Town of

WESTPORT ISLAND

in

Lincoln County, Maine

Site Plan Review Ordinance

Adopted November 7, 2006
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TOWN OF WESTPORT ISLANDSITE
PLAN REVIEW ORDINANCE

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 managementof 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 authorityunder 30-A M.R.S.A. Section 3001 and Art. VIII, 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 provisionof this Ordinance conflicts with or is inconsistent with another provision of this Ordinanceor 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 anyof 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 non structural use,

3.B.8. The conversion of an existing nonresidential building or structure, in whole or inpart, 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 twothousand 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 aperiod 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 thatof 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 buffersare 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 donot 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 aresubject 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 ofthe 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 anon-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 administeringthe 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 thehearing 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, orthe 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 ofthe 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.lll. Areas to be contoured at greater than a five (5) foot contour intervalon 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 listof 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 theBoard 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 involvedin 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 thereis more than one foot of snow on the ground.

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 consideringthe 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 orstandard 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 requestto 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 whetherthe 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 neededto 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 inescrow 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 feelis reasonably necessary to protect the general welfare of the Town of Westport Island.

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 PlanningBoard 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, addressand 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, andalso 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 basedupon the tax maps,

6.A.5. Boundaries of all contiguous properties under the total or partial control of theowner 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 maximumextent 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 intwo (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, existingbuildings, 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 ofthe 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 roadsand 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 loadingareas, walkways and sidewalks on or immediately adjacent to the site.

6.B.1.h. Location of intersecting roads or driveways within two hundred (200) feetof 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 propertyand 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 supplyfor 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 maximumextent 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 andthe 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.**

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 500gallons 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 ofstorage 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 controlmethods 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.

6.B.2.i. A description of the methods to be used to harmonize the enterprise intothe rural and residential character of the surrounding neighborhood including:

Proposed landscaping and buffering.

Location, front view, materials, and dimensions of proposed signs, togetherwith 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 andthe 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 911addresses for each lot.

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

6.B.2.m. An erosion and sedimentation control plan in conformance with **Section11.C.**

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

State Historic Preservation Officer Maine
Historic Preservation Commission55 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 HistoricPreservation Officer.

6.B.2.o. An estimate of the amount and type of vehicular traffic to be generated ona daily basis and at peak hours, and the sight distances for each proposed road and

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 recommendedin 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 thatwill 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 theproposed date for completion of each listed facility or item,
2) A time phased complete list of all facilities and construction items proposedto be completed after the preferred date for commencement of enterpriseoperations,
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 FinalPlan.

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 conclusionsof 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 ofthe 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 certificationthat 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 thehearing, 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 informationrelative to the application.

7.A.2.c. At the public hearing the Chairman of the hearing shall review requests forparty 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 toeach 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 as required to show that the requirements of the criterion and/or standard are met, oroffer an alternative and provide evidence that the proposed alternative meets the spirit and requirements of the criterion or standard. If the Board previously allowedthe 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 andhas satisfied each criterion and/or standard.

7.A.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 citedabove 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 theintent 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 Officeof the Town Clerk of Westport Island simultaneously with the filing of the approvedFinal 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.B. 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.B.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.

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 Engineeror 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 requireapproval of the Board.

7.B.1.e. A signed statement verifying that all necessary State approvals have beenobtained 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 orrequired 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 Boardmembers on the Final Plan.

7.B.4. The approval by the Board of a Final Plan shall not be deemed to constitute or beevidence of any acceptance by the municipality of any road, easement, or any open space include 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 theTown 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 Selectmenand 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 theinspection 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'sagenda. 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 EnforcementOfficer and/or the Local Plumbing Inspector may, authorize minor modifications,
provided these modifications are within the spirit and intent of the Board's approval anddo 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/orthe 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 Boardshall 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 availabilityof 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 tobe used;

10.A.4. Will not cause unreasonable soil erosion or reduction in the land's capacity tohold 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 WestportIsland 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 WestportIsland 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 applicableRegulations.

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 theshoreline 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 determinethe 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 premisesand 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 bythe 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 aLicensed 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 uponrequest.
- **iii.** Lot design shall permit placement of wells, subsurface wastewater disposal areas, and where necessary, reserve sites for subsurface wastewater disposalareas 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 toDrinking 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, of 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 growthin the enterprise could result in water usage greater than four hundred (400) gallonsper day, a hydrogeological assessment including a seventy-two (72) hour pump test,

coordinated and prepared by a Certified Geologist or Registered ProfessionalEngineer is required.

Unless the applicant requests in writing and receives a waiver from the Board to notrequire 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 DrinkingWater (10-144 A.C.M.R. 231).

ii. A seventy-two (72) hour (minimum) pump test on all wells to be utilized bythe site. The test is described below:

1) The applicant and the certifying agent must prepare an estimate of theaverage 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. Ifsuch 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 thequality and quantity of ground water resources available on the parcel in question and on properties abutting the parcel.

b) An estimate of the maximum daily water usage of the proposed watersupply 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 conductthe 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 anddrinking 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 concentrationat 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 DrinkingWater Standards. No enterprise shall increase any contaminant concentration in theground 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, andthe 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 bythe applicant that circumstances unique to the parcel proposed for the enterprisejustify 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 constructionstandards 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 amonitoring 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 wherewater 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 aschedule 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.).**

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 ofthe 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 beshared 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 aprivate treatment facility.

