thead>
<tr>
<th>Trip Generation</th>
<th>Minimum Road Width</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 30 vehicle trips per day</td>
<td>14 feet</td>
</tr>
<tr>
<td>31 to 100 vehicle trips per day</td>
<td>16 feet</td>
</tr>
<tr>
<td>More than 100 vehicle trips per day</td>
<td>18 feet</td>
</tr>
</tbody>
</table>

Trip generation estimates shall be consistent with methods recommended in the latest edition of “Trip Generation”, published by the Institute of Transportation Engineers.
11.D.2. Adequacy of the Road System

11.D.2.a. Vehicular access to the site must be on roads, which have adequate capacity to accommodate the additional traffic generated by the enterprise.

11.D.2.b. The applicant must provide a detailed estimate of the average vehicular traffic, both peak hour and average daily by week (average usage calculations for each week throughout the year), consistent with “Maine Department of Transportation standards and Usage Tables”. For projects which will generate greater than two hundred and fifty (250) vehicular trips per day average during peak week, the project must be located to have dedicated, on site, privately maintained access to the Main Road (Rt. 144). This requirement may be waived by the Planning Board if it determines that the project will not have an unnecessary adverse impact on traffic flow or safety.

11.D.3. Access into the Site

11.D.3.a. Vehicular access to and from the development must be safe and convenient.

11.D.3.b. Where a lot has frontage on two (2) or more roads, the primary access to and egress from the lot must be provided from the road, which has less potential for traffic congestion and for traffic and pedestrian hazards.

11.D.3.c. The following criteria must be used to limit the number of driveways serving a proposed project:
No use shall have more than two (2) points of entry and two (2) points of egress. The combined width of all access ways must not exceed sixty (60) feet.


11.D.4.a. The layout of the site must provide for the safe movement of passenger service, and emergency vehicles through the site. Enterprises that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing for a minimum of two (2) vehicles typical of those to be employed.

11.D.4.b. Clear routes of access must be provided and maintained for emergency apparatus and personnel and must be posted with appropriate signage (e.g. FIRE LANE – NO PARKING).

11.D.4.c. The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.

11.D.4.d. All roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil
erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction. The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow removal and storage, and delivery and collection services.

11.D.5. Parking Layout and Design
Employee, customer and supplier parking shall be provided for on-site. On-site parking must conform to the following standards:

11.D.5.a. Parking areas with more than two (2) parking spaces must be arranged so that it is not necessary for vehicles to back into the road.

11.D.5.b. All parking spaces, access drives, and impervious surfaces must be located at least forty (40) feet from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces shall be located within seventy-five (75) feet of the front property line. Parking lots on adjoining lots may be connected by access ways not exceeding twenty-four (24) feet in width.

11.D.5.c. Parking stalls and aisle layout must conform to the following standards:

<table>
<thead>
<tr>
<th>Parking Angle</th>
<th>Stall Width</th>
<th>Skew Width</th>
<th>Stall Depth</th>
<th>Aisle Width</th>
</tr>
</thead>
<tbody>
<tr>
<td>90 degree way</td>
<td>9’-0”</td>
<td>18’-0”</td>
<td>24’-0”</td>
<td></td>
</tr>
<tr>
<td>60 degree way only</td>
<td>8’-6”</td>
<td>10’-6”</td>
<td>18’-0”</td>
<td>16’-0”</td>
</tr>
<tr>
<td>45 degree way only</td>
<td>8’-6”</td>
<td>12’-9”</td>
<td>17’-6”</td>
<td>12’-0”</td>
</tr>
<tr>
<td>30 degree only</td>
<td>8’-6”</td>
<td>17’-0”</td>
<td>17’-0”</td>
<td>12’-0”</td>
</tr>
</tbody>
</table>

11.D.5.d. In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings or other permanent indications and maintained as necessary.

11.D.5.e. Parking areas must be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles.

11.D.5.f. Provisions must be made to restrict the “overhang” of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.
The site plan must provide for a system of pedestrian ways within the development appropriate to the type and scale of development. This system must connect the major building entrances and exits with parking areas and with existing sidewalks, if they exist or are planned in the vicinity of the project. The pedestrian network may be located either in the road right-of-way or outside the right-of-way in open space or recreation areas.

11.E. Site Clearing and Common Land
11.E.1. The enterprise shall limit the clear cutting of trees to a minimum level consistent with the necessary functions of the enterprise and a note to that effect shall stipulate those clear cut areas on the Final Plan.

11.E.2. Reservation or Dedication and Maintenance of Common Land, Facilities and Services
11.E.2.a. All common land, facilities and property shall be controlled by an association which has as its principal purpose the conservation or preservation of land in essentially its natural condition.

11.E.2.b. Further subdivision of the common land and its use for other than non-commercial recreation, or conservation purposes, except for easements for utilities, shall be prohibited. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the common land.

11.E.2.c. The common land shall be shown on the Final Plan with appropriate notations on the Final Plan to indicate that it shall not be used for future building lots.

11.E.2.d. Common land shall not be designated as open space, permanently protected open space, public access open space or forever wild open space.

11.F. Storm Water Management
A Storm Water Management Plan prepared by a Registered Professional Engineer, shall be designed so that the post development storm water runoff does not exceed the pre-development storm water runoff for the 24 hour duration of 2 year, 10 year, and 25 year frequency storm events. The storm water plan shall be prepared in accordance with “Storm Water Management for Maine: Best Management Practices”, latest edition, prepared by the Maine Department of Environmental Protection, which is incorporated herein by reference and made a part thereof. The storm water plan shall include the following information for the pre and post development conditions: drainage area boundaries, hydrologic soils groups, ground cover type, time of concentration flow paths, modeling methodology, calculations, and background data. The Board may
require review and endorsement of the storm water plan and calculations by the Knox Lincoln Soil and Water Conservation District.

11.G. Emergency Municipal Services
11.G.1. Roads, Streets and Driveways

11.G.1.a. Any road, street or driveway, public or private, within the enterprise shall provide turnaround capability for emergency vehicles within one hundred (100) feet of all primary structures serviced by said road, street or driveway.

11.G.1.b. Any road, street or driveway, public or private, within the enterprise shall be constructed such that emergency vehicles shall have unimpeded access and egress between all primary structures within the enterprise and the nearest turn around position.

11.G.2.a. Any proposal for a new enterprise shall include a site fire protection plan. The plan shall provide adequate ingress and egress for emergency vehicles and identify a source(s) of water supply for firefighting as outlined by the National Fire Protection Association Standards (NFPA 1142, Standards on Water Supplies for Suburban and Rural Fire Fighting), and/or other provisions for any additional elements mutually agreed to with the Town’s Fire Chief, as needed to ensure adequate fire protection. A review of the Plan by the Town’s Fire Chief shall be done prior to the public hearing.

11.G.2.b. Full coverage sprinkler systems shall be installed in all new principal structures consistent with NFPA 13 2002 as revised or amended.

11.H. Financial and Technical Capacity
11.H.1. Financial Capacity
The applicant may show financial capacity through a demonstration that the property to be developed is owned in fee simple, with no outstanding economic encumbrances and has an assessed value large enough to cover the cost of proposed public and quasi-public improvement or the cost, reasonably, to restore the project site to its original condition whichever is greater or,

11.H.2. Make an offer of a budget for the construction of all necessary facilities, accompanied by a clear statement by a contractor who has worked recently in the local area that the proposed developments can be constructed for the budgeted amount. This offer must be accompanied by an irrevocable letter of credit, or a bond furnished by an insurance carrier authorized to do business in Maine, sufficient to cover the budgeted amount.
11.l. Monuments
Permanent monuments shall be set at all corners and angle points of the enterprise lots and boundaries; and at all intersections and points of curvature. All monuments shall be constructed and embedded in the ground in accordance with commonly accepted good surveying practices.

11.j. Road Names and 911 Addresses
Roads, which join or are in alignment with roads of abutting or neighboring properties, shall bear the same name. Names of new roads shall not duplicate, nor bear phonetic resemblance to the names of existing roads within the municipality, nor in neighboring communities, and shall be subject to the approval of the Board of Selectmen. Prior to Final Plan Approval, the applicant shall contact the 911 Officer or Deputy to provide 911 addresses for all lots in the enterprise.

11.k. Surface Drainage
11.k.1. All improvements recommended in the drainage plan submitted pursuant to Section 11.f. shall be shown on the approved plan.

11.k.2. Topsoil shall be considered part of the enterprise. Except for “surplus” topsoil for roads, parking areas and building excavation, it is not to be removed from the site.

11.k.3. Except for normal thinning and landscaping, existing vegetation shall be left intact to prevent soil erosion. The Board shall require the applicant to take measures to correct and prevent soil erosion in the proposed enterprise as detailed in the Sedimentation and Erosion Plan submitted pursuant to Section 11.c.

11.k.4. To prevent soil erosion of shoreline areas, tree cutting on the shoreline shall conform to the Shoreland Zoning Ordinance of the Town of Westport Island, as amended.

11.l. Utilization of the Site
The plan for the development must reflect the natural capabilities of the site to support development. Buildings, lots, and support facilities must be clustered in those portions of the site that have the most suitable conditions for development. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes, floodplains, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers must be maintained and preserved to the maximum extent. Natural drainage areas must also be preserved to the maximum extent. The development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.
SITE PLAN REVIEW ORDINANCE

11.M. Utilities
The development must be provided with electrical, telephone and telecommunication service adequate to meet the anticipated use of the project. New utility lines and facilities must be screened from view to the extent feasible.

11.N. Natural Features
11.N.1. The landscaping must be preserved in its natural state insofar as practical by minimizing tree removal, disturbance and compaction of soil, and by retaining existing vegetation insofar as practical during construction. Extensive grading and filling must be avoided as far as possible.

11.N.2. All structures, signage, driveways and parking areas must be located on the lot to maximize the aesthetic appearance of the site and to retain to the maximum possible extent the rural character of the site.

11.N.3. Landscaping must enhance the natural appearance of the site.

11.N.4. All proposed site development located on Route 144 requires a natural buffer of fifty (50) feet along Route 144. All proposed site development not located on Route 144 requires a natural buffer of thirty (30) feet on its frontage road. All proposed site development must retain twenty (20) foot natural buffers along all other boundaries. The Board may, for enterprises whose buildings and parking areas exceed 10,000 square feet, require applicant to landscape a buffer if an adequate pre-existing natural buffer is not present.

11.O. Harmful, Hazardous, Special and Radioactive Materials
11.O.1. The handling, storage, transportation, use and disposal of all materials identified by the standards of a federal or state agency as hazardous, special or radioactive must be in compliance with the standards of these agencies.

11.O.2. No flammable or explosive liquids, solids or gases shall be stored in bulk above ground unless they are located at least seventy-five (75) feet from any lot line. All materials must be stored in a manner and location, which is in compliance with appropriate rules and applicable regulations of the NFPA, Maine Department of Public Safety and other appropriate federal, state and local regulations.

11.O.3. Any storage facility for fuel, chemicals, wastes or any potentially harmful materials shall be located on impervious pavement and shall be completely enclosed by an impervious dike high enough to contain the total volume of material kept in the storage facility, plus the accumulated rainfall of a fifty (50) year storm (if outdoor storage). Any alternative storage containment method shall provide superior protection to the environment and shall be approved by a Licensed Professional Engineer.
11.P. Solid Waste Management
The proposed development must provide for adequate disposal of non-hazardous solid wastes. All solid waste must be disposed of at a licensed disposal facility having adequate capacity to accept the project’s wastes.

11.Q. Dust, Gases, Odors, and Radiation
The creation of emissions of dust, dirt, fly ash, fumes, vapors, gases or radiation which could be injurious to human health, animals or vegetation; detrimental to the enjoyment of adjoining or nearby properties; or which could soil or stain persons or property or disrupt normal activities at any point beyond the lot line of the enterprise creating the emission, shall be prohibited. In addition, no enterprise shall be permitted to produce harmful, offensive or bothersome odors, scents or aromas which are clearly incompatible with the surrounding environment and perceptible beyond their lot lines, either at ground or habitable elevation. The location and vertical height of all exhaust fans, vents, chimneys or any other sources discharging or emitting smoke, fumes, gases, vapors, odors, scents or aromas shall be shown on the Plan with a complete description of the source materials. Analysis of sources, locations and levels of electromagnetic radiation emitted from the enterprise shall also be shown on the Plan.

