TOWN OF
FREEPORT

ZONING ORDINANCE
May 2008

Amendments

July 15, 2008	*Section 526: Peddlers on Private Property*
December 2008	*Section 514: Correction – Parking Standards*
April 7, 2009	*Section 514: Parking Standards*
July 01, 2009	*Shoreland Zoning (multiple sections)*
January 26, 2010	*Section 104: Definitions (Dwelling Unit – Residential)*
January 26, 2010	*Zoning Map Amendment – Village Mixed Use District 3 changed to Village Mixed Use District 2*
January 26, 2010	*Section 419: Village Mixed Use District 3 - Deleted*
April 6, 2010	*Section 602: Site Plan Review*
April 6, 2010	*Zoning Map Amendment: Addition of 6 acres to previously approved First Atlantic Retirement Community Overlay District on Old County Road*
December 7, 2010	*Section 414. Village Commercial II "VC-II"*
February 8, 2011	*Section 602: Site Plan Review*
February 8, 2011	*Section 104: Definitions (Initiate Construction)*
February 12, 2012	*Section 532: Accessory Apartments*
February 12, 2012	*Section 104: Definitions (Dwelling, Two-Family, setback, solar building, accessory use or structure, structure, condominium)*
February 12, 2012	*Section 601.G.2.d: Limited Setback Reductions*
February 12, 2012	*Section 533: Small Wind Energy Systems (new section)*
February 12, 2012	*Section 201.B: General Restrictions*
June 19, 2012	*Section 201.I: General Restrictions*
June 19, 2012	*Section 104: Definitions (Municipal Facility)*
June 19, 2012	*Section 601.D & E: Building Permit and Certificate of Occupancy*
January 22, 2013	*Sections 407, 414, 415, 417 & 418: Amendments pertaining to Affordable Housing*
January 22, 2013	*Sections 521 & 602: Amendments pertaining to Site Plan Review*
February 26, 2013	*New Digital Zoning Map Adopted (Section 302: Date reference added)*
April 2, 2013	*Updated Article V: Leased Parking Standards (per amendments adopted to Chapter 48: Traffic and Parking Ordinance)*
April 11, 2013	*Correction – typographical error to cross reference in Section 406 regarding setbacks for certain uses*
June 18, 2013	*Sections 104, 402, 403, 404, 405, 306, 409, 421, 422, 425, 426 & 504A: Amendments pertaining to Agriculture*
September 17, 2013	*Sections 413, 514: Amendments Pertaining to Parking*
January 7, 2014	*Section 406: Medium Density Districts – "MD-A and MD-B"*
August 5, 2014	*Section 202: Amendments pertaining to the expansion of non-conforming buildings in the Shoreland Zone*
August 5, 2014	*Section 601: Limited setback reduction*
December 2, 2014	*Sections 514, 402, 403, 404, 405, 406, 407, 408, 409, 411, 412, 413, 414, 415, 416, 417, 418, 420, 421, 422, & 425: Amendments pertaining to parking at Open Spaces.*

December 2, 2014	*Sections 104, 406, 409, 411, 412, 413, 414, 415, 416, 420, 421, 422 and new Section 526.A: Amendments pertaining to Artisan Food and Beverage (including a food truck(s) as an accessory use.) (Note: Amendments effective 12/17/14)*
January 6, 2015	*Section 501: Temporary Activity*
August 4, 2015	*Sections 402, 403, 425: Amendments pertaining to sheds and reduced setbacks*
December 15, 2015	*Section 504 C: Rural Flexible Lot Development*
March 15, 2016	*Section 407.A: Village I-R - "V-IR"* *Zoning Map Amendment: Amend portion of V-I and replace with V-IR*

Freeport Zoning Ordinance - Table of Contents

Amendments ..... - 2 -

ARTICLE I –TITLE, PURPOSE AND DEFINITIONS ..... - 7 -

Section 101. Title ..... - 7 -

Section 102. Purpose ..... - 7 -

Section 103. Word Usage ..... - 7 -

Section 104. Definitions ..... - 7 -

ARTICLE II – GENERAL USE REGULATIONS ..... - 34 -

Section 201. General Restrictions ..... - 34 -

Section 202. Non-Conformance ..... - 36 -

Section 203. Changes and Amendments ..... - 42 -

Section 204 Contract Zoning ..... - 44 -

ARTICLE III – ESTABLISHMENT OF ZONING DISTRICT ..... - 47 -

Section 301. Zoning Districts ..... - 47 -

Section 302. Zoning Map ..... - 47 -

Section 303. Zoning District Boundaries ..... - 48 -

Section 304. Map Corrections - Shoreland Zone and Resource Protection District RP-1 ..... - 48 -

ARTICLE IV – ZONING DISTRICT REGULATIONS ..... - 50 -

Section 401. Purpose and Land Use Controls ..... - 50 -

Section 402. Rural Residential District I “RR-I” and Rural Residential District IA “RR-IA” ..... - 50 -

II. RR-IA ..... - 53 -

Section 403. Rural Residential District II “RR-II” ..... - 55 -

Section 404. Medium Density Residential District I “MDR-I” ..... - 58 -

Section 405. Medium Density Residential District II “MDR-II” ..... - 61 -

Section 406. Medium Density Districts - “MD-A and MD-B” ..... - 64 -

Section 407. Village I - “V-I” ..... - 70 -

Section 407.A Village I-R - “V-IR” ..... - 73 -

Section 408. Village II “V-II” ..... - 74 -

Section 409. Commercial District I “C-I” ..... - 75 -

Section 411. Commercial District III - “C-III” ..... - 79 -

Section 412. Commercial District IV “C-IV” ..... - 82 -

Section 413. Village Commercial “VC-I” ..... - 84 -

Section 414. Village Commercial II “VC-II” ..... - 88 -
Section 415. Village Commercial III “VC-III” ..... - 91 -
Section 416. Village Commercial IV “VC-IV” ..... - 94 -
Section 417. Village Mixed Use District 1 –VMU-1……..…….- 97 -
Section 418. Village Mixed Use District 2 –VMU-2 ..... - 101 -
Section 419. Village Mixed Use District 3 –VMU-3 {deleted 01/26/10} ..... - 104 -
Section 420. Local Business District “LB” ..... - 104 -
Section 421. Industrial District I “I-I” ..... - 106 -
Section 422. Industrial District II “I-II” ..... - 108 -
Section 423. Marine Waterfront District “MW” (Section removed and replaced with Section 507.E.4 and Table 1) ..... - 109 -
Section 424. Resource Protection District I “RP-I” (Section removed and replaced with Section 507.E.1 and Table 1) ..... - 109 -
Section 425. Resource Protection II “RP-II” ..... - 110 -
Section 426. Island District “ID” ..... - 112 -
Section 427 - Mining and Extraction Overlay District - “MEOD” ..... - 114 -
ARTICLE V – PERFORMANCE STANDARDS ..... - 116 -
Section 501. Temporary Activity ..... - 116 -
Section 502. Temporary Structures ..... - 117 -
Section 503. Home Occupations ..... - 117 -
Section 504A. OPEN SPACE, EXPANDED OPEN SPACE, AND LARGE LOT RESIDENTIAL DEVELOPMENTS ..... - 119 -
Section 504B. VILLAGE OPEN SPACE RESIDENTIAL DEVELOPMENTS ..... - 122 -
Section 504 C. RURAL FLEXIBLE LOT DEVELOPMENT……...-124-
Section 505. Campgrounds ..... - 127 -
Section 506. Buffer Zones ..... - 128 -
Section 507. Shoreland Zone Regulations {Amended, Effective 07/01/09} ..... - 128 -
Section 508. Sanitary Standards ..... - 144 -
Section 509. Extraction ..... - 144 -
Section 510. Design Review ..... - 155 -
Section 511. Signs ..... - 155 -
Section 512. Access to Property ..... - 155 -
Section 513. Corner Clearances ..... - 159 -