11.B.2. The applicant shall submit evidence of site suitability for subsurface sewagedisposal 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 DisposalRules 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. System Design Requirements

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 peal week water usage of the enterprise is lessthan 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 stampedby 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 b 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 topographyand 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 CivilEngineer 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 drainto 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 perday 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 orwhose 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

Less than 30 vehicle trips per day 14 feet31 to
100 vehicle trips per day 16 feet More than
100 vehicle trips per day 18 feet

Trip generation estimates shall be consistent with methods recommended in the latestedition 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 adequatecapacity 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 peakweek, 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 fortraffic 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. Internal Vehicle Circulation

11.D.4.a. The layout of the site must provide for the safe movement of passengerservice, 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 aminimum 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 avoidingsubstantial 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 parkingmust conform to the following standards:

11.D.5.a. Parking areas with more than two (2) parking spaces must be arranged sothat 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 locatedat 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:

Parking Angle	Stall Width	Skew Width	Stall Depth	Aisle Width
90 degree	9'-0"		18'-0"	24'-0" two way
60 degree	8'-6"	10'-6"	18'-0"	16'-0" one way only
45 degree	8'-6"	12'-9"	17'-6"	12'-0" one way only
30 degree	8'-6"	17'-0"	17'-0"	12'-0" one only

11.D.5.d. In lots utilizing diagonal parking, the direction of proper traffic flow mustbe 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 proceedto and from the parking space provided for it without requiring the moving of anyother moter 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 orbicycle movement on adjacent walkways, or damage landscape materials.

11.D.6. Pedestrian Access

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 majorbuilding entrances and exits with parking areas and with existing sidewalks, if they exist or are planned in the vicinity of the project. The pedestrioan 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 consistentwith 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 ofland 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 buildinglots.

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, shallbe 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 incorporatedherein 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 KnoxLincoln 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) feetof 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 shallbe 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. Emergency Provisions

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 doneprior 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-publicimprovement or the cost, reasonably, to restore the project site to its original conditionwhichever 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. Thisoffer 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.I. Monuments

Permanent monuments shall be set at all corners and angle points of the enterprise lots andboundaries; 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, shallbear 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 tocorrect 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 shallconform 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 sensitiveareas, including but not limited to, wetlands, steep slopes, floodplains, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, uniquenatural 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.

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 facilitiesmust 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 beavoided 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 possibleextent 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 squarefeet, 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 aboveground 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 protectionto 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 adequatecapacity to accept he 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 normalactivities 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 allexhaust 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 sourcematerials. 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 beyondthe 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 theground 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 ofa 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 orthose known as "colonial colors" shall be utilized.

11.T.3. The design of the building shall be compatible with New England buildings suchas 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 servicessold 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 onthe 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 objectsthat 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 existedat 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

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:

District	Minimum Lot Area (acres)	Minimum Frontage (feet)	Minimum Shore Frontage (feet)(If applicable)
Limited Development	3	250	250
Limited Residential/Commercial	3	250	250
Comm. Fisheries/Maritime Activ.	2	150	150

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 ofland 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 withthe 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, exceptthat in the Commercial Fisheries/Maritime Activities Districts there shall be no minimumsetback 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

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 thereis 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 beerected 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 theBoard, 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

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 occupancyor 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 ofSelectmen, 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 anyphase 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 inaccordance with the Final Plans as approved, shall be a violation and subject to penaltiesto 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 andsubject to penalties to be determined by the Board of Selectmen.

12.F. Violations

12.F.1. Occupancy of the premises or commencing enterprise operations withoutapproval of the Board is not allowed.

12.F.2. No public utility or any utility company of any kind shall provide new service toany 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 approvalshall be a violation of law.

12.F.4. Any person, firm, or corporation being the owner of or having control or use ofany building or premises, and who violated any of the provisions of this Ordinance, shallbe 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 theFee 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 isbeing 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 Boardof Appeals shall inform the applicant of the decision in writing within seven (7) days of its decision.

13.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 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 informationregarding 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 ofAppeals 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 approvethe 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 thatfraud 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 havecaused 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

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

SECTION 15. – SEVERABILITY

A finding of invalidity or unconstitutionality of any provisions of this Ordinance shall notinvalidate any other part.

SECTION 16. – DEFINITIONS

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

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

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

Accessory Structure or Use - A detached, subordinate structure, the use of which is clearly incidental and related to that of the principal structure or use of the land, and which is located on the same lot as that of the principal structure or use. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

Aggrieved Party - An owner of land whose property is directly or indirectly affected by the granting of or denial of a permit or variance under this Ordinance, a person whose land abuts land, and for which a permit or variance has been granted, or any other person or group of persons, who have suffered particularized injury as a result of the granting of such permit or variance.