11.R. Lighting
11.R.1. Lighting shall be controlled in both height and intensity to maintain a rural character. To achieve this, luminaries shall be shielded to prevent light shining beyond the lot lines onto neighborhood properties or public ways.

11.R.2. Light standards are restricted to a height of twenty (20) feet.

11.R.3. All lighting (except minimal required for security purposes) shall be turned off between the hours of 9:00 PM and 6:00 AM. Any exception must be approved by the Board and based on the enterprise’s operational requirements.

11.S. Noise
Noise from sources related to enterprise operations shall be controlled to maintain the rural character of the Town.
Sound pressure emanating from enterprise sources measured four (4) feet above the ground surface at the lot lines shall not exceed the following levels:

7:00 AM to 9:00 PM 50dBA*
9:00 PM to 7:00 AM 40dBA**

*This level may be exceeded by 10dBA for a single period of 30 minutes in any one (1) day.
** 40dBA is equivalent to quiet conversation.
11.T. Facades
  
11.T.1. It is particularly important that new construction, as viewed from the public ways, meets minimum design criteria to blend harmoniously with the rural character of a coastal New England town as envisioned in the Westport Island Comprehensive Plan.

11.T.2. Exterior colors shall be consistent with a rural vista. Colors such as white or those known as “colonial colors” shall be utilized.

11.T.3. The design of the building shall be compatible with New England buildings such as barns and sail lofts. Exterior siding shall resemble clapboard, shingle or other siding commonly seen in rural New England.

11.U. Construction Standards
Electrical service to the enterprise and the electrical wiring within the enterprise shall be safe and adequate for the intended use and certified by a Licensed Electrician to be consistent with all applicable industry and state standards.

11.V. Signs
11.V.1. The following provisions shall govern the use of signs:
   
   11.V.1.a. Signs and billboards relating to enterprise name and/or 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 eight (8) feet in any direction. No more that two (2) signs per premises shall be allowed.

   11.V.1.b. Billboards and signs relating to goods or services not sold or rendered on the premises shall be prohibited.

   11.V.1.c. No sign shall extend into a public way (including any shoulder).

   11.V.1.d. No sign shall be higher than twenty (20) feet above the ground.

   11.V.1.e. No sign may be mounted to trees, utility poles, or other natural objects that protrude above the ground.

   11.V.1.f. No sign shall be mounted on or above any roofs.

   11.V.1.g. Signs may be reflectively illuminated only by shielded, non-flashing, clear incandescent lights during the hours specified in Section 11.R.

   11.V.1.h. No signs may have any moving parts.

11.V.2. Signs not in conformance with the provisions of this standard and which existed at the time of the adoption of this Ordinance shall be allowed to remain and be maintained. No non-conforming sign shall be reconstructed, remodeled, relocated, or
SITE PLAN REVIEW ORDINANCE

changed in size or content (including trade name, different words, letters or numbers, new design, different colors or different logo) unless such change(s) will make the sign conforming in all respects to the above standards.

11.W. Minimum Lot Standards

11.W.1. For new enterprises requiring site plan review:

<table>
<thead>
<tr>
<th>District</th>
<th>Minimum Lot Area (acres)</th>
<th>Minimum Frontage (feet)</th>
<th>Minimum Shore Frontage (feet) (If applicable)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Limited Development</td>
<td>3</td>
<td>250</td>
<td>250</td>
</tr>
<tr>
<td>Limited Residential/Commercial</td>
<td>3</td>
<td>250</td>
<td>250</td>
</tr>
<tr>
<td>Comm. Fisheries/Maritime Activ.</td>
<td>2</td>
<td>150</td>
<td>150</td>
</tr>
</tbody>
</table>

Commercial enterprises are prohibited in the Resource Protection Districts.

11.W.2. Land below the normal high water line of a water body or upland edge of a wetland shall not be included toward calculating minimum lot area.

11.W.3. 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 2, 1971.

11.W.4. The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.

11.W.5. If more than one principal enterprise is constructed on a single parcel, each additional principal enterprise shall require an additional one hundred and fifty (150) feet of frontage, lot width and shore frontage, if applicable. All other dimensional requirements, including minimum lot size shall be met for each additional principal structure.

11.X. Principal and Accessory Structures

11.X.1. All new principal and accessory structures shall be set back one hundred (100) feet from any body of water, tributary stream, or the upland edge of a wetland, except that in the Commercial Fisheries/Maritime Activities Districts there shall be no minimum setback for water dependent structures and uses.

11.X.2. Principal or accessory structures and expansions of existing structures which are permitted in the Limited Development Districts and the Limited Residential/Commercial Districts shall not exceed thirty-five (35) feet in height. This provision shall not apply to
SITE PLAN REVIEW ORDINANCE

structures such as transmission towers, windmills, and similar structures having no floor area. The above cited structures are not permitted in Resource Districts.

11.X.3. Minimum Lot Width
No principal or accessory structure shall be erected on a lot having a width of less than two hundred fifty (250) feet in the Limited Development District and the Limited Residential/Commercial District and one hundred fifty (150) feet in the Commercial Fisheries/Maritime District, measured through that part of the building where the lot is narrowest.

11.X.4. Set Back
11.X.4.a. No building or structure or any portion thereof shall be erected within seventy-five (75) feet 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 (16 1/2) feet from the center of the road or street.

11.X.4.b. Driveways and access ways from public or private roads shall not be erected within forty (40) feet of side property lines.

11.X.5. Side Yards and Rear Yards
11.X.5.a. For every enterprise building erected in any district, there shall be a minimum side lot clearance on each side of said building of not less than seventy-five (75) feet, which space shall remain open and unoccupied by any structure.

11.X.5.b. No enterprise building or structure or any portion thereof except steps and uncovered porches extending less than ten (10) feet from such building shall be erected within seventy-five (75) feet of any back line.

11.X.6. Corner Lots
The setback building line on a corner shall be in accordance with the provision governing the road or street on which the building faces. If possible, the side lot clearance on the side road 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 seventy-five (75) feet from the right-or-way sideline.

SECTION 12. – INSPECTION AND ENFORCEMENT

12.A. Consistent with the approved time-phased project (Section 6.B.2.r.), upon completion of each approved phase of construction prior to the approved occupancy of the premises, and/or commencement of enterprise operation, the applicant shall submit to the Board, a signed and stamped statement by a Registered Professional Engineer stating that the project phase has been constructed in accordance with the approved plan. Also the applicant shall request approval of the Board to occupy the premises, and to commence
SITE PLAN REVIEW ORDINANCE

enterprise operations, consistent with the approved time-phased project plan (Section 6.B.2.r.). The Board shall approve, approve with conditions or deny requests for occupancy or commencement of operations within thirty (30) days of the request and issue findings of fact.

12.B. It shall be the duty of the Board of Selectmen or their appointed agent, including but not limited to, the Code Enforcement Officer and/or the Local Plumbing Inspector, to enforce this Ordinance. The Board of Selectmen or their appointed agent may conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to the approved application.

12.C. If the Board of Selectmen or their appointed agent finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the Final Plans, recordable documents and specifications filed by the applicant at the Town Office, the inspecting official shall so report in writing to the Board of Selectmen, the Board, the applicant and the builder. This report in writing shall constitute notice of violation. The Board of Selectmen shall take legal steps necessary through the consent order process to assure compliance with the approved Final Plans. Failure by the applicant to act in accordance with the Final Plans as approved, shall be a violation and subject to penalties to be determined by the Board of Selectmen.

12.D. The applicant may request, following completion of all construction related to any phase of the approved time-phased project plan, that the Board review the project and certify that the conditions relating to that construction have been met.

12.E. If the Local Plumbing Inspector or other authorized agent finds upon ongoing period inspections as specified in the Standards Section 11. that required systems are not performing as specified in the Final Plan, or concentrations exceed limits of the standard, the inspecting official shall so report in writing to the Board of Selectmen, the Planning Board, the current owner and enterprise management. This report in writing shall constitute notice of violation. The Board of Selectmen shall take legal steps necessary to assure timely compliance with the approved Final Plans. Failure by the applicant to act in accordance with the Final Plans as approved, shall be a violation and subject to penalties to be determined by the Board of Selectmen.

If ongoing periodic inspections show increased water or septic usage beyond the thresholds allowed by the ordinance, the inspection official shall report such increased levels in writing to the Board of Selectmen, the Board, the current owner and enterprise management. This report in writing shall constitute notice of Expansion of Use and require a Site Plan Review application to be filed with the Board within three (3) months of such notice. Failure to reapply for Site Plan Review within three (3) months based on this expansion of use shall constitute a violation and the Planning Board shall provide notice of such violation in writing to the owner and occupants and to the Board of Selectmen. The Board of Selectmen shall take any legal steps necessary to assure continued compliance with this Ordinance. Failure
by applicant to act in accordance with the Final Plans as approved, shall be a violation and subject to penalties to be determined by the Board of Selectmen.

12.F. Violations
   12.F.1. Occupancy of the premises or commencing enterprise operations without approval of the Board is not allowed.
   
   12.F.2. No public utility or any utility company of any kind shall provide new service to any enterprise for which a Final Plan has not been approved by the Board.
   
   12.F.3. Development of an enterprise specified in Section 3.B. without Board approval shall be a violation of law.
   
   12.F.4. Any person, firm, or corporation being the owner of or having control or use of any building or premises, and who violated any of the provisions of this Ordinance, shall be penalized in accordance with Title 30-A M.R.S.A. Section 4452, subsection 3.
   
   12.F.5. Violations of the above provisions of this section are a nuisance and shall be punished in accordance with the provisions of Title 30-A M.R.S.A. Section 4452, subsection 3. Each day such a violation is permitted to exist after notification shall constitute a separate offence. The Board of Selectmen, or their authorized agent(s), are hereby also authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering penalties without court action.

SECTION 13. – APPEALS
If a person, firm, corporation or other legal entity is aggrieved by any aspect of this Ordinance, an appeal may be made to the Board of Appeals.

   13.A. Any appeal to the Board of Appeals shall be filed on a Board of Appeals application form, and shall include all required submissions as well as the Board of Appeals fee. See the Fee Schedule, application form and instructions at the Town Office.
   
   13.B. All appeals shall be filed within thirty (30) days of the action or decision, which is being appealed. The application shall specify all points and reasons for appeal.
   
   13.C. The Board of Appeals shall hold an appellate hearing if the decision or action being appealed is from the Planning Board or a de novo hearing if the decision being appealed is from the Code Enforcement Officer within thirty-five (35) days of the receipt of the completed application, and may affirm, modify or reverse the decision or action. The Board of Appeals shall inform the applicant of the decision in writing within seven (7) days of its decision.
SITE PLAN REVIEW ORDINANCE

13.D. Any aggrieved party may appeal the Board of Appeals decision to the Superior Court within forty-five (45) days of the date of such decision pursuant to Rule 80B of the Maine Rules of Civil Procedure.

SECTION 14. – REVOCATION OF A PERMIT

14.A. A permit may be revoked only because of administrative error or fraud during the original application process.

14.B. Procedures for Revocation of a Permit
Any party, the Board of Selectmen or their appointed agent(s) may present information regarding administrative error or fraud to the Board.

14.B.1. Fraud

14.B.1.a. If the Board determines that a significant fraudulent testimony may have been submitted, it shall hold a noticed public hearing. Notice shall be sent to the applicant and all others to whom notice was required to be sent for the original approval. If, following the hearing the Board determines that there is credible information that the facts submitted in support of the application may be fraudulent, no matter the cause, the Board may forward the request to the Board of Appeals that the permit be revoked.

14.B.1.b. The Board of Appeals shall hold a noticed public hearing following the receipt of a request for revocation from the Board, providing that the Board’s request was received within two (2) years of the Board’s final decision to approve the enterprise.

14.B.1.c. The Board’s Chairman or a properly approved representative shall attend the Board of Appeals hearing and present appropriate evidence as to information submitted to it, its deliberations and subsequent decision. The burden of proof that fraud occurred shall however, rest with the party claiming fraud.

14.B.1.d. The Board of Appeals may revoke a permit for a fraud upon finding that:
   i. The facts presented by the applicant during the approval process were significantly and purposely in error, and
   ii. Such facts were material to the decision to approve the application, and
   iii. The availability of the true facts at the time of the application may have caused a denial of the application.