Section 514. Off-Street Parking and Loading ..... - 159 -
Section 515. Noise Regulation ..... - 168 -
Section 516. Odorous and Toxic Matter ..... - 169 -
Section 517. Electromagnetic Interference ..... - 169 -
Section 518. Smoke and Particulate Matter ..... - 169 -
Section 519. Vibrations ..... - 169 -
Section 520. Fire and Explosive Hazards ..... - 170 -
Section 521. Lighting ..... - 171 -
Section 522. Water Quality Protection ..... - 172 -
Section 523. Groundwater Protection ..... - 172 -
Section 524. Mobile Home Parks ..... - 173 -
Section 525. Filling of Lands and Creation of Ponds. ..... - 179 -
Section 526. Peddlers on Private Property ..... - 182 -
Section 526.A Food Trucks ..... - 188 -
Section 527. Performance Standards for Commercial Districts (C-I, C-III, C-IV) ..... - 190 -
Section 528 Regulation of Wireless Telecommunications Facilities ..... - 192 -
Section 529. Stormwater Management ..... - 202 -
Section 530. Location of Adult Business ..... - 202 -
Section 531. Retirement Community Overlay District ..... - 203 -
Section 532. Accessory Apartments ..... - 209 -
Section 533 – SMALL WIND ENERGY SYSTEMS *{Amended, Effective 02/07/12}* ..... - 210 -
ARTICLE VI – ADMINISTRATIVE PROVISIONS ..... - 214 -
Section 601. Enforcement ..... - 214 -
Section 602. Site Plan Review ..... - 222 -
Section 603. Validity and Severability ..... - 234 -
Section 604. Conflict with Other Ordinances ..... - 234 -
Section 605. Effective Date ..... - 234 -
ARTICLE V – LEASED PARKING STANDARDS ..... - 235 -
Zoning Map Attachment ..... - 237 -
Addendum 1 – Freeport Village Overlay Design Standards
Addendum 2 – Village Open Space Map 1 and Village Open Space Map 2

ARTICLE I

TITLE, PURPOSE AND DEFINITIONS

Section 101. Title

This Ordinance shall be known and may be cited as the "Zoning Ordinance of the Town of Freeport, Maine".

Section 102. Purpose

A. The purpose of this Ordinance is to promote the health, safety and general welfare; to encourage the most appropriate use of land throughout the Town; to promote traffic safety; to provide adequate light and air; to encourage the preservation of the historical heritage of Freeport; to prevent overcrowding of real estate; to promote a wholesome home environment; to prevent housing development in unsanitary areas; to provide an adequate street system; to regulate the location, density and rate of development so that the rural environment is retained in appropriate locations; to provide an allotment of land areas in new development sufficient for all the requirements of community life; to conserve natural resources, and to provide for adequate public services.

B. The purpose of this Ordinance is to implement the land use policies of the Comprehensive Plan.

Section 103. Word Usage

In this Ordinance, if not inconsistent with the context, the singular may be taken for the plural and the plural for the singular; "person" may include an association, a partnership, a corporation, or other entity; the present tense includes the future; the word "building" includes the word "structure"; the word "lot" includes the word "plot"; and the word "shall" is mandatory and not directory.

Section 104. Definitions

The definitions listed in this Section 104 are an integral part of this Zoning Ordinance. Where the definitions include regulations, restrictions, limitations or prohibitions, the definitions shall constitute enforceable requirements of this Ordinance. Diagrams and illustrations are not governing provisions, and are included only as aids in understanding the written regulations. Definitions with asterisks (*) apply only to the Shoreland Zone.

Access Point – a public or private point of entry or exit used by on-road vehicles from land adjacent to U.S. Route One between the Freeport and Yarmouth boundary and the intersection of Desert Road. An access point may serve any permitted use in the underlying zoning district. Access points may have a gravel, asphalt or other man-made surface or may be created by repeated passage of on-road vehicles.

Accessory Apartment in a Single Family Dwelling: A small dwelling unit that meets the performance standards for accessory apartments and is located on the same lot as and is accessory to a single family dwelling. One accessory apartment per dwelling unit is allowed.

Accessory Use or Structure: A use or structure customarily incidental and subordinate to the principal use or structure and located on the same lot. Where an accessory building or structure, including but not limited to a deck or garage, is attached in a substantial manner by a wall to a principal building or structure, it shall be considered a part of said principal structure or building. Roof or wall mounted solar panels are considered part of said principal structure. Accessory structures shall conform to the space standards of each district. *{Amended, Effective 02/07/12}*

Adult Business: "Adult business" means any business in any use category, a substantial or significant portion of which consists of selling, renting, leasing, exhibiting, displaying, or otherwise dealing in materials or devices of any kind which appeal to prurient interest and which depict or describe specified sexual activities.

Agriculture: Agriculture is the utilization of natural resource systems to produce commodities which maintain life, including food, fiber, forest products, horticultural crops, and their related services.* (From Title 7 Definitions *derived from 1997 Maine Department of Education workshops, building upon 1988 Natural Research Council definition.) The production of these commodities is further described in the following subsections: "Agricultural Products", "Agricultural Product Farm Stands", "Agricultural Product Farm Store", "Farm", "Farm Operation", and "Farming or Ranching".

The following activities are conducted on a farm, by a farm operation or by farming or ranching and are permitted by Maine State Statute Title 7: Maine Agricultural Protection Act (more commonly known as the Right To Farm Law). *{Amended, Effective 06/18/13}*

- **Agricultural products**. "Agricultural products" shall be as defined as stated in 7 MRSA §152 as amended from time to time, meaning those plants and animals and their products that are useful to humans and includes, but are not limited to, forages and sod crops, grains and grain products, feed crops, dairy and dairy products, poultry and poultry products, bees and bees' products, livestock and livestock products and fruits, berries, vegetables, flowers, seeds, grasses and other similar products, or any other plant, animal or plant or animal products that supply humans with food, feed, fiber or fur. "Agricultural products" does not include trees grown and harvested for forest products. *{Amended, Effective 06/18/13}*

- **Agricultural Product Farm Stands** – hereafter known as Farm Stands are a booth, stall or structure, from which agricultural products are sold to the general public. A Farm Stand is not considered a peddler on private property. Farm Stands that are 300 square feet or less do not have to meet the setback requirements of the district in which it is located. *{Amended, Effective 06/18/13}*

- **Agricultural Product Farm Stores** – hereafter known as Farm Stores are a structure, from which agricultural products are sold to the general public. A Farm

Store is not considered a peddler on private property. Farm Stores are structures that are more than 300 square feet. *{Amended, Effective 06/18/13}*

- **Farm**. "Farm" shall be defined as stated in 7 MRSA §152 as amended from time to time and shall mean the land, plants, animals, buildings, structures, ponds and machinery used in the commercial production of agricultural products. *{Amended, Effective 06/18/13}*

- **Farm operation**. "Farm operation" be defined as stated in 7 MRSA §152 as amended from time to time and shall mean a condition or activity that occurs on a farm in connection with the commercial production of agricultural products and includes, but is not limited to, operations giving rise to noise, odors, dust, insects and fumes; operation of machinery and irrigation pumps; disposal of manure; agricultural support services; and the employment and use of labor. *{Amended, Effective 06/18/13}*

- **Farming or ranching**. "Farming" or "ranching" be defined as stated in 7 MRSA §251 as amended from time to time and shall mean primarily engaging in the commercial production of agricultural products as a livelihood and includes dairy farming; raising livestock, freshwater fish, fur-bearing animals or poultry; producing, cultivating, growing and harvesting fruit, produce or floricultural or horticultural commodities; or any practices on a farm or ranch that are incident to or in conjunction with these farming operations. In addition to the State definition of farming and ranching, for the purposes of this Ordinance, ranching shall also include commercial equestrian facilities for the keeping, breeding, raising, and training of horses and related activities including raising hay and feed and maintaining pasturage. *{Amended, Effective 06/18/13}*

Agritourism Activity: "Agritourism activity" means any agricultural activity carried out on a farm or ranch that members of the general public are allowed to view or participate in, including farming, ranching, historical and cultural activities, harvest-your-own activities and attractions related to farming or ranching. An activity is an agritourism activity whether or not the participant pays to view or participate in the activity. These activities apply to farmer/rancher, where the farmer/rancher desires to engage in activities which meet the definitions in this section “Agriculture”, “Agricultural Products”, “Farm”, “Farm Operation”, “Farming or Ranching”, “Farm Stand”, “Farm Store”. Allowable under this section are farm stands/stores, farm tours, hands-on-chores, self-harvesting of farm products, hay or sleigh rides, corn mazes, community supported agriculture (CSA), educational services such as cooking, gardening, and animal raising classes, farm stays where up to 7 rooms can be designated for guests, and general observation of nature in fields and woodlands. *{Amended, Effective 06/18/13}*

Agricultural Farm Stand: *{Deleted, Effective 06/18/13}*

Agriculture - General: *{Deleted, Effective 06/18/13}*

Animal Feedlot: *{Deleted, Effective 06/18/13}*

Animal Husbandry: *{Deleted, Effective 06/18/13}*

Antenna: Any structure or device used for the purpose of the wireless transmitting or receiving electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals, including but not limited to directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whip antennas.