Agriculture - The production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to, forages and sod crops, grains and seed crops, dairy animals and dairy products, poultry and poultry products, livestock, fruits and vegetables, andornamental and green house products. Agriculture does not include Forest Management andTimber

Harvesting activities.

Appellate Hearing - A Board of Appeals Hearing at which only the material which was the basis for the decision or action by the Planning Board is reviewed to determine if the action or decision can be upheld.

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

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

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

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

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

Building - Any permanent structure, having one or more floors and a roof, which is used for the housing or enclosure of persons, animals, or property. When any portion thereof is separated by a division wall without opening, then each such portion shall be deemed a separate building. Sidewalks, fences, driveways, parking lots. retaining walls, electrical transmission poles and lines, signs and flagpoles are not considered to be buildings.

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

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

NOTE: All areas below the maximum spring tide level are coastal wetlands. These areas may consist of rocky ledges, sand dunes and cobble beaches, mud flats, etc. in addition to salt marshes and salt meadows.

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

Commercial Use(s) - The use of lands, buildings, or structures, other than a "home occupation" as defined, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwellingunits.

Complete Application - An application shall be considered complete upon submission of the appropriate fee and all information required by Town Ordinances, or by a vote by the appropriate board to waive the submission of certain required information. The Planning Boardshall inform the applicant of its determination that an application is complete.

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

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

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

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

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

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

Driveway - A vehicular access way serving two lots or two single family dwellings or one two

family dwelling or less,

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

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

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

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

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

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

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

Foundation - The supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frost walls, or other base consisting of concrete, block, brick or similar material.

Freshwater Wetland - Freshwater swamps, marshes, bogs, and similar areas other than forest wetlands, which are:

1) Of ten (10) or more contiguous acres, or if less than ten (10) contiguous acres and adjacent to a surface water body excluding any river, stream, or brook, such that, in a naturalstate the combined surface area is in excess of ten (10) acres, and
2) Is inundated or saturated by surface or ground water at a frequency and for a

duration sufficient to support, and which under normal circumstances do support. a prevalence of wetland vegetation typically adapted for life in saturated soils, and not considered a part of a coastal wetland, river, brook, or stream. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to this definition.

Frontage - That portion of a lot fronting upon and providing rights of access to a public or private road listed on the Schedule of Town Roads on file with the Town Clerk, or to an approved or accepted new right-of-way laid out in accordance with the Town Ordinances, to be measured continuously along a single street or road line. Owners of lots fronting on two roads may select that which may be considered "frontage". On a corner lot, frontage shall be measured to the point of intersection of the extension of the sidelines of the roads. The minimum frontage for permitted uses within the Town of Westport Island must be met by contiguous frontage within the Town of Westport Island on an approved or accepted right-of-way in the Town of Westport Island. Alternatively, frontage may be considered to be shore frontage.

Height of a Structure: - The vertical distance between the mean original grade (prior to construction} at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples. antennas, and similar appurtenances having no floor area.

Home Occupation - An occupation or profession which is customarily conducted in a residential structure or property, and which is: 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses, and 2) which employs no more than two (2) persons other than family members residing in the home.

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

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

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

Lot Area - The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two (2) lots.

Luminaries - Devices which provide sources of artificial light.

Mineral Extraction - Any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat or other

like material from its natural location, and transports the product removed, away from the extraction site.

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

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

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

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

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

Non-Conforming Lot - A single lot of record, which, at the effective date of this Ordinance, doesnot meet the area, frontage, or width requirements of the district in which it is located, and existed prior to affective date of this Ordinance.

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

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

Normal High-Water Line (non-tidal water) - That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation,and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetationand hydric soils and that are at the same or lower elevation as the water level of the river orgreat pond during the period of normal high water are considered part of the river or great pond.
NOTE: In the case of tidal waters, setbacks are measured from the upland edge of the "coastal wetland".

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

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

Person - An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or otherlegal entity.

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

Principal Structure: A building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

Principal Use(s): A use or uses other than one which is wholly incidental or accessory to another use on the same premises.

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

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

Replacement System - A system intended to replace: **1)** an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2) any existing overboard wastewater discharge, or the replacement of an existing holding tank

Road - A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined.

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

Shore Frontage - The length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline at normal high-

waterlevel.

Shoreland Zone - The land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high water line of any great pond, river, salt water body, or within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected bytidal 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 hypotheticalperson seated in a vehicle.

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

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

Solid Waste - Useless, unwanted, or discarded solid material with insufficient liquid content to be free flowing, including but not limited to rubbish, garbage, scrap materials, junk, refuse, andinert 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.

Structure - Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, poles, wiring and other aerial equipment normally associatedwith service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios and satellite dishes.

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

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

Subsurface Sewage Disposal - Any system designed to dispose of waste or wastewater on or beneath the surface of the earth, including, but not limited to septic tanks, disposal fields, grandfathered cesspools, holding tanks, pretreatment filters, piping or any other fixture, mechanism or

apparatus used for those purposes. This does not include any licensed discharge system, any surface water waste disposal system, or any municipal or quasi municipal sewer or wastewater treatment system.

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