14.B.2. Administrative Errors
Appeal on the basis of administrative error shall be made only by admitted and statutory parties. It shall be made to the Board of Appeals, and may only be entertained
SITE PLAN REVIEW ORDINANCE

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

SECTION 15. – SEVERABILITY

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

SECTION 16. – DEFINITIONS

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

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

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

Accessory Structure: A detached, subordinate structure, the use of which is clearly incidental and related to that of the principal structure or use of the land, and which is located on the same lot as that of the principal structure or use. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

Accessory Use: A use or activity which is incidental and subordinate to the principal use. Accessory uses, when aggregated shall not subordinate the principal use of the lot.

Agriculture: The production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to, forages and sod crops, grains and seed crops, dairy animals and dairy products, poultry and poultry products, livestock, fruits and vegetables, and ornamental and green house products. Agriculture does not include forest management and timber harvesting activities.

Applicant: The person submitting any application under the provisions of this Ordinance including a firm, association, organization, partnership, trust, estate, governmental agency, municipality, company, corporation, two or more individuals having a joint or common interest, or other legal entity, as well as an individual.
Average Daily Traffic (ADT): The predicted number of vehicles that enter and exit the premises during the day, based on the trip generation rates in the latest edition of “Trip Generation” published by the Institute of Transportation Engineers.

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

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

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

Coastal Wetlands: All tidal and sub-tidal lands, all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat, and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest spring tide level for the year, as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes. Note: All areas below the maximum spring tide level are coastal wetlands. These areas may consist of rocky ledges, sand dunes and cobble beaches, mud flats, etc. in addition to salt marshes and salt meadows.

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 product of revenue from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

Common Land: Land within or related to a subdivision, not individually owned or within an individual lot, which is designated and intended for the common use or enjoyment of the residents of the development. It may include complimentary structures and improvements, typically used for maintenance and operation of the common space, such as for outdoor recreation. Common land may also be set aside in a property used for commercial purposes.

Complete Application: An application shall be considered complete upon submission of the required fee and all information required by this Ordinance, or by a vote by the Board to waive the submission of required information pursuant to Section 5.B.2. The Board shall issue a written statement to the applicant upon its determination that an application is complete.

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

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.

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

Driveway: A vehicular access way serving two lots or less,

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

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

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

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

Final Plan: The complete set of items required in Section 6.B. describing the proposed enterprise, which are to be submitted to the Board for its review and decision.

Final Plan Filing: The recordable version of the approved Final Plan reflecting all changes to the Final Plan agreed to as part of the final approval and all other recordable documents described in Section 7.B.1. which are signed by the Board and filed with other recordable documents at the Town Office of Westport Island

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

**Freshwater Wetland:** Freshwater swamps, marshes, bogs, and similar areas other than forest wetlands, which are: 1) Of ten (10) or more contiguous acres, or of less than ten (10) contiguous acres and adjacent to a surface water body excluding any river, stream or brook, such that, in a natural state the combined surface area is in excess of ten (10) acres, and 2) is inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils, and not considered a part of a coastal wetland, river, brook or stream. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to this definition.

**Frontage:** That portion of a lot fronting upon and providing rights of access to a public or private road listed on the Schedule of Town Roads on file with the Town Clerk, or to an approved or accepted new right-of-way laid out in accordance with the Subdivision Ordinance, to be measured continuously along a single street line. Owners of lots fronting upon two roads shall use the less travelled road to be considered “frontage”. On a corner lot frontage shall be measured to the point of intersection of the extension of the side lines of the roads. The minimum frontage for permitted uses within the Town of Westport Island must be met by contiguous frontage within the Town of Westport Island on an approved or accepted right-of-way in the Town of Westport Island. Alternatively, frontage may be considered to be shore frontage.

**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 which 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.

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

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

**Lot Area:** The area of land enclosed within the boundary lines of a lot, minus land below the normal high water line of a water body or upland edge of a wetland and areas beneath roads serving more than two (2) lots.

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

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

**Minimum Lot Width:** The closest distance between the side lot lines of a lot. When only two lot lines extend into the Shoreland Zone, both lot lines shall be considered side lines.

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

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

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

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

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

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

**Non-conforming Structure:** A structure which does not meet any one or more of the criteria or standards of this Ordinance and is associated with a non-conforming Enterprise, which pre-existed at the time this Ordinance or subsequent amendments took effect.

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

**Normal High Water Line:** That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high water are considered part of the river or great pond. Note: In the case of tidal waters, setbacks are measured from the upland edge of the “coastal wetland”.

**Party:** Owners of record of immediately adjacent property; owners of record of property located immediately across a public road or right-of-way; other property owners who having
shown the Planning Board that their property may be affected by the proposed development under a specific criterion or standard, shall be admitted by the Planning Board with participation limited to that criterion or standard.

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

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

**Principal Structure:** A building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

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

**Residential:** Pertaining to one or two Residential Dwelling Units on land in common ownership.

**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 regardless of the time period rented. Recreational vehicles are not residential dwelling units.

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

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

**Shore Frontage:** The length of a lot bordering on a water body 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 or river, within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within two hundred and fifty (250) feet of the upland edge of a fresh water wetland; or within seventy-five (75) feet, horizontal distance, of the normal high water line of a stream.
**Sight Distance:** The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Used in this *Ordinance* as a reference for unobstructed road visibility. Sight distance is measured from the perspective of a hypothetical person seated in a vehicle.

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

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

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

**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.

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

TOWN OF WESTPORT ISLAND
PIPELINE CONTROL ORDINANCE
(No date for adoption)
Amended June 29, 2013

SECTION 1. PURPOSE
In order to assure the comfort, convenience, safety, health and welfare of the people of the Town Of Westport Island and to protect the environment and the natural water sources of the people of the Town of Westport Island, the following Ordinance is hereby adopted.

SECTION 2. – AUTHORITY
This Ordinance is adopted pursuant to and consistent with the Town’s Home Rule authority under 30-A M.R.S.A. Section 3001 and Art. VIII, Pt. 2. Section 1. of the Maine Constitution.

SECTION 3. APPLICABILITY
No person, firm, corporation or other legal entity shall install, construct or lay any pipe, conduit, tunnel, aqueduct or other vessel having a diameter larger than six inches for the transportation of fluid or gas unless they shall have obtained an approval from the Planning Board of the Town of Westport Island, and a permit from the Code Enforcement Officer.

SECTION 4. – PROCEDURE
An application for a permit required under Section 3 of this Ordinance shall be filed with the Planning Board and shall contain:

4.A. Name, address and telephone number of applicant,
4.B. Statement of the nature of the proposed project and purpose,
4.C. Topographic map and survey of area affected by the project, together with description of natural areas affected,
4.D. Projected cost of the project,
4.E. Specifications of intended materials,
4.F. Erosion and sedimentation control measures,
4.G. Form for Fire Chief to be notified of the presence of any existing or planned underground propane tanks,
4.H. Any federal or state approvals required,
4.I. Any other information necessary to show compliance with the standards in Section 6. of this Ordinance.

SECTION 5. – FEES
A filing fee is posted on the Fee Schedule at the Town Office and shall be made payable to the Town of Westport Island at or before any review of the application.

SECTION 6. – STANDARDS
The Planning Board, when reviewing an application submitted pursuant to Section 4, shall, in order to protect the public’s health, safety and welfare, determine that the proposed project:
6.A. Will not adversely affect surface or subterranean water supplies either by contamination or physical damage to a water source;
6.B. Will not result in undue water or air pollution;
6.C. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
6.D. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, property values, or rare and irreplaceable natural areas,
6.E. Is in conformance with any applicable local, State or Federal land use or environmental regulation;
6.F. In all instances, the burden of proof shall be upon the applicant.

SECTION 7 – PUBLIC HEARING
Within thirty-five (35) days of receipt of an application the Planning Board shall determine if the application is complete or incomplete. If the application is deemed to be incomplete, the Planning Board shall inform the applicant in writing, of the specific material required to make the application complete within thirty-five (35) days of the receipt of the application. If the application is complete, the Planning Board shall hold a Public Hearing on said application having made notice by publication in a newspaper of general distribution in Lincoln County in Maine, at least seven (7) days before the Public Hearing. Within thirty-five (35) days from the completion of said hearing, the Planning Board shall review the application and issue a decision approving, denying, or approving the application with conditions and shall issue written Findings of Fact and Conclusions of Law regarding the decision. The Board members shall sign the Findings of Fact and Conclusions of Law at the next regularly scheduled meeting of the Planning Board. The applicant shall receive a copy of the written Findings of Fact and Conclusions of Law within ten (10) days of the signing of the document(s). If the decision was made to deny the application, the applicant shall be notified within ten (10) days of the Board’s decision. The applicant may then appeal the Planning Board’s decision to the Board of Appeals. See Section 11.

SECTION 8, - FINAL SUBMISSION
After the Planning Board Public Hearing and the Planning Board review of the application and all required submissions, if the application is determined to be in compliance with all standards in Section 6, all information shall be provided to the Code Enforcement Officer who shall issue the required permit.

SECTION 9. – ENFORCEMENT
Any person, firm, corporation or other legal entity who installs, constructs or lays any pipe, conduit, tunnel, aqueduct or other vessel having a diameter larger than six (6) inches for the transportation of liquid or gas without obtaining an approval from the Planning Board shall be subject to a penalty to be determined by the Board of Selectmen. Each day a violation continues shall be considered a separate offense. The Town of Westport Island may enjoin the violation of this section.
SECTION 10. – EXEMPTION
This Ordinance shall not apply to culverts installed for the purpose of passing surface water under roadways, driveways or other portions of a lot or parcel of land.

SECTION 11. – APPEALS
If a person, firm, or other legal entity is aggrieved by any aspect of this Ordinance, an appeal may be made to the Board of Appeals.

11.A. Any appeal to the Board of Appeals shall be filed on a Board of Appeals application form and shall include all required submissions as well as the Board of Appeals application fee. See the Fee Schedule, application form and instructions at the Town Office.
11.B. All appeals shall be filed within thirty (30) days of the action or decision which is being appealed. The application shall specify all points and reasons for appeal.
11.C. The Board of Appeals shall hold a de novo hearing if the decision or action was by the Code Enforcement Officer or an appellate hearing if the decision or action was from the Planning Board, and may affirm, modify or reverse the decision or action. The Board of Appeals shall inform the applicant of the decision in writing within seven (7) days of its decision.
11.D. Any aggrieved party may appeal the Board of Appeals’ decision to the Superior Court within forty-five (45) days of the date of such decision pursuant to Rule 80B of the Maine Rules of Civil Procedure.

SECTION 12. – SEVERABILITY
The invalidity or unconstitutionality of any section or provision of this Ordinance shall not invalidate any other section or provision thereof.
Wright Landing and Adjacent Town Property Use Ordinance

A. This ordinance is adopted under the provisions of 30-A M.R.S.A. § 3001.

B. The purpose of this ordinance is to regulate and ensure the safe and reasonable use of the Town of Westport Island’s Wright Landing, including the launch facility, parking area, and picnic area.

C. The maximum length of a boat that may be launched from this facility is 26 feet. For a boat of greater length (up to 50 feet) may be launched by permit obtained from the town office. Special safety procedures have to be agreed to and followed to do this.

D. The use of boat launch and parking area between sunset and sunrise for purposes other than fishing or the launching and retrieving of boats is prohibited. The picnic area and tables may be used only between sunrise and sunset.

E. No person shall tie up or leave any boat in the area around any launching ramps, floats or docks, except when loading or unloading cargo and/or passengers, or where otherwise allowed by posted official notice with the exception that boaters using the Westport Island mooring area may tie up their dinghies on the north side of the Wright Landing floats on a first come first served basis.

F. The launching ramp shall be used only for loading and unloading, with a maximum time limit of 20 minutes. Extension of this time limit for reasons of safety or hardship requires permission from the harbor master or if unavailable their appointed deputy. Preparation for launch shall be completed prior to approaching the launching ramp.

G. No person shall place or maintain on the launch any barrels, boxes, gear, traps, pots, nets, sails, equipment, or other materials longer than is necessary for the prompt loading or unloading of the same.

H. No person shall deposit or sweep or cause to be deposited, discharged, or swept into the tidal waters of the Town of Westport Island any gas, oil, bilge water containing gas or oil, ashes, dirt, stones, gravel, logs, brush, planks, building materials, shells, bait, dead fish, bottles, cans, paints, chemicals, soaps, detergents, or any other liquid or solid waste or rubbish that floats on, dissolves in, or otherwise pollutes the water, obstructs navigation, or decreases water depth. Washing vehicles, boats and laundry is prohibited.