Antenna Support Structure: Any pole, telescoping mast, tower tripod, or any other structure which attaches to a tower and supports one or more antenna(e).

Aquaculture*: Structures and land-based activities required by the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Aquifer: Geologic unit composed of rock or sand and gravel, which unit contains sufficient saturated permeable materials to conduct groundwater and to also yield economically significant quantities of groundwater to wells and springs. For purposes of this Ordinance, economically significant quantities of groundwater shall be taken to be any unit capable of yielding 10 gallons per minute or more of water to a single well or spring.

Arboriculture: The business location of an arborist as defined in 32 M.R.S.A., Section 1951 and which is conducted pursuant to a state license issued pursuant to 32 M.R.S.A., Section 2051, et seq.

Art Center – Indoor – A structure or complex of structures for housing the visual and/or performing arts.

Arts center – Outdoor – grounds which are used for display of the visual arts or for the performing arts.

Art Gallery/Museum: A type of "public assembly - indoor" use which consists of a building containing objects such as, but not limited to, paintings, prints, sculptures, scientific and historical objects which are either for sale to the general public or are displayed for viewing only. Outdoor display is permitted only as an accessory use and shall permit only the display of large objects, such as sculptures, which are affixed to the ground and incorporated into a garden setting with or without pedestrian paths whose purpose is to permit viewing of the large objects.

Artisan Food and Beverage: Small scale production, preparation of food and/or beverages made on site with minimal automated processes involved and may include direct sales to consumers and product tasting. This definition includes uses such as small batch food producers and bakeries, craft breweries, micro-distilleries, small batch candy shops, cheese makers, and herbal remedies. Outdoor seating is allowed. *{Effective 12/17/14}*

Auto Repair Service Garage: A place where the following services may be carried out: general repair, engine rebuilding, parts replacement, rebuilding or reconditioning of motor vehicles, collision

service such as body, frame or fender straightening and repair, overall painting and undercoating and mechanized washing of automobiles but where no engine fuels are sold at retail.

Auto Sales: The offering and sale of automobiles, light trucks, vans, and accessories, parts, supplies and equipment to the general public at a facility and location pursuant to the requirements, and a license issued by the Maine Secretary of State pursuant to 29 M.R.S.A, Section 341 et seq. In the RR-IA District, such sales shall be limited to used vehicles, plus accessories, parts, supplies and equipment.

Auto Sales, Antique: Sales and/or indoor storage of automobiles and light trucks that are twenty-five years old or older and eligible for operation on public roads ("antique autos"). Sales and storage of vehicles which are not antique autos may occur only if the activity is secondary and incidental to the sale of antique autos. Outdoor storage of vehicles is prohibited. Outdoor display of vehicles offered for sale shall be limited to 20 vehicles, no more than 4 of which may be vehicles which are not antique autos. Auto repair service garages are allowed as an accessory use to antique auto sales. This use shall have the same parking requirement as Auto Service Station as listed in Section 514.4 below.

Auto Service Station: A place where gasoline, or any other vehicular engine fuel (stored only in underground tanks), kerosene, or motor oil and lubricants or grease (for operation of motor vehicles) are retailed directly to the public on the premises; including the sale of minor accessories and the servicing and minor repair of automobiles, not including storage of unlicensed vehicles and not including body, frame, or fender straightening and repair. Convenience stores with fuel pumps as an accessory use are not classified as auto service stations.

Average Lot Size: average lot size shall be calculated by adding up the area of all of the lots within a subdivision and dividing by the number of lots. Open spaces and right-of-ways shall not be included in this calculation.

Basal Area: The area of cross section of a tree stem at 4 ½ feet above ground level and inclusive of bark.

Bed and Breakfast Inn: A single family dwelling in which the resident or residents of the dwelling provide short-term overnight lodging to paying guests in a maximum of seven guest rooms located within the dwelling or permitted attached structures. Breakfast shall be the only meal served and shall be limited to overnight guests. Commercial kitchens and rentals for more than one month in a calendar year are prohibited. The inn shall function like a private home with house guests. A bed and breakfast inn with three guest rooms or less shall be considered a home occupation accessory to the principal use of the dwelling and shall be allowed under the conditions and regulations applicable to home occupation.

Boat Yard: A business or gainful occupation where boats are hauled, stored, repaired and/or constructed. The retail sale of gasoline and other fuels is prohibited.

Building: Any structure designed or intended for the support, enclosure, shelter or protection of persons, domestic animals, chattels or property. For purposes of determining exterior measurements

or footprint in order to locate the setback line, building shall include all attached structures such as open or closed porches, car-ports, garages, balconies, roof overhangs, all stairways and other similar structures.

Building Coverage: That percentage of the lot which is covered by buildings.

Building Front Line: A line parallel to the front lot line transecting that point of the building face which is closest to the front lot line.

Business and Professional Offices: A building in which there is located the offices of a profession or business including, but not limited to, banks, insurance offices, realtors, barber shops or beauty salons.

Campgrounds: A parcel which is used as a recreational site for tents, trailers, or recreational vehicles or other forms of temporary shelter and for which use a fee is charged.

Cemetery: A burial ground maintained by the Town or other public or non-profit body or private individual. A crematory is allowed as an accessory use to a cemetery.

Coastal Wetlands*: All tidal and subtidal lands all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. *{Amended, Effective 07/01/09}*

Codes Enforcement Officer: A person appointed by the Municipal Officers to administer and enforce this Ordinance. Reference to the Codes Enforcement Officer may be construed to include Building Inspector, Plumbing Inspector, Electrical Inspector, and the like where applicable.

Commercial Fishery: The commercial harvesting and/or sale of fish or shellfish but excluding the processing of such fish or shellfish.

Commercial Recreation-Indoor: Any recreational use in which the primary use is within a structure, such as a bowling alley, roller or ice skating rink, swimming pools, tennis courts, or arcades operated primarily for profit.

Commercial Recreation-Outdoor: Any outdoor recreational use such as, but not limited to, golf courses, tennis courts, riding stables, swimming pools, or ice skating rinks operated primarily for profit, but not including campgrounds, drive-in movie theaters, race tracks and mechanical or motorized rides.

Commercial Sales and Service: A business in which the principal use is the sale of goods and/or services in large quantities either to the general public or to other businesses. Indoor storage of goods or equipment is permitted as an accessory use. Outdoor storage is prohibited.

Commercial Sales and Service - Outdoor: Commercial sales and service which permits both indoor and outdoor storage as principal uses.

Commercial School : A building or buildings which is principally used to conduct commercial educational classes including, but not limited to trade schools, schools of art, beauty, business, dancing, driving, music, martial arts, but not including private nursery, elementary or secondary schools. Retail sales of items related to the school are allowed as an accessory use to commercial schools.

Common Lot Development: a development on 2 or more contiguous lots owned in common or separately, or a single lot that is being subdivided for sale or lease as a separate lot or when lots are created for financing purposes only.

Community Centers and Services: A building used for some combination of social, educational, recreational, governmental, cultural activities, and uses accessory to those uses, open to and for the benefit of the public, owned by the municipality and/or a 501(c)(3) non-profit organization or a group of 501(c)(3) organizations.

Condominium: means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions under a declaration, or an amendment to a declaration, duly recorded pursuant to this Act. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners. Any real estate development consisting exclusively of clustered, detached, single family residences is not a condominium, unless so designated in the declaration. *{Amended, Effective 02/07/12}*

Conforming Use: A use of buildings, structures, or land which complies with all applicable provisions of this Ordinance.

Conservation Area – Primary (Unbuildable land): The most severely constrained land with regard to development and environmentally sensitive land as defined in net residential acreage as unbuildable land.

