Town of

Westport Island

in

Lincoln County, Maine

Minimum Lot Size Ordinance

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 thedistricts of the town.

SECTION 2. – AUTHORITY§

This Ordinance is adopted pursuant to and consistent with the Town's Home Rule authorityunder 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. Withinthe 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 Inthe Shoreland Zone and a ratio of a one and one half (1½) 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 theCFMA 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 roadof 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, providedthat 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 effectivedate 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 containno 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 non- conforming, 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 frontageand 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 inwhich 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 theBoard 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 accordancewith 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, modifyor 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 inwriting within seven (7) days of its decision.

10.D. Any aggrieved party may appeal the Board of Appeals' decision to the Superior Courtwithin 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 ofthis 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 reviewonly 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.