I. No person shall deposit or leave rubbish, garbage, or litter of any kind in the launch area, parking area, picnic tables, or any town property. Pet owners must clean up any fecal deposits left by their pets.

J. Camping or other overnight stays at the launching facility are prohibited.

K. Vehicles, including trailers, shall be parked only in designated places. A vehicle shall not be parked on the property for more than 24 consecutive hours.

L. Fires are not permitted.

M. The use of alcoholic beverages or controlled substances is prohibited. Disorderly conduct, including, but not limited to, excessive noise, indecent acts, intoxication or coarse language is prohibited.

N. Removing, injuring or damaging any parts of the facility including plants, land, structures, picnic tables, or natural conditions at the launch, parking area, and other town property is prohibited.

O. Storage of boats, trailers, vehicles, equipment, ice shacks, and other items on this town property and launch facility...
RULES FOR CONDUCT AT BOAT LAUNCHING FACILITIES

is prohibited.

P. Swimming and recreational fishing from the boat launch ramp, docks, floats, and areas posted "no swimming" are prohibited.

Q. The Wright Landing Boat facility is available for use by the general public, subject to the limitations stated in this ordinance, for launching, loading and unloading of boats; fishing, picnicking, swimming, and similar recreational activities. The facility, or portions thereof, may be reserved for group events or for other uses within the discretion of and with the prior written approval of the harbor master, including, but not limited to, fishing tournaments, weddings, group events or programs and commercial activities. The board of selectmen may develop regulations and a permit system for use of the facility. Permit fees are as follows: For reservation of the picnic area for exclusive use, $100/day. For fishing tournaments or other sporting activities, the fee shall be $100 plus 25% of the gross income. Fees shall be nondiscriminatory in nature. After this ordinance is adopted, permit fees changes may be made or new fees established as recommended by the harbor master and approved by the Board of Selectmen. Any changes in fees shall have received the prior approval of the State Bureau of Parks and Lands prior to their being adopted.

R. Persons using the Wright Landing Boat facility use the facility at their own risk and the town accepts no responsibility for preventing damage to boats moving, drifting, anchored, or moored in the boat launch area or using the Wright Landing facilities. Responsibility for the safety of any boat using, or in the vicinity of the facility, lies with its owners or master or their representative.

S. Posting advertisements or other notices not approved and signed by the harbor master is prohibited.

T. The Town of Westport Island shall be held harmless in the event of any personal injury or damage or loss of life while using the facilities at the Wright Landing.

U. The harbormaster and/or his/her duly appointed deputy (if any) shall administer, implement and enforce the provisions of this ordinance. Any person who violates any provision of this ordinance, or who neglects or refuses to comply with any provision of this ordinance shall be subject to a fine of not more than One Hundred Dollars ($100) for a first offense and Five Hundred Dollars ($500) for each additional offense to be recovered by the harbor master through a civil complaint in the Maine District Court. Each day that a violation, failure or refusal to comply exists shall be considered a separate offense. The harbor master, with the consent of the municipal officers, may negotiate consent agreements to address violations of this Ordinance and recover fines, costs and fees without court action. Any additional violation will result in the permanent denial of the right to use of the boat launch facility and picnic area.

V. Validity of ordinances. If any part of these regulations is held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining regulations.

W. The harbor master or his/her appointed deputy/deputies shall receive 10% of the penalties or fees assessed by these ordinances with the balance going to the Westport Island Landing account.

X. If enacted, the provisions of this ordinance shall be applicable to all pending proceedings, applications and petitions commenced after 9/22/2007, which is the date of filing this initiative in the Town Clerk’s office.
Rules and Regulations for the Westport Island mooring area.

A. This ordinance is adopted under the provisions of 30-A M.R.S.A. § 3001 and M.R.S.A., Title 38: Waters and Navigation).

B. The purpose of this ordinance is to define the rights and responsibilities of persons desiring mooring rights in the Westport Island mooring area and ensure residents of Westport Island that do not have waterfront access or the ability to access the water will have access to a mooring site.

C. Subject to the approval of the Army Corp of Engineers and any restrictions imposed by the United States Coast Guard as it relates to safe navigation the following area shall be designated the Westport Island mooring area. Beginning at the 6’ low water mark at Latitude 43° 57’ 00” and extending along said latitude to the Westport Island/Wiscasset town line, from thence in a northerly direction along said town line to Latitude 43° 57’ 29”, from thence in an easterly direction to the 6’ low water mark, from thence in a southerly direction following the 6’ low water mark to the place of beginning.

D. Property owners with shorefront real estate immediately adjacent to the Westport Island Mooring Area shall have first refusal for a single mooring location adjacent to their property. The remainder of the mooring locations shall be on a first come, first served basis for residents without access to waterfront or ability to access the water and shall be limited to one mooring per lot.

E. The location and design of all moorings within the above Westport Island mooring area shall be approved by the harbor master. The harbor master, or his representative, shall witness the seating of any mooring within the said mooring area.

F. The fee for the approval by the harbor master of the location and design of a mooring shall be $10.00 for each request whether it is approved or disapproved. The fee for the witnessing by the harbor master of the seating of a mooring shall be $25.00. Only the harbor master may issue a permit for a mooring in the Westport Island mooring area.

G. The cost of the design, purchasing, and seating of a mooring shall be borne by the requestor. If a mooring has not been used in a continuous 12 month period the mooring shall become the property of the Town of Westport Island.

H. The fee for the use of a Town of Westport Island owned mooring shall be $15.00 per month.

I. Boaters with an approved mooring may tie up their dinghies on the north side of the Wright Landing floats on a first come, first served basis. The mooring permit number shall be clearly displayed on the bow of the dinghy.

J. The Town accepts no responsibility for preventing damage to boats moving, or drifting that are moored in the mooring area. Responsibility for the safety of any boat using a mooring in the area lies with its owners or master or their representative.

K. The Town of Westport Island shall be held harmless in the event of any personal injury or damage or loss of life while using the mooring sites in the Westport Island mooring area.

L. Validity of ordinances. If any part of these regulations is held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining regulations.

M. The harbor master or his/her appointed deputy/deputies shall be responsible for issuing permits. Whenever the Harbormaster or his/her deputy believes that a person has violated this Ordinance, the Harbormaster or his/her deputy may enforce this Ordinance in accordance with 30-A M.R.S.A. § 4452 and 38 MRSA § 12 and § 13.

1) Notice of Violation. Whenever the Harbormaster believes that a Person has violated this Ordinance, the
Harbormaster may order compliance with this Ordinance by written notice of violation to that Person indicating the nature of the violation and ordering the action necessary to correct it.

2) **Penalties/Fines/Injunctive Relief.** In addition to any penalties imposed by Federal or State law any Person, firm, corporation, or other entity who violates this Ordinance shall be subject to fines, penalties and orders for injunctive relief and shall be responsible for the Municipality's attorney's fees and costs, all in accordance with 30-A M.R.S.A. § 4452. Any person who violates any provision of this ordinance, or who neglects or refuses to comply with any provision of this ordinance shall be subject to a fine of not more than One Hundred Dollars ($100) for a first offense and Five Hundred Dollars ($500) for each additional offense. Each day such violation continues shall constitute a separate violation. In addition, failure to obey an order of the Harbormaster is a Class E crime and may be prosecuted in accordance with 38 MRSA § 13. The person, firm, corporation, or other entity in violation of these regulations shall be prohibited from using the mooring area until all fines, penalties and orders for injunctive relief have been paid in full. Any additional violation will result in the permanent denial of the right to use of the Westport Island mooring area.

3) **Consent Agreement.** The Harbormaster and/or deputy may, with the approval of the municipal officers, enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this Ordinance for the purposes of eliminating violations of this Ordinance and of recovering fines, costs and fees without court action.

4) **Appeal of Notice of Violation.** Any Person receiving a Notice of Violation may appeal the determination of the Harbormaster to the Board of Appeals. The Board of Appeals shall hold a de novo hearing and may affirm, modify or reverse the Harbormaster's decision. The notice of appeal must be received within 30 days from the date of receipt of the Notice of Violation. A party aggrieved by the decision of the Board of Appeals may appeal that decision to the Maine Superior Court within 45 days of the date of the Board of Appeals decision pursuant to Rule 80B of the Maine Rules of Civil Procedure.

5) The harbormaster or his/her appointed deputy/deputies shall receive 10% of the penalties or fess assed by these ordinances with the balance going to the Wright Landing account.

N. If enacted, the provisions of this ordinance shall be applicable to all pending proceedings, applications and petitions commenced after 9/22/2007, which is the date of filing this initiative in the Town Clerk’s office.
Town of

WESTPORT ISLAND
in
Lincoln County, Maine

SHORELAND ZONING ORDINANCE

Voted by town: August 20, 1992
DEP Approved: November 23, 1992
Amended by town: March 27, 1993
DEP Approved: May 12, 1993
Amended by town: March 27 and June 12, 2004
DEP Approved: July 2004
Amended by town: November 6, 2007
DEP Approved: January 22, 2008
Amended by town: June 20, 2009
DEP approved: August 18, 2009 (conditional)
Amended by town: June 19, 2010
DEP approved: (final)
Amended by town: June 23, 2012
(this page intentionally left blank)
SECTION 1. Purposes

The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and land from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

SECTION 2. Authority

This ordinance has been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).

SECTION 3. Applicability

This Ordinance applies to all land areas within 250 feet, horizontal distance, of the normal high-water line of any great pond or river, upland edge of a coastal wetland, including all areas affected by tidal action, or upland edge of a freshwater wetland, and all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream.

This Ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.

SECTION 4. Effective Date

A. Effective Date of Ordinance and Ordinance Amendments

This Ordinance, which was originally adopted at town meeting on 20 August 1992, and subsequently amended by the town, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance amendment, attested and signed by the Town Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance amendment within forty-five (45) days of his/her receipt of the Ordinance or Ordinance amendment, it shall be automatically approved.

Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Ordinance, or Ordinance amendment, if the Ordinance or Ordinance amendment is approved by the Commissioner.

B. Repeal of Municipal Timber Harvesting Regulation

The municipal regulation of timber harvesting activities is repealed on the statutory date established under 38 M. R. S. A. section 438-B (5), at which time the State of Maine Department of Conservation’s Bureau of Forestry shall administer timber harvesting standards in the shoreland zone. On the date established under 38 M. R. S. A. section 438-B (5), the following provisions of this ordinance are repealed:
• Section 14. Table of Land Uses, Column 3 (Forest management activities except for timber harvesting and land management roads) and Column 4 (Timber Harvesting).

• Section 15. (O in its entirety; and

• Section 17. Definitions – The definitions of “forest management activities” and “residual basal area”

**Note:** The statutory date established under 38 M.R.S.A. section 438-B (5) is the effective date of state-wide timber harvesting standards. That date is “the first day of January of the 2nd year following the year in which the Commissioner of Conservation determines that at least 252 of the 336 municipalities identified by the Commissioner of Conservation as the municipalities with the highest acreage of timber harvesting activities on an annual basis for the period 1992-2003 have either accepted the state-wide standards or have adopted an ordinance identical to the state-wide standards.” 38 M.R.S.A. section 438-B (5) further provides that “the Commissioner of Conservation shall notify the Secretary of State in writing and advise the Secretary of the effective date of the state-wide standards.”

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. 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 posted.

SECTION 6. **Severability**
Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.

SECTION 7. **Conflicts with Other Ordinances**
Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the Town, the more restrictive provision shall control.

SECTION 8. **Amendments**
This Ordinance may be amended by majority vote of the town meeting. Copies of amendments, attested and signed by the Town Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the town meeting and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

SECTION 9. **Districts and Zoning Map**
A. **Official Shoreland Zoning Map**
The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland 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/Maritime Activities District

B. Scale of Map
The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2000 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 Shoreland Zoning Map
The Official Shoreland Zoning Map shall be certified by the attested signature of the Town Clerk and shall be located in the town office. In the event the municipality does not have a town office, the Town Clerk shall be the custodian of the map.