Conservation Area – Secondary: Land within seventy five (75) feet of rivers or streams as defined by the Department of Environmental Protection and other natural resource areas of local importance included in the Freeport Open Space Plan dated July 20, 1999 and as amended from time to time, but not those areas considered to be primary conservation areas. In village open space subdivisions, the secondary conservation areas are those areas shown on the Freeport Village Open Space Map 1 and Freeport Village Open Space Map 2, dated August 2, 2005, and attached as addendum 2 of this Ordinance. Freeport Village Open Space Map 1 shows the location of gullies, streams, and wetlands of significance and a 200' buffer along Interstate 295. Freeport Village Open Space Map 2 identifies civic destinations and employment centers to determine if land within a proposed subdivision could provide a connection or link between destinations or to a trail that has a history of use by the public.

Conservation Land: The portion of required open space to be set aside as part of a open space

or expanded open space subdivisions. For open space subdivisions, fifty percent (50%) of the net residential acreage shall be conservation land. For expanded open space subdivisions, sixty-five percent (65%) of the net residential acreage shall be conservation land. For village open subdivisions, thirty percent (30%) of the net residential acreage shall be conservation land.

Construction Services: The performance of work or the furnishing of supplies to members of the building trades such as but not limited to plumbing, painting, building, well drilling, carpentry, masonry, or electrical installation, which requires the storage of materials and/or the location of commercial vehicles at the site.

Convenience Store: A retail establishment which accommodates neighborhood needs for groceries and sundries and which may sell, as accessory uses, prepared food for carry-out.

Convenience Store With Gas Pumps: A convenience store which sells, as an accessory use, gasoline at the pump(s).

Day Care Centers: Facilities providing, for remuneration, day care for children under 16 years of age who are not residents of the facility.

Family Day Care Home: A facility serving up to 6 children and classified as a home occupation if it is located in the operator's residence.

Group Day Care Home: A facility serving 7 to 12 children and classified as a home occupation if it is located in the operator's residence.

Day Care Center Facilities: Facilities serving more than 12 children either on a regular or a non-recurring basis.

Drive-Up/Drive-Through: An accessory use which by design, physical facilities, service, or by packaging procedures, encourages or permits customers to receive services, obtain goods, or be entertained while remaining in their motor vehicle.

Dwelling: A fixed structure containing one or more dwelling units.

Dwelling, One-Family: A dwelling designed for or occupied exclusively by one family;

Dwelling, Two-Family: A dwelling designed for or occupied exclusively by two families living independently that are similar in size but in no way shall one unit be less than 40% in size than the other unit unless the land area per dwelling unit can be met for each unit; for the purposes of this Ordinance a group of one or two family dwellings on commonly owned land shall not be considered a multiple family dwelling. *{Amended, Effective 02/07/12}*

Dwelling, Multiple Family: A dwelling or group of dwellings in one structure containing separate living units for three or more families.

Dwelling Unit - residential: A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one (1) family at a time, and containing

living, sleeping, toilet, cooking facilities. The term shall include prefabricated or modular housing, mobile homes, and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. This does not include hotels, motels, rooming houses, temporary trailers, or recreational vehicles with its tires on the ground and registered with the State Division of Motor Vehicles is not considered a residential dwelling unit. *{Amended, Effective 07/01/09, 01/26/10}*

Emergency operations*: operations conducted for the public health, safety or general welfare to protect human beings, property, and livestock from the threat of death, destruction or injury. *{Amended, Effective 07/01/09}*

Essential Services*: all equipment, wires, pipes, poles, towers and like associated with and necessary for the distribution of utilities such as electricity, gas, phone, cable, water, and sewer. This does not include buildings which are necessary for these services. *{Amended, Effective 07/01/09}*

Excavation: Any extraction, removal, mining, separation or disturbance of earth or earth material from its original position. Earth materials include, but are not limited to, gravel, clay, soil, topsoil, loam, sand, rock, stone, ore, minerals, mineral substances and organic materials other than vegetation.

FAA: Federal Aviation Administration

Family: One or more individuals occupying a dwelling unit and living as a single household in a domestic relationship as distinguished from a group occupying a boarding house, lodging house, club, fraternity, hotel or similar structure.

FCC: Federal Communications Commission

Filling: Depositing or dumping any matter on or into the ground or water.

Fire Wall: A wall of non-combustible construction, capable of resisting the spread of fire.

Flea Market: An occasional or periodic market held in an open area or structure where groups of individual sellers offer goods for sale to the public. There are no long term leases between the sellers and operators. Flea markets are not considered retail trade or commercial sales and service.

Flood: A temporary rise in stream flow or tidal surge that results in water overtopping its banks and inundating adjacent areas.

Flood Plain: Low lying, generally flat area consisting of either a.) that portion of a river valley which is built of sediments during the present stream regimen, and which is covered with water when the river or its tributaries overflow their banks at flood stages; or b.) that portion of land abutting tidal waters which is built of sediments during the present regimen of tidal water and which is covered with water when tidal water overflows its banks at flood stages. The land area is subject to the 100-year flood.

Floor Area, Gross: The sum of the gross horizontal areas of all floors of a building measured from the exterior face of exterior walls, or from the center line of a wall separating two buildings, but not

including interior parking spaces, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than six feet.

Food Truck: A truck which has a current registration from the Maine Department of Motor Vehicles from which prepared and/or unprocessed food and drinks are sold. Food trucks are not the same as peddler trucks and/or peddler carts. *{Effective 12/17/14}*

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

Forested Wetlands: A freshwater wetland dominated by woody vegetation that is six (6) meters (19 ½ feet) tall or taller.

Foundation – the supporting substructure of a building or other structure, excluding wooden sills and post supports, including basements, slabs, or other base consisting of concrete, block, brick or similar material. *{Amended, Effective 07/01/09}*

Freeport based: any religious, charitable, educational and other non-profit institution which owns or leases a building or parcel of land in Freeport and/or whose charter or by-laws states that the Town of Freeport is specifically included in its geographical area of operation, such as Freeport Rotary, Freeport Lions Club, AMVETS, etc.

Freeport Village Design Standards: That document entitled "Freeport Village Design Standards" dated August 2, 2005 and attached to this Ordinance as Attachment 1. The Freeport Village Design Standards are part of this Ordinance. In those instances where a requirement of this Ordinance is described by reference to the Freeport Village Design Standards, the Freeport Village Design Standards shall modify or supersede any different or conflicting requirement or standard of this Ordinance.

Freshwater Wetland*: Freshwater swamps, marshes, bogs or similar areas, excluding forested wetlands, which are shown on the official Town of Freeport Zoning Map and are:

1. Ten or more contiguous acres or less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook such that in a natural state, the combined surface area is in excess of 10 acres; and
2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

   Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

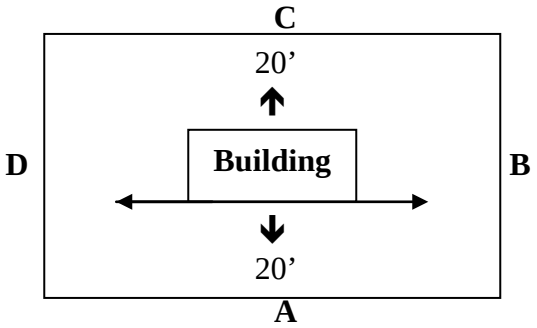
Frontage-Road: That lot line abutting a road and ordinarily regarded as the front of the lot. On any lot bounded on more than one property line by a road, the road frontage shall be that property line of the lot designated as "road frontage" in any building permit application for such lot.

Frontage-Shore: The length of a lot bordering on a water body or wetland measured in a straight line, between the intersections of the side lot lines with the shoreline. *{Amended, Effective 07/01/09}*

Ground cover: small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor. *{Amended, Effective 07/01/09}*

Groundwater: All of the water found beneath the surface of the ground. For purposes of aquifer protection, this term refers to the slowly moving sub-surface water present in the aquifers and recharge areas.

Height: The vertical distance of a building measured from the average elevation of the finished grade within 20' of the building's contiguous perimeter, to the highest point of the roof for flat and mansard roofs and to a point which includes 30% of the height between eaves and ridge for other types of roofs. Height limitations shall not apply to chimneys, steeples, water standpipes, detached barns used for agricultural purposes, spires or other similar non-habitable structures. Height limitations do apply to wireless telecommunications facilities, as defined in this Section 104, and those regulations are listed below and in Section 528.