D. Changes to the Official Shoreland Zoning Map
If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

SECTION 10. Interpretation of District Boundaries

Unless otherwise set forth on the Official Shoreland 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, Commercial Fisheries/Maritime Activities (CFMA) District boundaries, Limited Development (LD) and Resource Protection (RP) District 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 11. 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 12. 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 or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 12. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.
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 non-conforming uses and structures including repairs or renovations that 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. Expansions: 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:

a. After January 1, 1989, if any portion of a structure is less than the required setback from the normal high-water line of a water body or tributary stream or the upland edge of a wetland, that portion of the structure shall not be expanded in floor area or volume, by 30% or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 12.C.3, and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area or volume since that date. As with other aspects of a structure, the use of a basement for volume calculation may only include those areas with a minimum height of six feet that are impervious to the elements and do not allow the free flow of air.

b. Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the same permitting authority as that for a new structure, basing its decision on the criteria specified in Section 12.C.2, Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 12.C.1.a above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from the original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

c. No structure which is less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland shall be expanded toward the water body, tributary stream, or wetland.

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. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

a. Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be reestablished. An area at least the same size as the area where the vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover to that which was disturbed, destroyed or removed.

b. Where feasible, when a structure is relocated on a parcel, the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

3. **Reconstruction or Replacement:** Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within 18 months of the date of said damage, destruction or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 12.C.1 above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12.C.2 above.
Any non-conforming structure which is located less than the required setback from a water body, tributary stream or wetland and which is removed, damaged or destroyed by less than 50% of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction or removal.

In determining the market value of a structure, only the value of the structure itself shall be considered, which would be the same regardless of where the structure is located. If the applicant and the Planning Board cannot agree on whether or not the removal, damage or destruction is more than 50% of the market value of the structure, the Planning Board may require the applicant to obtain one or more appraisals of the market value.

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent, the Planning Board or its designee shall consider, in addition to the criteria in Section 12.C.2 above, the physical condition and type of foundation present, if any.

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 water body, tributary stream or wetland, or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, flood plain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

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 allowed in Section 12.C.1.a above.

2. **Resumption Prohibited:** A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded 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) year period.

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 subject and adjacent properties and resources, including water dependent uses in the CFMA district, 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 12.C.4. above.

E. Non-Conforming Lots

1. Non-conforming Lots: A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon for single family structures and uses 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 area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.

2. Contiguous Built Lots: If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

If two or more principal uses or structures existed on a single lot of record on the effective date of this ordinance, each may be sold on a separate lot provided that the above referenced law 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.

3. Contiguous Lots - Vacant or Partially Built: If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to 2 or more contiguous lots, at least one of which is nonconforming, owned by the same person or persons on the effective date of this Ordinance and recorded in the registry of deeds if the lot can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and:

a. Each lot contains at least 100 feet of shore frontage and at least 1 1/2 acres of lot area; or

b. Any lots that do not meet the frontage and lot size requirements of Section 12.E.3.a are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and at least 1 1/2 acres of lot area.
SECTION 13. Establishment of Districts

A. **Resource Protection District**

The Resource Protection District includes areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with great ponds and rivers, which are rated “moderate” or “high” value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department of Environmental Protection as of May 6, 2008.

The Resource Protection District includes portions of the following properties:

1. The area 250 feet from the identified moderate or high value wetland located on Map 4 Lot 9, known as the Hopkins Pond.

2. The portion of Map 3 Lot 2.1 located 250 feet from the above identified wetland

(Three additional properties, Map 4, Lots 2, 6.1 and 6.2 have been removed from the RP District since the properties are developed with multiple buildings on each lot. The 250 foot portion of these lots adjacent to the wetland are zoned Limited Development.)

3. The area 250 feet from the pond identified as the Meadow Pond, including portions of Lots 31, 35, 39, 40, 41, 42 on Map 3.

(Two additional properties, Lots 3.4 and 3.5 on Map 3, which are located within the 250 foot area from the Meadow Pond, are excluded from the Resource Protection District since they are already developed. The 250 foot portion of these lots adjacent to the wetland known as Meadow Pond are zoned Limited Residential.)

B. **Limited Development District**

The Limited Development District includes those areas which had been referred to as the Pond District in the 1974 Shoreland Zoning Ordinance, and identified in the Comprehensive Plan as the Rural District.

The 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 the following lots: Map 3 Lots 38 and 44.1, Map 4 Lots 3, 8, 50, 55 and 61.

2. Heal's Upper Mill (Heal Pond) including portions of the following lots: Map 3 Lots 55.2, 56, 57, 58, 65, 68.2, 68.3 and 68.4.

3. Meadow Pond, including portions of the following lots: Map 3, Lots 3.4 and 3.5

4. Beaver Pond including portions of the following lots: Map 2, Lots 35, 39 and 40.

5. The 250 foot portions of Map 4, Lots 2, 6.1 and 6.2 that are adjacent to Hopkins Pond.
C. **Limited Residential/Commercial District**

The Limited Residential/Commercial District includes those areas which had been referred to as the Rural Residential District in the 1974 Shoreline Zoning Ordinances, and identified in the Comprehensive Plan as the Growth District. This district includes areas of two or more contiguous acres in size and is suitable for both residential and low intensity commercial uses, including functionally water-dependent facilities for hauling and storing a maximum of 10 boats and for individually-operated lobstering and fishing activities. Industrial uses are prohibited.

D. **Commercial Fisheries/Maritime Activities District**

The Commercial Fisheries/Maritime Activities District includes areas where the existing predominant pattern of development is consistent with the allowed uses for this district as indicated in the Table of Land Uses, Section 14. This district shall include:

1. Tax Map 7, Lot 52.01 (currently North End Lobster Coop - marina)
2. Tax Map 6, Lot 111.11 (currently Westport Boat Works - marina)
3. Tax Map 1, Lot 24.14 (portion only - commercial fishing)
   A portion of land of the estate of Teresa Richardson, being the existing stone wharf and adjacent 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° 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 Sheepscot River; thence to low water mark in said River; thence Easterly by low water mark to a point in a line extended S 45° 53'30" E from the point of beginning; thence N 45° 53'30" W to the point of beginning.
4. Tax Map 4, Lot 60.01 (land of George R. Harrison - commercial fishing)
5. Tax Map 4, Lot 56 (portion only - commercial marine construction)
   A portion of the land of E. Davies Allan 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 to a point 250 feet from high water marked by a concrete marker; thence Westerly along the 250 foot setback line to 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. Tax Map 3, Lot 16 (land of Reginald Lee - commercial fishing)
7. Tax Map 6, Lots 77.1 and 78 (formerly Mary Wright; now Town of Westport Island—marine activities)
SECTION 14. **Table of Land Uses**

All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 15. The district designation for a particular site shall be determined from the Official Shoreland 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** - Allowed with permit issued by the Planning Board
- **CEO** - Allowed with permit issued by the Code Enforcement Officer
- **LPI** - Allowed with permit issued by the Local Plumbing Inspector

Abbreviations:

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

NOTE: A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to 38 M.R.S.A. section 480-C, if the activity occurs in, on, over, or within 75 feet of any freshwater or coastal wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:

a. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
b. Draining or otherwise dewatering;
c. Filling, including adding sand or other materials to a sand dune; or
d. Any construction or alteration of any permanent structure.
<table>
<thead>
<tr>
<th>LAND USES</th>
<th>DISTRICTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Non-intensive recreational uses not requiring structures, such as</td>
<td>RP  LD</td>
</tr>
<tr>
<td>hunting, fishing, and hiking</td>
<td>yes  yes  yes yes</td>
</tr>
<tr>
<td>2. Motorized vehicular traffic on existing roads and trails</td>
<td>yes  yes  yes yes</td>
</tr>
<tr>
<td>3. Forest management activities except for timber harvesting and land</td>
<td>yes  yes  yes yes</td>
</tr>
<tr>
<td>management roads</td>
<td></td>
</tr>
<tr>
<td>4. Timber harvesting</td>
<td>CEO  yes  yes yes</td>
</tr>
<tr>
<td>5. Clearing or removal of vegetation for activities other than timber</td>
<td>CEO  yes  yes yes</td>
</tr>
<tr>
<td>harvesting</td>
<td></td>
</tr>
<tr>
<td>5A Clearing or removal of vegetation within the protected buffer area</td>
<td>CEO  CEO  CEO CEO</td>
</tr>
<tr>
<td>of a water body or wetland</td>
<td></td>
</tr>
<tr>
<td>6. Fire prevention activities</td>
<td>yes  yes  yes yes</td>
</tr>
<tr>
<td>7. Wildlife management practices</td>
<td>yes  yes  yes yes</td>
</tr>
<tr>
<td>8. Soil and water conservation practices</td>
<td>yes  yes  yes yes</td>
</tr>
<tr>
<td>9. Mineral Exploration</td>
<td>CEO¹  CEO¹ CEO¹ CEO¹</td>
</tr>
<tr>
<td>10. Mineral extraction including sand and gravel extraction</td>
<td>no  PB    PB PB</td>
</tr>
<tr>
<td>11. Surveying and resource analysis</td>
<td>yes  yes  yes yes</td>
</tr>
<tr>
<td>12. Emergency operations</td>
<td>yes  yes  yes yes</td>
</tr>
<tr>
<td>13. Agriculture</td>
<td>PB  yes  yes yes</td>
</tr>
<tr>
<td>14. Aquaculture</td>
<td>PB  PB    yes yes</td>
</tr>
<tr>
<td>15. Principal structures and uses</td>
<td></td>
</tr>
<tr>
<td>A. One and two family residential, including driveways</td>
<td>PB⁹  CEO  CEO CEO</td>
</tr>
<tr>
<td>B. Multi-unit residential</td>
<td>no  no    no no</td>
</tr>
<tr>
<td>C. Commercial</td>
<td>no  no    PB PB</td>
</tr>
<tr>
<td>D. Industrial</td>
<td>no  no    no PB²</td>
</tr>
<tr>
<td>E. Governmental and Institutional</td>
<td>no  no    PB PB²</td>
</tr>
<tr>
<td>F. Small non-residential facilities for educational, scientific, or</td>
<td>PB  CEO  CEO PB²</td>
</tr>
<tr>
<td>nature interpretation purposes</td>
<td></td>
</tr>
<tr>
<td>16. Structures accessory to allowed uses</td>
<td>PB  CEO  CEO PB²</td>
</tr>
<tr>
<td>17. Piers, docks, wharfs, bridges, and other structures and uses</td>
<td></td>
</tr>
<tr>
<td>extending over or below the normal high-water line or within a wetland</td>
<td></td>
</tr>
<tr>
<td>a. Temporary³</td>
<td>CEO⁶  CEO⁶ CEO⁶ CEO²⁶</td>
</tr>
<tr>
<td>b. Permanent³,⁴</td>
<td>PB    PB    PB PB²</td>
</tr>
<tr>
<td>18. Conversions of seasonal residences to year-round residences</td>
<td>LPI  LPI  LPI no</td>
</tr>
<tr>
<td>19. Home occupations</td>
<td>PB³  CEO³  CEO³ yes</td>
</tr>
<tr>
<td>20. Private sewage disposal systems for allowed uses</td>
<td>LPI  LPI  LPI LPI</td>
</tr>
<tr>
<td>21. Essential services</td>
<td>PB  PB    PB PB</td>
</tr>
<tr>
<td>A. Roadside distribution lines (34.5 kw or less)</td>
<td>CEO⁷  CEO⁷ yes⁸ yes⁸</td>
</tr>
<tr>
<td>B. Non-roadside or cross-country distribution lines involving ten</td>
<td>PB⁷  PB⁷  CEO CEO</td>
</tr>
<tr>
<td>poles or less in the shoreland zone</td>
<td></td>
</tr>
<tr>
<td>C. Non-roadside or cross-country distribution lines involving eleven</td>
<td>PB⁷  PB⁷  PB PB</td>
</tr>
<tr>
<td>or more poles in the shoreland zone</td>
<td></td>
</tr>
</tbody>
</table>
D. Other essential services

<table>
<thead>
<tr>
<th>Item</th>
<th>Allowances</th>
</tr>
</thead>
<tbody>
<tr>
<td>22. Service drops, as defined, to allowed uses</td>
<td>yes yes yes yes</td>
</tr>
<tr>
<td>23. Public and private recreational areas involving minimal structural development</td>
<td>PB PB CEO CEO</td>
</tr>
<tr>
<td>24. Individual and private campsites</td>
<td>CEO CEO CEO CEO</td>
</tr>
<tr>
<td>25. Campgrounds</td>
<td>no PB PB no</td>
</tr>
<tr>
<td>26. Road construction</td>
<td>no PB PB PB</td>
</tr>
<tr>
<td>27. Land management roads</td>
<td>PB PB yes yes</td>
</tr>
<tr>
<td>28. Parking facilities</td>
<td>no PB PB PB</td>
</tr>
<tr>
<td>29. Marinas</td>
<td>no PB PB PB</td>
</tr>
<tr>
<td>30. Filling and earthmoving of less than 10 cubic yards</td>
<td>CEO yes yes yes</td>
</tr>
<tr>
<td>31. Filling and earthmoving of greater than 10 cubic yards</td>
<td>PB CEO CEO CEO</td>
</tr>
<tr>
<td>32. Signs</td>
<td>yes yes yes yes</td>
</tr>
<tr>
<td>33. Uses similar to allowed uses</td>
<td>CEO CEO CEO CEO</td>
</tr>
<tr>
<td>34. Uses similar to uses requiring a CEO permit</td>
<td>CEO CEO CEO CEO</td>
</tr>
<tr>
<td>35. Uses similar to uses requiring a PB permit</td>
<td>PB PB PB PB</td>
</tr>
<tr>
<td>36. Relocation of a non-conforming structure</td>
<td>PB PB PB PB</td>
</tr>
</tbody>
</table>

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 15.V. below).
6. Excluding bridges and other crossings not involving earthwork, in which case no permit is required.
7. See further restrictions in Section 15.L.
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 16.E, Special Exceptions. Two-family residential structures are prohibited.
10. Except as provided in 15.H.3.

SECTION 15. Land Use Standards

All land use activities within the shoreland zone shall conform with the following provisions, if applicable.

A. Minimum Lot Standards

1. Minimum Lot Area and Shore Frontage

   a. Residential per dwelling unit

      i. Within the Shoreland Zone adjacent to tidal areas  2  150
      ii. Within the Shoreland Zone adjacent to non-tidal areas  2  200
b. Governmental, Institutional, Commercial or Industrial per principal structure
   i. Within the Shoreland Zone adjacent to tidal areas, exclusive of those areas zoned CFMA 2 200
   ii. Within the Shoreland Zone adjacent to tidal areas zoned CFMA None None
   iii. Within the Shoreland Zone adjacent to non-tidal areas 2 300

c. Public and private recreational facilities within the Shoreland Zone adjacent to tidal and non-tidal areas 2 200

2. Land below the normal high-water line of a water body or upland edge of a wetland, and land beneath roads serving more than two (2) lots, shall not be included toward calculating minimum lot area.

3. 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.

4. The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.

5. If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use. The only exception to this requirement is that a second residential dwelling unit or principal structure or use may be allowed on a single parcel with only an additional fifty (50) feet of shore frontage above and beyond the frontage requirement for one principal structure or use.

B. Principal and Accessory Structures

1. All new principal and accessory structures shall be set back one hundred (100) feet, horizontal distance, within the Limited Development District, or seventy-five (75) feet, horizontal distance, within the Limited Residential/Commercial District, from any body of water, tributary stream, or the upland edge of a wetland. A 75-foot setback is also required for any residential dwelling unit in the Commercial Fisheries/Maritime Activities District; there is no minimum setback in the CFMA district for other types of principle and accessory structures, or for roads and parking areas and other structures associated with a launch area. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district, in which case the setback shall be 100 feet.
In addition:

a. The water body, tributary stream or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks, and retaining walls, nor to other functionally water-dependent uses.

b. For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable” by the Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a “highly unstable” or “unstable” bluff, or where the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the Zoning Board of Appeals.

c. On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the Code Enforcement Officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, shall be located as far from the shoreline or tributary stream as practical, and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.

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

3. The lowest floor elevation or openings of all buildings and structures including basements shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent floodplain soils. In those municipalities that participate in the National Floodplain Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.

4. The total footprint area of all structures, parking lots and other non-vegetated surfaces, excepting one access road, within the Shoreland Zone, shall not exceed twenty (20) percent of the lot or a portion thereof, located within the Shoreland Zone, including land area previously developed, except in the Commercial Fisheries/Maritime Activities District, where lot coverage shall not exceed seventy (70) percent.
5. Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:

a. The site has been previously altered and an effective vegetated buffer does not exist;

b. The wall(s) is (are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream or upland edge of a wetland;

c. The site where the retaining wall(s) will be constructed is legally existing lawn or a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;

d. The total height of the wall(s), in the aggregate, is no more than 24 inches;

e. Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency’s (FEMA) Floodplain Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils;

f. The area behind the wall is re-vegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and

g. A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:

i. The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;

ii. Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of storm water runoff;

iii. Only native species may be used to establish buffer areas;

iv. A minimum buffer width of fifteen (15) feet, horizontal distance, is required, measured perpendicularly to the normal high-water line of upland edge of a wetland; and

v. A footpath not to exceed the standards in Section 15.Q.1.a. may traverse the buffer.

Note: If the wall and associated soil disturbance occurs within 75 feet, horizontal distance, of a water body, tributary stream or coastal wetland, a permit pursuant to the Natural Resource Protection Act is required from the Department of Environmental Protection.
6. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge or a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

7. Minimum Lot Width
   a. No single family dwelling shall be erected or building altered to accommodate one family as a residence on a lot having a width of less than two hundred (200) feet in the Resource Protection District or the Limited Development District, or one hundred and fifty (150) feet in the Limited Residential/Commercial District or the Commercial Fisheries/Maritime Activities District, 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 two hundred (200) foot width limitation or one hundred fifty (150) foot width limitation, whichever is applicable, for single family dwellings. Two family dwellings are not permitted in the Resource Protection (RP) District.

8. 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 two hundred (200) feet in the Resource Protection District or the Limited Development District, or one hundred and fifty (150) feet in the Limited Residential/Commercial District or the Commercial Fisheries/Maritime Activities District, on a public or private roadway or on any lake, pond, river, stream or seashore, 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) feet of frontage on a public or private roadway or on any lake, pond, river, stream or seashore, above and beyond the initial two hundred (200) foot limitation or one hundred fifty (150) foot limitation, whichever is applicable, for single family dwellings.

9. Set Back
   a. No building or structure or any portion thereof shall be erected within seventy-five (75) feet in the Resource Protection District or the Limited Development District, or forty (40) feet in the Limited Residential/Commercial District or 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 (16 1/2) feet from the center line of the road or street.
b. Notwithstanding the setback requirements stated above, structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks, retaining walls, parking areas and other structures associated with boat launching facilities or other functionally water-dependent uses, may be erected closer to a right-of-way, road or street whose sole purpose is to provide access to the water body or wetland, or to said structure.

10. Side Yards and Rear Yards
   a. For every building erected in any district, 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 building shall be erected within forty (40) feet of any back line.

11. 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 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.

12. Development of slopes in excess of 20%.
   On slopes of more than 20%, but less than 35%, 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 feet (5') and showing the slopes on the construction site;
      ii. a plan to prevent erosion or sedimentation; and
      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 15.H of this ordinance.
   d. The proposed use conforms with all other standards and review criteria contained in this ordinance.

13. Any new residential, commercial, or industrial structures and uses are prohibited in any undeveloped shoreland area consisting of two or more contiguous acres with sustained slopes of 35% or greater.
C. Piers, Docks, Wharfs, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water line of a Water Body or Within a Wetland

1. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

2. The location shall not interfere with existing developed or natural beach areas.

3. The facility shall be located so as to minimize adverse effects on fisheries.

4. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf in non-tidal areas shall not be wider than six feet for non-commercial uses.

5. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.

6. New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

7. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.

8. Except in the Commercial Fisheries/Maritime Activities District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

9. Notwithstanding the 20-foot setback requirement described in Section 15.B.10.a, a pier-float-ramp may be erected closer to the sideline provided:
   a. There is no pier-ramp-float on either of the two abutting lots;
   b. The owner of the abutting lot agrees in writing to allow the pier-ramp-float to be constructed within 20 feet of his/her property line;
   c. The owners of the two abutting lots agree in writing not to alter the pier-ramp-float which qualified under this provision and not to construct any other pier-ramp-float on either of the abutting lots as long as the pier-ramp-float which qualifies under this provision remains in existence. While the pier-ramp-float which qualifies under this provision remains in existence, no other pier-ramp-float will be approved on either of the two abutting lots.
   d. The written agreements referred to in b. and c. are filed with the Planning Board to be retained by the Planning Board; and
e. If either or both of the abutting lots is/are divided after construction of the pier-ramp-float which qualified under this provision, then the same restrictions on subsequent construction of pier-ramp,floats as applied to the original, undivided, lots will apply to the new lot(s).

D. Campgrounds

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

1. 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, and land below the normal high-water line of a water body shall not be included in calculating land area per site.

2. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back one hundred (100) feet, horizontal distance, within the Limited Development District, or seventy-five (75) feet, horizontal distance, within the Limited Residential/Commercial District, horizontal distance, from the normal high-water line of any body of water, tributary stream, or the upland edge of a wetland. Campgrounds are not permitted in the Resource Protection (RP) District.

E. Individual Private Campsites

Individual, private campsites not associated with campgrounds are allowed provided the following conditions are met:

1. One campsite per lot existing on the effective date of this Ordinance, or two acres of lot area within the shoreland zone, whichever is less, may be permitted.

2. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, within the Resource Protection District or the Limited Development District, or seventy-five (75) feet, horizontal distance, within the Limited Residential/Commercial District and the Commercial Fisheries/Maritime Activities District horizontal distance, from the normal high-water line of any body of water, tributary stream, or the upland edge of a wetland.

3. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.

4. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in the Resource Protection District shall be limited to one thousand (1000) square feet.

5. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.

6. 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.

F. Commercial and Industrial Uses

1. The following new commercial and industrial uses are prohibited within the Resource Protection District, the Limited Development District, and the Limited Residential/Commercial District:
   a. Auto washing facilities
   b. Auto or other vehicle service and/or repair operations, including body shops
   c. Chemical and bacteriological laboratories
   d. Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms
   e. Commercial painting, wood preserving, and furniture stripping
   f. Dry cleaning establishments
   g. Electronic circuit assembly
   h. Laundromats, unless connected to a sanitary sewer
   i. Metal plating, finishing, or polishing
   j. 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
   k. Photographic processing
   l. Printing
   m. Uses similar to uses a. through l. which have a potential for pollution

G. Parking Areas

1. Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, except that in the Commercial Fisheries/Maritime Activities District parking areas shall be set back at least twenty-five (25) feet, horizontal distance, from the shoreline. The setback requirement for parking areas serving public boat launching facilities in Districts other than the Commercial Fisheries/Maritime Activities District may be reduced to no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.

2. 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, tributary stream or wetland and where feasible, to retain all runoff on-site.

3. In determining the appropriate size of proposed parking facilities, the following shall apply:
   a. Typical parking space: Approximately 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: Approximately twenty (20) feet wide.

4. Parking facilities are prohibited in Resource Protection Districts.

H. Roads and Driveways

The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

1. Roads and driveways shall be set back at least one hundred (100) feet, within the Resource Protection District or the Limited Development District, or seventy-five (75) feet, within the Limited Residential/Commercial District, horizontal distance, from any the normal high-water line of a body of water, tributary stream, or the upland edge of a wetland, unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in slope above twenty (20) percent, unless applicant shows ability to prevent sedimentation of the water body.

Section 15.H.1 does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline due to an operational necessity.

2. Existing public roads may be expanded within the legal road right-of-way regardless of their setback from a water body, tributary stream or wetland.

3. New roads and driveways are prohibited in the Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in the Resource Protection District upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in the Resource Protection District, the road or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.

4. Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15.R.

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

6. 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 gains sufficient volume or head to erode the road, driveway, 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 or driveway at intervals no greater than indicated in the following table:

<table>
<thead>
<tr>
<th>Grade (Percent)</th>
<th>Spacing (Feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-2</td>
<td>250</td>
</tr>
<tr>
<td>3-5</td>
<td>200-135</td>
</tr>
<tr>
<td>6-10</td>
<td>100-80</td>
</tr>
<tr>
<td>11-15</td>
<td>80-60</td>
</tr>
<tr>
<td>16-20</td>
<td>60-45</td>
</tr>
<tr>
<td>21+</td>
<td>40</td>
</tr>
</tbody>
</table>

b. Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.

c. On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the center line of the road or driveway.

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.

7. Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

I. Signs

The following provisions shall govern the use of signs in the Resource Protection, Limited Development and Limited Residential/Commercial Districts:

1. Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed twenty (20) square feet in area and shall not exceed two (2) signs per premises. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.

2. Name signs are allowed, provided such signs shall not exceed two (2) signs per premises and shall not exceed twelve (12) square feet in the aggregate.