Steps:

1. Find the average grade of points A, B, C & D
2. Add average grade of each point together and divide by 4. That number is the total average elevation.
3. The resulting number is the base elevation from which the height is measured.

Height, **Wireless Telecommunication Tower**: The vertical distance measured from the lowest point within ten (10) feet of the base of the structure on the ground to the highest point of the tower, including the base pad, all antennas and other attachments. When towers are mounted upon buildings or other structures, the total vertical height is measured from the lowest point within ten (10) feet of the ground level of the supporting structure to the highest point of all appurtenances on the tower.

High Water Elevation: *{Amended, Effective 07/01/09}*

Normal High Water (Tidal): The shoreline elevation at which vegetation changes from predominantly aquatic to predominantly terrestrial. In the case where this is difficult or impossible to determine, or where a determination by the land owner or Codes Enforcement Officer is challenged, this elevation shall be determined by accurate survey with reference to the 1929 National Geodetic Vertical Datum to be 7.2' above 1929 datum.

10% + Exceedance High Water (Tidal): The shoreline elevation which marks the upper limit of the typical highest tide of each year. In the case where this is difficult or impossible to determine, or where a determination by the land owner or Codes Enforcement Officer is challenged, this elevation shall be determined by accurate survey with reference to the 1929 National Geodetic Vertical Datum to be 7.2' above 1929 datum.

High Water Elevation (Non-tidal)**:** That line which is apparent from visble 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 that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river during the period of normal high-water are considered part of the river.

Home Occupation: An occupation or profession carried out for gain by a resident and conducted as an accessory use in or about the resident's dwelling unit or accessory structure and subject to the performance standards of Section 503.

Hotel/Motel – A facility which is not a bed and breakfast inn or and Inn as defined herein, which offers transient lodging accommodations to the general public and may provide additional services such as restaurants, meeting rooms and/or recreational facilities.

Impervious Surface: Structures and other man-made improvements to land and materials covering the land which substantially reduce the infiltration of water. Impervious surfaces shall include, but are not limited to, roofs, paved areas, parking lots and driveways, regardless of surface material.

Industrial Park: A large tract of land that is planned, developed and operated as an integrated facility for a number of individual industrial uses, with special attention to circulation, parking, utility needs, aesthetics and compatibility.

Initiate Construction: The completion of a portion of the site improvements which represents no less than thirty (30) percent of the costs of the proposed site improvements within an approved project. For the purposes of this ordinance, improvements shall mean roads or parking lots, sidewalks, utilities, stormwater facilities, and erosion control. *{Amended, Effective 02/08/11}*

Inn – A facility which is not a bed and breakfast inn or a hotel as defined herein, which offers transient lodging accommodations to the general public but does not provide meeting or function rooms. An Inn may include one restaurant that is open to the public. Inns may have recreational facilities such as a pool and/or a fitness room; however, such facilities shall only be available for use by guests and shall not be open to the public.

Junkyard:

a) Automobile Graveyard: "Automobile graveyard" means a yard, field or other outdoor area used to store 3 or more unregistered or uninspected motor vehicles, as defined in Title 29-A, section 101, subsection 42, or parts of the vehicles. "Automobile graveyard" includes an area used for automobile dismantling, salvage and recycling operations.

"Automobile graveyard" does not include:

(1) An area used for temporary storage of vehicles or vehicle parts by an establishment or place of business that is primarily engaged in doing vehicle repair work to make repairs to render a motor vehicle serviceable. In order for a vehicle's storage to be considered temporary, it must be removed from the site within 180 calendar days of its receipts;
(2) An area used by an automobile hobbyist to store, organize, restore or display antique autos, antique motorcycles, classic vehicles, horseless carriages, reconstructed vehicles, street rods or parts of these vehicles as these vehicles are defined in Title 29-A, section 101 as long as the hobbyist's activities comply with all applicable federal and state statutes and rules and municipal ordinances, other than ordinances that are more restrictive than this subsection regarding the storage of vehicles or vehicle parts that are collected by a hobbyist. For the purposes of this subparagraph, an automobile hobbyist is a person who is not primarily engaged in the business of selling any of those vehicles or parts from those vehicles;
(3) An area used for the parking or storage of vehicles, vehicle parts or equipment intended for use by a municipality, quasi-municipal entity or state or federal agency;
(4) An area used for the storage of operational farm tractors and related farm equipment, log skidders, logging tractors or other vehicles exempted from registration under Title 29-A, chapter 5.
(5) An area used for the parking or storage of vehicles or equipment being offered for sale by a dealer, equipment dealer, trailer dealer or vehicle auction business as defined in Title 29-A, section 851;
(6) An area used for the storage of vehicles by an establishment or place of business that is primarily engaged in business as a new vehicle dealer as defined in Title 29-A, section 851;
(7) An area used for temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicle's storage to be considered temporary under this subparagraph, the vehicle must be removed from the site within 180 days of receipt of title by the business; or
(8) An area used for the parking or storage of operational commercial motor vehicles, special equipment or special mobile equipment as defined in Title 29-A, section 101 that is temporarily out of service but is expected to be used by the vehicle or equipment owner or by an operator designated by the owner. This

subsection does not exempt an area used for the parking or storage of equipment or vehicles that are not operational while stored or parked in the area.

b) Junkyard: Any area, lot, land, parcel, building or structure or part thereof used for the temporary storage, collection, processing, purchase, sale or abandonment of wastepaper, rags, scrap metal or other scrap or discarded goods, materials, machinery and their related recycling operations. Bottle redemption facilities are not included in this definition.

Landscaping: The business location of a person engaged in the commercial practice of landscape gardening and who performs labor or services or furnishes labor, materials or services in the laying out or construction of any road, path or walk, or in improving or beautifying any land in a manner commonly known as landscape gardening, by virtue of a contract with or by consent of the owner and shall also include nurseries and the places where nursery stock and vegetation is grown, stored or offered for sale as defined in 7 M.R.S.A., Section 2201 and subject to the regulation and inspection of the Maine Department of Agriculture, Food and Rural Resources and licensing pursuant to 32 M.R.S.A., Section 1901 and as hereafter amended.

Leachable Materials: Materials including, but not limited to, solid wastes, sludges, industrial wastes, and agricultural wastes capable of releasing contaminants to the surrounding environment.

Local Convenience Goods Store: a structure where goods accommodating local needs, such as but not limited to, retail bakeries, delicatessens, fish stores, meat markets, farmers' markets, grocery and food stores, florist shops and combinations thereof are sold. Local convenience goods stores licensed as a state liquor store may have spirit distribution as an accessory use. Postal services, and/or seating up to 20 seats are also allowed as accessory uses.

Local Retail Trade: Any business engaged in the sale of local convenience goods and personal services. Local convenience goods include, without limitation, health and beauty products, jewelry, arts and crafts, books, toys and games, hardware, sporting goods, postal services, hand crafted goods, and antiques Accessory seating up to 20 seats is permitted. Local retail trade does not include, without limitation, commercial sales, auto or power equipment sales or service, gasoline sales, any type of restaurants except Village cafes, or new furniture, large appliance or electronic sales.

Lot: A parcel of land having distinct and defined boundaries and described in a deed, plan or similar legal document. Lands on opposite sides of a public way shall be considered separate lots.

Lot Area: The total horizontal area within the lot lines excluding any street rights-of-way. In the Shoreland Zone, land below the normal high water line of a water body or upland edge of a wetland shall be excluded from the calculation of the lot area.

Lot Corner: A lot with at least two contiguous sides abutting a road and/or private way.

Lot Coverage: That portion of the lot that is covered by buildings, structures and/or impervious surfaces.

Lot Lines: The lines bounding a lot.

Front Lot Line: The line separating the lot from a road. On any lot bounded on more than one property line by a road, the front lot line shall be that property line of the lot designated as "road frontage" in any building permit application for such lot.

Rear Lot Line: The lot line opposite the front lot line. On a lot pointed at the rear, the rear lot line shall be a line between the side lot lines parallel to the front lot line, not less than ten (10) feet long, lying farthest from the front lot line.

Side Lot Line: Any lot line other than the front lot line or rear lot line.

Lot of Record: A parcel of land, a legal description of which or the dimensions of which are recorded on a document or map on file with the County Registry of Deeds.