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 allowed 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 allowed without restriction.

6. No sign shall extend higher than twenty (20) feet above the ground.

7. Signs may be illuminated only by shielded, non-flashing lights.

J. 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.

   NOTE: Pursuant to 38 M.R.S.A. section 420-D, construction that will result in one (1) acre or more of disturbed area requires a permit from the Department of Environmental Protection, as well as a Maine Construction General Permit.

K. Septic Waste Disposal
   All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules and the following:
   a. Clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland; and
   b. A holding tank is not allowed for a first-time residential use in the shoreland zone.

   NOTE: The Maine Subsurface Wastewater Disposal Rules require new systems, excluding fill extensions, to be constructed no less than one hundred (100) horizontal feet from the normal high-water line of a perennial water body. The minimum setback distance for a new subsurface disposal system may not be reduced by variance.

L. 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 essential services, other than roadside distribution lines, is not allowed in the Resource Protection District 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.

   3. The installation of underground propane tanks shall conform to the rules put forth by the State of Maine for the regulation of such tanks. Notice of such installation shall be made by the owner of the property to the LPI and the Fire Chief.
4. Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

M. 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, 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 procedures to be undertaken to fulfill the requirements of Section 15.M.3. below.

2. No part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) feet, within the Limited Development District, or seventy-five (75) feet, within the Limited Residential/Commercial District, horizontal distance, from the normal high-water line of any body of water, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property. Mineral exploration and extraction are not permitted in the Resource Protection (RP) District.

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.
   
   NOTE: The State of Maine Solid Waste Laws, 38 M.R.S.A. section 1300 and the solid waste management rules, Chapters 400-419 of the Department of Environmental Protection’s regulations may contain other applicable provisions regarding disposal of such materials.
   
   b. The final grade slope shall be two and one-half to one (2 1/2:1) slope or flatter.
   
   c. Top soil or loam shall be retained to cover all disturbed land areas, 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.
N. **Agriculture**

1. All spreading of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).

2. Manure shall not be stored or stockpiled within one hundred (100) feet, within the Resource Protection District or the Limited Development District, or seventy-five (75) feet, within the Limited Residential/Commercial District, horizontal distance, from any body of water, tributary stream or wetland. 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.

3. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area within the Shoreland Zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

NOTE: Assistance in preparing a Conservation Plan may be available through the local Soil and Water Conservation District office.

4. There shall be no new tilling of soil within one hundred (100) feet, within the Resource Protection District or the Limited Development District, or seventy-five (75) feet, within the Limited Residential/Commercial District, horizontal distance, from any body of water or coastal wetland; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this Ordinance (and not in compliance with this provision) may be maintained.

5. Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, within the Resource Protection District or the Limited Development District, or seventy-five (75) feet, within the Limited Residential/Commercial District, horizontal distance, from any body of water or coastal wetland; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

O. **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 (4) inches or more in diameter measured at 4 ½ feet above ground level on any lot in any ten (10) year period is permitted. In addition:

   a. Within one hundred (100) feet, within the Resource Protection District or the Limited Development District, or seventy-five (75) feet, within the Limited Residential/Commercial District, horizontal distance, of the upland edge of a wetland, there shall be no clear cut openings and a well-distributed stand of trees
(as defined in Section 15.P.1.b.) and other vegetation, including existing ground cover, shall be maintained.

b. At distances greater than one hundred (100) feet, within the Resource Protection District or the Limited Development District, or seventy-five (75) feet within the Limited Residential/Commercial District, horizontal distance, of the normal high water line of any body of water, tributary stream, or the upland edge of a wetland, 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, horizontal distance, apart. Such clear cut openings shall be included in the calculation of total volume removal.

2. Timber harvesting operations exceeding the 40% limitation in Section 15.O.1. above, 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.

3. No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high water line of a water body. In all other areas, 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. Any debris that falls below the normal high water line of a water body or tributary stream shall be removed.

4. Timber harvesting equipment shall not use stream channels as travel routes except when:

   a. Surface waters are frozen; and

   b. The activity will not result in any ground disturbance.

5. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.

6. Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.

7. Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet, horizontal distance, in width for slopes up to the (10) per cent, shall be retained between the exposed mineral soil and the normal high water line of a water body or upland edge of a wetland. For each ten (10) per cent increase in slope, the unscarified strip shall be increased by twenty (20) feet, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or
wetland, provided, however, that no portion of such exposed mineral soil on a back
face shall be closer than twenty five (25) feet, horizontal distance, from the normal
high water line of a water body or upland edge of a wetland.

P. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

1. In the Resource Protection District, the cutting or removal of vegetation shall be
limited to that which is necessary for uses expressly authorized in that district.

2. At distances greater than one hundred feet (100 feet), within the Limited
Development District, or seventy-five (75 feet) within the Limited
Residential/Commercial District and the Commercial Fishing/Maritime/Activities
District, horizontal distance, of the normal high-water line of any body of water,
tributary, stream or the upland edge of a wetland, there shall be allowed on any lot, in
any ten (10) year period, selective cutting of not more than forty (40) per cent of the
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 any purposes, including but not limited to,
principal and accessory structures, driveways, lawns and sewerage disposal areas,
exceed in the aggregate, 25% of the lot area within the shoreland zone or ten
thousand (10,000) square feet, whichever is greater, including land previously
cleared. This provision shall not apply to the Commercial Fishing/Maritime
Activities District.

3. Legally existing nonconforming cleared openings may be maintained, but shall not be
enlarged, except as allowed by this Ordinance.

4. Fields and other cleared openings which have reverted to primarily shrubs, trees or
other woody vegetation shall be regulated under the provisions of Section 15.Q.

Q. Clearing or Removal of Vegetation within the Protected Buffer Area of a Water
Body or Wetland

1. Except to allow for the development of permitted uses, within a strip of land
extending one hundred (100) feet, within the Limited Development District, or
seventy-five (75) feet, within the Limited Residential/Commercial District and the
Commercial Fisheries/Maritime Activities District, horizontal distance, of the normal
high-water line or any other body of water, tributary stream, or the upland edge of a
wetland, a buffer strip of vegetation shall be preserved as follows:

a. There shall be no cleared opening greater than 250 square feet in the forest
canopy (or other existing woody vegetation if a forested canopy is not present) as
measured from the outer limits of the tree or shrub crown. However, a footpath not to
exceed six (6) feet in width as measured between tree trunks and/or shrub stems is
allowed provided that a cleared line of sight to the water through the buffer strip is
not created.
Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 15.Q.1.b a "well-distributed stand of trees" in a Limited Development District, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

<table>
<thead>
<tr>
<th>Diameter of tree at 4 1/2 feet above ground level (inches)</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 - ≤ 4</td>
<td>1</td>
</tr>
<tr>
<td>4 - ≤ 8</td>
<td>2</td>
</tr>
<tr>
<td>8 - ≤ 12</td>
<td>4</td>
</tr>
<tr>
<td>12 or greater</td>
<td>8</td>
</tr>
</tbody>
</table>

In the Limited Residential/Commercial District, a "well-distributed stand of trees" is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area.

NOTE: As an example, if a 25-foot x 50-foot plot contains four trees between 2 and 4 inches in diameter, two trees between 4 and 8 inches in diameter, three trees between 8 and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is: 

\[(4 \times 1) + (2 \times 2) + (3 \times 4) + (2 \times 8) = 36 \text{ points}\]

If this were in the Limited Development District, trees totaling 12 points (36 – 24 = 12) may be removed from the plot, provided that no cleared openings are:

The following shall govern in applying this point system:

i. The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;

ii. Each successive plot must be adjacent to, but not overlap a previous plot;

iii. Any plot not containing the required points must have no vegetation removed except as otherwise allowed by the Ordinance;

iv. Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Ordinance;

v. Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 15.Q.1.b. “other natural vegetation” is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one-half (4 ½) feet above the ground level for each 25-foot by 50-foot rectangular area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.
Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

c. In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered or removed, except to provide for a footpath or other permitted uses as described in Section 15.Q.1.

d. Pruning of tree branches, on the bottom 1/3 of the tree is allowed.

e. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

Section 15.Q.1. does not apply to those portions of public recreational facilities adjacent to public swimming areas, as long as cleared areas are limited to the minimum area necessary.

2. Building Permit applications for all activities involving the clearing or removal of vegetation within the protected buffer area of a water body or wetland shall include the following:

a. A completed permit application with the appropriate fee attached.

b. A scaled site plan of the parcel identifying areas where the proposed activities will occur.

c. A detailed plan of the proposed area(s) of activity showing the 25-foot by 50-foot rectangular plots described in 15.Q.1. above and the proposed inventory of vegetation to be retained in each plot showing compliance with 15.Q.

d. Before and after photographic representation of the area(s) of proposed activity sufficient to identify the plots by retained vegetation after the proposed activity has been completed.

3. Exemptions

a. The removal of individual storm-damaged, diseased, unsafe or dead trees that do not result in the creation of a cleared opening.

b. The creation of a footpath that is in compliance with Section 15.Q.1.a.

c. Maintenance of legally existing cleared openings.

R. 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 also 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:

a. Mulching and revegetation of disturbed soil.

b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.

c. 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.

c. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

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.

S. **Soils**

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without 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 on-site investigation and be 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 areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils
report shall include recommendations for a proposed use to counteract soil limitations where they exist.

T. 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 impair designated uses or the water classification of the water body, tributary stream or wetland.

U. 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.

V. Home Occupations

It is the intent and purpose of these provisions to provide liberal, flexible standards for the establishment and maintenance of home occupations that simultaneously provide 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 any persons who do not make the residence their permanent home.
   b. Do not display any exterior signs, exterior exhibits, exterior storage or 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, 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; and
   d. Are not likely to generate regular or seasonal traffic.

2. Home occupations that do not meet the provisions of Section V.1 shall require a permit from the Planning Board, if in the Resource Protection District. If in the Limited Development District or Limited Residential/Commercial District, such home occupations shall require 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 subsection (d) hereafter 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.

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 customers or clients use;

g. There is no objectionable increase in traffic over that traffic normal for the neighborhood;

h. It 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.

3. Home occupations not meeting the above standards shall be considered to be commercial uses, and are then not permitted in the Resource Protection (RP) District.

SECTION 16. **Administration**

A. **Administering Bodies and Agents**

1. **Code Enforcement Officer.** A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.

2. **Board of Appeals.** A Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A. section 2691.

3. **Planning Board.** A Planning Board shall be created in accordance with the provisions of State law.

B. **Permits Required**

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 person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

1. 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:
   Provided that adequate erosion control measures are taken to prevent sedimentation of the water, and that the crossing does not block fish passage in the water course.

2. A permit is not required for an archeological excavation as long as the excavation is conducted by an archeologist listed on the State Historic Preservation Officer’s level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

3. Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

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 municipality, to the appropriate official as indicated in Section 14.

   2. All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.

   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 at 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 approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

   5. Prior to the issuance of any permit, a valid 911 address must exist, and signage, either permanent or temporary, shall identify 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.
D. **Procedure for Administering Permits**

Within 35 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 14, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or the 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 proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.

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

1. Will maintain safe and healthful conditions;
2. Will not result in 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 spawning grounds, fish, aquatic life, bird or other wildlife habitat;
5. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
6. Will protect archaeological and historic resources as designated in the comprehensive plan;
7. Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities district;
8. Will avoid problems associated with flood-plain development and use; and
9. Is in conformance with the provisions of Section 15, 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 statute administered by the municipality.

E. **Special Exceptions.**

In addition to the criteria specified in Section 16 above 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 registry of deeds of the county in which the lot is located 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 \( \frac{1}{2} \) 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.

5. All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 100 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site’s elevation in regard to the flood plain, and its proximity to moderate value and high value wetlands.

F. Expiration of Permit

Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

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 shoreland zone 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 15 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 16.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 "structures necessary for access to or egress from the dwelling" shall 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 materials 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 hears 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, except for enforcement-related matters as described in Section 16.H.1.a above. 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, 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.

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 shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection 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 party 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 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 Board members originally voting on the decision, and proper notification to the landowner, petitioner, Planning Board, Code Enforcement Officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

I. Enforcement

Nuisances. Any violation of this Ordinance shall be deemed to be a nuisance.

1 Code Enforcement Officer

a. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she 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 abatement of nuisance conditions. A copy of such notices shall be submitted to the Selectmen and be maintained as a permanent record.

b. The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.

c. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, 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. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.