Lot Width: The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

Manufactured Housing: A structural unit or units designed for occupancy and constructed in a manufacturing facility and transported, by the use of its own chassis or an independent chassis, to a building site. The term includes any type of building which is constructed at a manufacturing facility and transported to a building site where it is used for housing and may be purchased or sold by a dealer in the interim. For purposes of this section, 2 types of manufactured housing are included. Those 2 types are mobile homes and modular homes.

Manufacturing/Processing: A use which involves the manufacture, compounding, assembly, or treatment of articles or materials.

Marina: A place adjacent to tidal waters which offers, for rent or sale to the public, moorings, dock space, boats or marine equipment, and gasoline and other related oil products, and where boats may be hauled, stored, repaired and/or constructed and subject to the performance standards of Section 508.C.

Mixed Use Development: A structure with at least three residential units and at least one other use that is permitted within the District.

Mobile Home: A detached, single-family residence with the following characteristics:

a) Manufactured as a relocatable living unit without a permanent foundation, designed for long-term, year-round occupancy and containing sleeping accommodations, a toilet, a tub or shower bath, and kitchen facilities, including major appliances, with plumbing and electrical connections provided for attachment to outside systems;
b) Designed to be transported, after fabrication, on its own chassis, and connected to utilities upon being placed on a permanent foundation or mobile home stand on its own permanent chassis; and
c) Designed to be installed with only incidental unpacking and assembling operations;

d) Constructed after June 15, 1976, and which the manufacturer certifies is constructed in compliance with the U.S. Department of Housing and Urban Development standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, U.S. Code, Title 42, Section 5401, et. seq. and amendment or meets the safety standards for older mobile homes which have been adopted by the State Manufactured Housing Board;

e) A mobile home which does not comply with the requirements of subsection (d) above but which was lawfully in use as a dwelling in the Town of Freeport on the date of adoption of this Ordinance may be relocated to any lot where a mobile home is permitted by the district regulations of this Ordinance.

A mobile home shall be construed to remain a mobile home, subject to all regulations applying thereto, whether or not the wheels, axles, hitch or other appurtenances of mobility are removed and the interior facilities are modified.

Mobile Home Park: A parcel of land, under unified ownership, approved by the municipality for the placement of 3 or more manufactured homes.

Mobile Home Park Lot: The area of land on which an individual home is situated within the mobile home park and which is reserved for use by the occupants of that home. The lot shall be designated on the site plan and subdivision plan for the mobile home park. The lot shall not be owned separately from the remainder of the mobile home park.

Modular Homes: A type of manufactured housing which the manufacturer certified is constructed in compliance with Title 10, Chapter 957, and rules adopted under that chapter, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air-conditioning or electrical systems contained in the unit.

Motel: See Hotel.

Municipal Facility: A facility which is open to the public and which is owned and operated under the direct supervision of the Town of Freeport or the public school entity serving the Town of Freeport. *{Amended, Effective 06/19/12}*

Neighborhood Shopping Center: for the purpose of calculating the parking requirement, a neighborhood shopping center in the C-I, C-II, C-III, and C-IV Districts, is a development with a gross floor area of 30,000 to 100,000 square feet which includes a grocery store and/or drug store and other retail uses.

Net Residential Acreage: The area of a tract or parcel of land which, as determined by the Project Review Board, is suitable for development or conservation land as part of a residential subdivision. The area shall be calculated by subtracting the following from the total acreage of the tract or parcel:

A. Portions of the tract or parcel subject to rights-of-way and easements for vehicular traffic:

1. For multi-family developments: total acreage of the tract or parcel used for roads and parking.

2. For any other subdivisions: total acreage used for street right-of-way.

B. Unbuildable Land (Primary conservation area). The following environmentally sensitive land which, if disturbed, may adversely impact the ecological balances in the environment. No construction or development shall occur on the land areas listed below unless otherwise permitted as provided below.

1. Deer wintering areas as identified in the Maine Department of Inland Fisheries and Wildlife, Identification and Management of Significant Fish & Wildlife Resources in Southern Coastal Maine, provided in digital format dated October 2003 as amended from time to time.

2. Wetlands; Forested wetlands shall not be considered an unbuildable area (primary conservation area), except those forested wetlands that are mapped as having very poorly drained soils in the USDA SCS Cumberland County Soil Survey, or forested wetlands flooded during the 100-year storm event, or areas that support breeding habitat for vernal pool-dependent amphibian species.

3. Portions of the tract or parcel containing slopes over twenty percent (20%) which, because of unstable soils, would be subject to erosion if development were to be located on them.

4. Portions of the tract or parcel in the 100-year floodplain, floodway and/or coastal high hazard area as designated on the most recently adopted Flood Insurance rate map of the National Flood Insurance Program for the Town of Freeport.

5. Portions of the tract or parcel below high water elevation (non-tidal) and below ten percent (10%) exceedance high water (tidal) as defined above.

6. Portions of the tract or parcel covered by surface water bodies.

Where an interpretation of the geographical boundaries of the unbuildable land is necessary, the Planning Board shall be guided by the following standards:

1. Whether a portion of the unbuildable area could be incorporated into a minimum sized subdivision lot in such a manner that an adequate developable area for buildings and site improvements with conforming setbacks is retained;

2. Whether the environmentally sensitive land is adequately protected from disturbance or degradation.

Net Residential Density: Net residential density shall mean the number of dwelling units per net residential acre.

Non-Conforming Building or Structure: A building or structure lawfully existing at the effective date of adoption or amendment of this Ordinance which does not conform to the requirements of the district in which it is located.

Non-Conforming Lot: A lot lawfully existing at the effective date of adoption or amendment of this Ordinance which does not conform to the requirements of the district in which it is located.

Non-Conforming Use: A use of land, buildings or structures lawfully existing at the effective date of adoption or amendment of this Ordinance which does not conform to the requirements of the district in which it is located.

Nursery School: Facility serving three or more children seven years of age and under. No session is longer than 3 ½ hours and no more than 2 sessions are offered. Each child attends only one session. No hot meals are served.

Nursing Home: An institution which provides nursing or convalescent care for consideration to chronic or convalescent patients, but does not provide hospital services such as an operating room, x-ray facilities and laboratory facilities, except as incidental to the delivery of the nursing, convalescent or assisted living care. Where a permitted use, nursing homes served by public sewer and water shall have a density no greater than one bed per (2,000) square feet of net residential acreage; nursing homes not served by public sewer and water shall have a density no greater than one bed per (6,000) square feet of net residential acreage.

When incorporated into a retirement community within a Retirement community Overlay District, the net residential density requirements for a nursing home shall be as set forth in the Retirement Community Overlay District.

Open Space Use: Any area of land or water set aside, dedicated, designed or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space. Open space shall be used for recreation, protection of natural resource areas, passive amenity or agriculture; be accessible to all residents of the development, except when used for agricultural purposes; and be accessible to the general public, if accepted by a public agency.

Outdoor Recreation School: A building or buildings and/or associated grounds which is principally used for providing instruction in outdoor recreational activities and sports, including the use of non-motorized outdoor recreation products. The term Outdoor Recreation School shall not include any outdoor use of motorized recreational products such as personal watercraft (as defined in 12 M.S.R.A. section 7791). An Outdoor Recreation School may not engage in retail sales on the premises of the recreation school unless Retail Trade is a permitted use in the zoning district where the outdoor recreation school is located.

Outdoor Storage – the keeping of goods and/or materials in the same place for more than 24 hours that are not for sale to the public, including, but not limited to: landscaping materials, construction materials.

Owner: Any person, firm, corporation or other legal entity which controls a parcel of land by a fee or less than fee title, or holds a valid contract or option to purchase said title.

Parking Structure – a building or structure of more than one level that is used to store motor vehicles.

Peddler on Private Property: Any person, firm, corporation or other entity operating on property outside of the street right-of-way and the public sidewalk and selling, or offering for sale, to the general public, food from a peddler cart. A lemonade stand operated by a minor on the parent's property; an agricultural farm stand; a peddler truck; and peddler activities including the sale of goods, as well as the preparation, sale and service of food, conducted by Freeport based religious, charitable, educational and other non-profit institutions, are excluded from this definition. Non-Freeport based religious, charitable, educational, and other non-profit institutions are regulated as temporary activities under Section 501 of this Ordinance.

Peddler Cart: Any stand, cart or push cart capable of being moved, which is designed and constructed to permit the preparation, sale and serving of food exclusively to the public. This cart is a temporary, mobile structure which is located in a specific place on a parcel of land and is not permanently affixed to either the ground or to a permanent structure. Any stand, cart or push cart which is not capable of being moved shall be considered to be a structure and shall be regulated as such by this Ordinance.

Peddler Truck: A truck, which has a current Department of Motor Vehicle license, from which only unprocessed food such as, but not limited to, seafood, fruits and vegetables are sold and is located either on private property or on the street right-of-way subject to conformance with all traffic regulations.

Permitted Use: A use specifically allowed in a zoning district.

Personal services – businesses primarily engaged in providing services involving the care of an individual and his/her goods or apparel including, but not limited to: beauty and barber shops, laundromats, dry cleaners, photography studios, alteration services, shoe, jewelry and household appliances repair services.

Pond: An artificially created body of water constructed by excavation of earth materials and/or creation of a dam to create an impoundment. Ponds include, but are not limited to, farm ponds and fire ponds.

Postal services: the use of a building for the sale of stamps, sending packages, and post office boxes and other typical functions of a post office, but not including the sole distribution of mail in Freeport.

Principal Building: The building in which the primary use of the lot is conducted.

Principal Use: The primary use to which the premises are devoted, and the main purpose for which the premises exist.

Private Assembly: A building which is owned and used as a meeting place for private or semi-private social organizations and clubs such as grange halls, fraternal organizations, religious institutions, etc. in which the principal use is exclusively for members. Rental of the facilities to outside groups is clearly incidental to the principal use and shall not significantly increase the intensity of the use of the site, especially regarding parking and traffic.

Private Way: Any way, designated for private use and maintained by a property owner or group of property owners, and which is not an accepted town road.

Prohibited Use: All uses not specifically allowed as Permitted Uses.

Public Area: Parks, playgrounds, trails, paths, and other recreational and open spaces and other places where the public is permitted to congregate. These areas may be owned publicly or privately.

Public Assembly - Indoor: A building which is available to the public on a nonprofit or for-profit basis. Examples include auditoriums, meeting rooms and halls available for functions.

Public Building: A building owned, operated or funded in whole or in part by the Town of Freeport which members of the general public have occasion to visit, either regularly or occasionally, such as, but not limited to, the Town Hall, the Public Library, the Police Station and Fire Stations.

Public or Private School: a building or buildings and its associated grounds which is principally used to conduct educational classes including public and private elementary and secondary schools and nursery schools, including post-secondary schools, but not including Commercial Schools. If the public or private school is a residential boarding school the following standards apply:

1. The lot shall be at least three times the required minimum lot size for the district in which the school is located
2. There shall be no more than 50 students that reside at the school, and
3. The impervious surface of the school and associated parking shall be not greater than 25%, unless the district in which the school is located has a maximum impervious surface to lot area ratio in which case that standard shall apply.

Public Utility Facilities: A facility, whether publicly or privately owned, which provides direct or indirect utility service to the public, such as, but not limited to, sewage and water pumping stations and treatment facilities, telephone electronic equipment structures, electric power sub-stations and transformer stations, and major electrical power lines or pipelines whose major purpose is transport through a municipality. Local utility transmission lines are excluded from this definition. Wireless telecommunications facilities, as defined in this Section 104, are not considered public utility facilities.

Recent Flood Plain Soils: The following soil series as described and identified by the National Cooperative Soil Survey:

Charles	Medomak	Rumney
Coastal Beaches	Ondawa	Saco

Limerick Podunk Tidal Marsh

Recharge Area: Areas composed of porous sand and gravel, or other areas that collect precipitation or surface water and carry it to aquifers.

Reconstruction: The restoration, remodeling or rebuilding of a non-conforming structure, whether necessitated by deterioration, obsolescence, casualty or other occurrence, where the costs of such work equal or exceed the value of the property in its existing condition. In determining the total cost of such work, the costs of all work other than repair performed within the preceding five years or since the effective date of the Ordinance, whichever period is shorter, shall be taken into account.

Religious Institution: A building or structure, or groups of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated with the mission of the institution. Accessory uses include but are not limited to schools, meeting halls and kitchens.

Repair: The routine maintenance of a structure for the purpose of preserving but not substantially extending its useful life. Repair shall not include the construction or reconstruction of a structure.

Required Open Space: The sum of the land area of conservation land and unbuildable land (primary conservation areas) as defined in net residential acreage. This land is within a subdivision with uses as permitted in Sec. 504A of the Freeport Zoning Ordinance and which is permanently restricted from future development. Subsurface wastewater disposal systems, or individual wells serving units within an open space or expanded open space subdivision may be located within the required open space if approved by the Project Review Board.

Research and Development Facility – A facility for investigating the technological, natural, physical, and biological sciences, which may include engineering and product development.

Residence: Any place of abode which is more than temporary.

Residential Health Care Facility – Residences for individuals that provide rooms, and may provide meals, personal care, and/or supervision of self-administered medication. Other services such as recreational activities, cultural activities, financial services, and transportation may also be provided. These facilities may be part of another building such as a nursing home.

Restaurant: A commercial establishment where food and drink are prepared, served and consumed primarily within the principal building. Outdoor seating is permitted and drive-up facilities are prohibited.

Restaurant - Carry-out: A restaurant which by design of physical facilities or by service or packaging procedures permits as a principal use the purchase of prepared, ready-to-eat food primarily intended to be consumed off the premises.

Restaurant - Drive-up: A restaurant which permits customers to obtain food and drink while remaining in their vehicles. A drive-up restaurant must contain a minimum of seventy-five (75)

indoor seats. In the C-I district a drive-up restaurant may contain fewer than seventy-five indoor seats provided the following criteria are met: the drive-up restaurant contains a minimum of twenty-four (24) indoor seats, and the drive-up restaurant is part of a building with a minimum of 6,500 square feet of gross floor area that contains or has the ability to contain, a permitted use other than a drive-up restaurant. In addition, a drive-up restaurant may contain outdoor seating.

Retail Trade: Any business engaged primarily in the sale, rental or lease of goods and/or services individually or in small quantities to the ultimate consumer for direct consumption and/or use, and not for resale. The term Retail Trade shall not include auto service stations, auto repair service garage, and all types of restaurants.

The term Retail Trade shall include Furniture/Large Appliance Showrooms which are retail trade establishments where the major activity is display area for furniture such as but not limited to tables, chairs, bureaus and sofas, and/or large appliances such as but not limited to refrigerators, stoves, washers, and dryers. The furniture and large appliances are large pieces which are placed on the floor for customers to view. Specific parking requirements for this type of retail trade are listed in Section 514.4. below.

Riprap*: Rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

River*: A free-flowing body of water including its associated flood plain wetlands from that point at which it provides drainage for a watershed of twenty-five (25) square miles to its mouth. The only river meeting this definition is the Cousin's River.

Road: For the purposes of this Ordinance and for determining minimum road frontage requirements, a road is considered to be any public way maintained by public authority, except a limited access highway, or in subdivisions a private way fifty (50) feet in width, or if 2 or fewer lots are created a private way of thirty (30) feet in width provided all of the road or driveway and associated drainage and utilities can be placed within the private way and the Fire Chief determines that the private way is adequate for public safety vehicles. Construction of a private way or minimum road frontage requirements shall in no way be construed to imply acceptance by the Town of Freeport for purposes of maintenance, improvements or other Town services.

Salt Marsh*: Areas of coastal wetlands (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by tidal waters. The predominant species is salt march cordgrass (Spartina alterniflora). More open areas often support widgeon grass, eelgrass, and Sago pondweed. *{Amended, Effective 07/01/09}*

Salt Meadow*: Areas of a coastal wetland that support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cordgrass (Spartina patens) and black rush; common three-square occurs in fresher areas. *{Amended, Effective 07/01/09}*

Service Road: A road running parallel to Route One and serving abutting properties through limited access points. A two-way service road shall contain pavement no less than twenty (20) feet in width.