2. 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, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, 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, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines 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 direct 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.
3. Fines

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A M.R.S.A. section 4452.

NOTE: Current penalties include fines of not less than $100 nor more than $2500 per violation for each day that the violation continues.

SECTION 17. Definitions

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 forest management and timber harvesting activities.

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

Basal Area - the area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

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

Boat Launching Facility - a facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

Bureau – State of Maine Department of Conservation’s Bureau of Forestry

Campground - any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

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

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

**Commercial use** - the use of lands, buildings, or structures, other than a "home occupation," defined below, 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.

**Cross-sectional area of a stream or tributary stream channel** – the cross-sectional area of a stream or tributary stream channel is determined by multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or tributary stream channel width is the straight line distance from the normal high-water line on one side of the channel to the normal high-water line on the opposite side of the channel. The average stream or tributary stream channel depth is the average of the vertical distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

**DBH** – the diameter of a standing tree measured 4.5 feet from ground level.

**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 naturally occuring.

**Dimensional requirements** - numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage 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.

**Disruption of shoreland integrity** – the alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

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

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

Expansion of use - the addition of one or more months to a use's operating season; 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.

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

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.

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

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.

Foundation - the supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frostwalls, 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 or more contiguous acres; or of less than 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 10 acres; and

2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

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

Functionally water-dependent uses - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal and inland waters and which cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to marine or tidal waters.

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.

**Great Pond Classified GPA** - any great pond classified GPA, pursuant to 38 M.R.S.A. Article 4-A Section 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

**Ground cover** – small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

**Height of a structure** - the vertical distance between the mean original (prior to construction) grade 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.

**Increase in nonconformity of a structure** – any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream or wetland that the closest portion of the existing structure from the water body, tributary stream or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

**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 non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

**Land Management Road** – a route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

**Licensed forester** – a forester licensed under 32 M.R.S.A. Chapter 76.

**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.
Marina - a business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, boat and tackle shops and marine fuel service facilities.

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 to transport 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 to be side lot lines.

Multi-unit residential - a residential structure containing three (3) or more residential units.

Native – indigenous to the local forests.

Non-conforming condition – non conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

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.

Non-conforming use - use of buildings, structures, premises, land or parts thereof which is not allowed 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 that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

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

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.
**Piers**, docks, wharves, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland.

Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

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

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

**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
- Fryeburg
- Lovewell
- Podunk
- Suncook
- Cornish
- Hadley
- Medomak
- Rumney
- Saco
- Charles
- Limerick
- Ondawa
- Medomak
- 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.

**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.

**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.

**Residual stand** – a stand of trees remaining in the forest following timber harvesting and related activities.

**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.

Salt Marsh - areas of coastal wetland (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is regularly inundated by tidal waters. The predominant species is saltmarsh cordgrass (Spartina alterniflora). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

Salt Meadow - areas of a coastal wetland that support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cordgrass (Spartina patens) and black rush; common threesquare occurs in fresher areas.

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.

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.

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 or river; 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.

Shoreline – the normal high-water line, or upland edge of a freshwater or coastal wetland.

Skid Road or Skid Trail – a route repeatedly used by forwarding machinery or animals to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

Slash – the residue, e.g., treetops and branches, left on the ground after a timber harvest.

Slope – the degree of inclination of the ground. Percent slope is measured as vertical drop divided by horizontal distance times 100.
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.

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

Tidal waters – all waters affected by tidal action during the maximum spring tide.

Timber harvesting - the cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 15.P. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting.

Timber harvesting and related activities – timber harvesting, the construction and maintenance of roads used primarily for timber harvesting, and other activities conducted to facilitate timber harvesting.

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.

Upland edge of a wetland - the boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt-tolerant vegetation and/or the maximum spring tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately 20 feet) tall or taller.
Vegetation - all live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level.

Volume of a structure - the volume of all portions of a structure enclosed by 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 include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

Wetland - a freshwater or coastal wetland.

Woody vegetation – live trees or woody, non-herbaceous shrubs.
Shoreland Zoning Ordinance
Resource Protection and Limited Development Districts

Note: Areas which are not identified as Resource Protection, Limited Development or CFMA are zoned as Limited Residential/Commercial.
I. PURPOSE AND AUTHORITY

A. The purpose of this Ordinance is to provide for the just and orderly operation of marine activities on Westport Island waterways. It is intended to promote public safety, enjoyment, convenience on the waterways, and to provide for effective use and control of mooring areas and public facilities appurtenant thereto.

B. This Ordinance is adopted pursuant to the Home Rule Authority as defined by statute and 38 M.R.S.A. Section 1 et seq., among others.

II. DEFINITIONS

A. “Owner” means the owner of an assigned mooring.

B. “Resident” means any person who occupies a dwelling within the municipality for more than 180 days in a calendar year or any person owning real estate in the Town of Westport Island.

C. “Watercraft” means any type of vessel, or boat, barge, float or craft used or capable of being used as a means of transportation on water other than a sea plane.

D. “Congested Areas” mean those areas of Westport Island’s waters that are determined by the Harbor Master and confirmed and designated by the Harbor Committee to be approaching or to have reached saturation of available mooring space. For purposes of this Ordinance, areas are saturated when addition of an approved mooring would result in the intersection of the swing circle of that mooring with the swing circle of any other approved mooring.

III. MOORING PERMITS

No mooring shall be placed, moved, or removed, other than for inspection, maintenance and re-setting in its permitted location, except under the direction of and with a permit from the Harbor Master. “Permits” are not transferable to another owner except that a mooring assignment used for commercial fishing purposes may be transferred only at the request or death of the assignee, only to a member of the assignee’s family and only if the mooring assignment will continue to be used for commercial fishing purposes. For purposes of this section, “member of the assignee’s family” means an assignee’s parent, child, or
sibling, by birth or by adoption, including a relation of the half blood, or an assignee’s spouse. Any mooring without a permit is subject to removal by the Harbor Master at the owner’s expense (See Section VIII below.)

Each owner shall be given a copy of the Ordinance when the permit is issued.

All moorings shall be of a sufficient size to hold the watercraft for which it is used. In issuing a permit, the Harbor Master may attach such conditions as he deems reasonable in light of the size of the watercraft, the location, the bottom conditions, currents, the classification of the area as a “congested area”, and any other relevant factors.

Any watercraft which does not exceed the conditions of the mooring permit may be attached to the mooring. Any change of watercraft exceeding the conditions of the permit requires a new permit and may require relocation of the mooring at the direction of the Harbor Master.

All moorings shall be set in place within twelve (12) months from the date the permit is issued and shall thereafter be maintained in its designated position for at least three months in each calendar year. Any mooring not set in place within twelve (12) months from the date the permit is issued or not remaining in its designated position for at least three months in each calendar year, shall be deemed abandoned and may be removed by the Harbor Master in accordance with the provisions of Section VIII of this Ordinance.

IV. IDENTIFICATION NUMBERS

The Harbor Master shall assign an identification number to each mooring to be placed by the owner on the mooring buoy. Identification numbers must be at least three inches high and clearly visible at all times. Any mooring not having an identification number is subject to removal by the Harbor Master at the owner's expense. (See Section VIII below.)

V. MOORING ASSIGNMENTS

Except as provided herein, mooring permits shall be granted upon application to the Harbor Master on a first come, first served basis. When the number of applications exceeds the number of available mooring spaces in congested areas, the Harbor Master shall maintain a waiting list of all applicants in that area who have not been assigned a mooring permit and shall post it in the Town Office. Assignments shall be made from that list according to the following priorities:

The waiting list shall be in four sections: (i) Riparian owners, (ii) resident, licensed commercial fishermen, (iii) residents, and (iv) all others including
non-residents. The Harbor Master shall determine the appropriate category based upon information provided in the application.

i. **Riparian Owners** shall be given the first vacancy available for one mooring. The limitation of one mooring assignment under this paragraph shall not prevent the riparian owner from receiving an additional mooring permit under the allocation system for all others (paragraph iv).

ii. **Licensed, resident commercial fishermen** shall receive the next available vacancy for one mooring after riparian owners. The limitation of one mooring assignment under this paragraph shall not prevent the Licensed resident commercial fishermen from receiving an additional mooring permit under the allocation system for all others (paragraph iv).

iii. **Resident.** Residents as defined herein, shall receive the next available vacancy for one mooring after Licensed, resident commercial fishermen. The limitation of one mooring assignment under this paragraph shall not prevent a resident from receiving an additional mooring permit under the allocation system for all others (paragraph iv).

iv. All others including non-residents and applications concerning second or subsequent moorings of any types held by one person, entity or household. Allocations to non-residents shall be in compliance with and in accordance with 38 M.R.S.A. Section 7-A.

VI. REGISTER AND MOORING CHART

The Harbor Master shall maintain a public register listing for each permitted mooring: (a) owner’s name, resident status, address and telephone number, (b) the length and type of the watercraft, and whether it is used for commercial fishing purposes, (c) the specifications of the mooring tackle and (d) the date of issuance of the mooring permit. The Harbor Master shall also maintain a mooring chart for each mooring area on which the location of each mooring is indicated by its identification number.

VII. FEES

The one time mooring fee shall be $10.00 for residents and $20.00 for non-residents and shall be due and payable at the time of application.

VIII. REMOVAL OF IMPROPER MORINGS

If the Harbor Master determines that a mooring is unregistered, improperly located, a hazard to navigation, or otherwise improper, the Harbor Master shall
first notify the owner, if the owner can be readily determined. The notice shall be sent by regular First Class U. S. Mail to the owner’s last known address and shall state: (a) the nature of the problem, (b) that the mooring and/or buoy must be removed, moved, or replaced or other action taken to the satisfaction of the Harbor Master within thirty (30) days of the date the notice was mailed, and (c) that if the matter is not resolved within the time-period, the Harbor Master may cause the entire mooring to be removed or the buoy removed and the chain dropped to the bottom, and the owner shall be liable to the Town in the amount of $100.00 plus the necessary expenses related to the service, if the Harbor Master takes such action with respect to the mooring.

IX. OWNER RESPONSIBILITY FOR BOATS

Responsibility for the safety of each mooring and boat in the harbor lies with its owner or master or his representative. Unless otherwise provided by law, the Town shall not be responsible for (a) any injury to persons or (b) damage to boats moving, drifting, anchored or moored in the harbor or using the Town landing facility or launching facility.

X. HARBOR ADMINISTRATION

A. Administrative Bodies and Agents

1. **Harbor Committee:** The Board of Selectmen shall appoint a Harbor Committee consisting of five (5) members serving staggered terms of three years and two (2) alternates serving one year terms and all of whom shall be residents of the Town of Westport Island. None of the members or alternates shall be the Harbor Master or Deputy Harbor Masters. Harbor Committee members shall serve without compensation. The Harbor Committee shall meet on a monthly basis or as required and may be called upon by the Selectmen to generally advise the Board of Selectmen on harbor and maritime related issues. All Harbor Committee meetings shall be posted and shall be open to the public. Written minutes will be taken at and maintained for all committee meetings.

2. **Harbor Master:** The Harbor Master, and any Deputy Harbor Masters deemed necessary by the Selectmen, shall be appointed annually by the Board of Selectmen. The Harbor Master and any Deputy Harbor Masters shall have the full power to enforce this Ordinance and all powers granted to a Harbor Master under 38 M.R.S.A. Section 1 et sequi unless restricted by the Selectmen at the time of appointment. In addition to the duties prescribed under Title 38 M.R.S.A., the Harbor Master and any Deputy Harbor Masters shall have such other duties and responsibilities as may be assigned by the Board of Selectmen from time to time.
3. **Appeals:** Any person aggrieved by a decision, act or failure to act by the Harbor Master as is related to the implementation of this Ordinance may appeal to the Harbor Committee and then to the Board of Appeals. All appeals shall be filed within fourteen (14) days of receipt of notice of the decision or order appealed, shall be in written form and shall specify all points and reasons for appeal.

XI. **PENALTIES**

Any violation of this Ordinance or other laws or regulations pertaining to harbors or for which the Harbor Master has enforcement authority shall be subject to the penalties set forth in 30-A M.R.S.A. Section 4452, as amended.

XII. **EFFECTIVE DATE**

This Ordinance shall become effective on the date of enactment. When enacted, this Ordinance replaces in total, the prior Waterways and Harbors Ordinance enacted on March 22, 1997.

Date of Enactment: **March 22, 2000**