Limited Access Points	service road
	landscaped area
	Route One

Setback: A line that is a required minimum distance from the road right-of-way line or any other lot line that establishes the area within which principal and accessory buildings or structures must be erected or placed. The Codes Enforcement Officer or the Project Review Board may reduce the front, side, and/or rear setback requirements up to 25% for a proposed solar building if the reduction is necessary to allow for a more efficient orientation of a building that would otherwise meet the setback requirements. For projects requiring a permit from the Codes Enforcement Officer, he or she may issue a reduction in the setback requirements. For projects requiring approval from the Project Review Board, that Board may approve a reduction in the setback requirements. *{Amended, Effective 02/07/12}*

Front Setback: Setback between the front lot line and front line of a building extended to the side lot lines of the lot. The depth of the front setback shall be measured from the front lot line to the front line of the building.

Side Setback: Setback between the side lot line and side line of a building extended to the front and rear lot lines of the lot. The depth of the side setback shall be measured from the side lot line to the side line of a building. A combined side setback is the total of both side setbacks.

Rear Setback: Setback between the rear lot line and the rear line of a building extended to the side lot lines of the lot. The depth of the rear setback shall be measured from the rear lot line to the rear line of the building.

Shore Setback: the nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated structure or area. *{Amended, Effective 07/01/09}*

Shared Parking: Parking spaces open to the general public and not restricted to customers or employees of specific non-residential activities.

Ship Chandlery: A retail store specializing in the sale of marine related products.

Shoreland Zone*: The area shown on the official Town of Freeport Zoning Map which includes the land area located within two hundred and fifty (250) feet horizontal distance of the normal high-water line of any river or saltwater body; within 250 feet of the upland edge of a coastal wetland, including all areas affected by tidal action or a freshwater wetland; or within seventy-five (75) feet horizontal distance of the normal high-water line of a stream. *{Amended, Effective 07/01/09}*

Shoreline – the normal high-water line, or upland edge of a freshwater or coastal wetland. *{Amended, Effective 07/01/09}*

Sludge: Residual materials produced by water or sewage treatment processes and by domestic septic tanks.

Solar Building: a building that is designed so that windows, walls, and/or floors are made to collect, store, and distribute solar energy in the form of heat in the winter and reject solar heat in the summer with or without the use of mechanical, electrical devices, and/or solar panels. *{Amended, Effective 02/07/12}*

Solid Waste: Useless, unwanted, or discarded solid material without sufficient liquid content to be free flowing. This includes, but is not limited to, rubbish, garbage, scrap materials, junk and refuse, and recyclable materials.

Specified Sexual Activities: Human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

Stream*: A free-flowing body of water from the confluence of two (2) perennial streams as depicted either on the most recent edition as of June 2, 1992 of the United States Geological Survey 7.5 minute series topographic map or the 15 minute series topographic map to the point where the body of water becomes a river or flows to another water body or wetland within another Shoreland Zone. *{Amended, Effective 07/01/09}*

Street: See "Road".

Structure: A combination of materials to form a construction for use, occupancy or ornamentation whether installed on, above or in the surface of land or water, excluding walls, fences, mailbox, lamppost, bird house or similar construction. Outdoor swimming pools and ground mounted solar panels are structures. *{Amended, Effective 02/07/12}*

Subdivision – Open Space: A residential development design that permits reduced lot sizes, road frontage, and setbacks, and that maintains required open space. The area of the required open space shall equal or exceed the sum of the unbuildable land (primary conservation areas) as defined by net residential acreage plus fifty percent (50%) of the net residential acreage.

Subdivision – Expanded Open Space: A residential development design that permits reduced lots sizes, road frontage, and setbacks, and that maintains required open space. The area of the required open space shall equal or exceed the sum of the unbuildable land (primary conservation areas) as defined by net residential acreage plus sixty-five percent (65%) of the net residential acreage.

Subdivision – Large Lot: A residential development design that requires lot sizes be at least double the minimum lot size of the district in which the subdivision is located. The net residential density of a large lot subdivision shall be fifty percent (50%) less than an open space

subdivision. A note on the plan and a deed restriction forbidding further subdivision of these lots unless the appropriate density requirement for a large lot subdivision can be met must be provided.

Subdivision – Village Open Space: A residential development design that permits reduced lot sizes, road frontage, and setbacks, and that maintains open space within the Freeport Village Overlay District. The area of the required village open space shall equal or exceed the sum of the unbuildable land (primary conservation areas) as defined by net residential acreage plus thirty percent (30%) of the net residential acreage. The required village open space may be met with either land, a fee in lieu of land, or a combination of both land and fee in lieu of land as further described in Section 504B of this Ordinance.

Tidal waters*: all waters affected by tidal action during the maximum spring high tide. *{Amended, Effective 07/01/09}*

Timber Harvesting: A cutting of timber, consistent with sound forest management practices. Timber harvesting does not include the construction or creation of roads or the clearing of land for approved construction.

Travel Trailer: Any portable vehicle which is designed to be transported on its own wheels; which is temporary living quarters for travel, recreational, vacation or construction purposes; and which may or may not contain one or all of the accommodations and facilities included in a mobile home.

Tributary Stream*: A channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed devoid of topsoil containing waterborne deposits or exposed soil, parent material or bedrock, and which is connected hydrologically with other water bodies. Tributary stream does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity. *{Amended, Effective 07/01/09}*

Truck Facility: Any building, premises or land in which or upon which a business, service or industry involving the sale, maintenance, servicing, storage or repair of commercial vehicles, including heavy machinery, is conducted or rendered as a principal use. The sale of motor fuel and accessories or equipment for trucks and similar commercial vehicles is permitted as an accessory use.

Upland Edge of a wetland*: The boundary between upland and wetland. For the purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the maximum spring tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated fro a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approx. Twenty (20) foot tall or taller. *{Amended, Effective 07/01/09}*

Use: The purpose for which land or a structure is arranged, designed or intended, or for which land or a structure is or may be occupied. All uses shall meet all requirements specified in this Ordinance.

Variance: A departure from the requirements of the Zoning Ordinance as authorized by the Zoning Board of Appeals only where strict application of the Ordinance would cause undue hardship.

Vegetation*: All live trees, shrubs, ground cover, and other plants including without limitation, trees both over and under 4 inches in diameter measured at 4 ½ feet above ground level.

Village Café: a place where food and beverages are prepared, served, and consumed Carry-out service is permitted as either the primary or accessory use. Village cafes are prohibited from the use of deep fat fryers requiring mechanical ventilation.

Visitor center – a building or structure used for providing information to the public about Freeport and the region. Minimal retail sales are allowed such as, vending machines and items that promote Freeport such as t-shirts, mugs.

Warehouse and Storage Facility: A land area where goods or materials are stored in a warehouse facility and/or in specific outdoor areas.

Warehouse Facility: An enclosed structure used primarily for the storage of goods or materials. Outdoor storage is not permitted.

Water Body*: Any river, stream or tidal area.

Wetland*: A freshwater or coastal wetland, excluding forested wetland.

Wetlands Associated with Rivers*: Wetlands contiguous with or adjacent to a river and, which during normal high water, are connected by surface water to the river. Also included are wetlands which are separated from the river by a berm, causeway, or similar feature less than 100 feet in width, and which have a surface elevation at or below the normal high water line of the river. Wetlands associated with rivers are considered to be part of that river.

Wireless Telecommunications Facility: A facility that transmits, receives, distributes, provides or offers telecommunications services, radio or television signals, or any other spectrum-based transmissions/receptions, together with the facility's associated antennas, microwave dishes, horns, cables, wires, conduits, ducts, lightning rods, electronics and other types of equipment for the transmission, receipt, distribution or offering of such signals, wireless telecommunication towers, antenna support structures and other structures supporting said equipment and any attachments to those structures including guy wires and anchors, equipment buildings, generators, parking areas, utility services, driveways and roads and other accessory features.

Wireless Telecommunication Facility Co-Located: A wireless telecommunications facility that includes a telecommunication tower or building supporting one or more antennas, dishes, or similar devices owned or used by more than one public or private entity.

Wireless Telecommunication Tower (Tower): Any new or existing ground mounted or structure mounted pole, spire, structure or combination thereof, designed and constructed primarily for the purpose of supporting, fixing or attaching one or more antennas, including supporting lines, cables,

wires, braces and masts. The term includes but is not limited to, radio and television transmission towers, microwave towers, common carrier towers, cellular towers, personal communications service towers, and other similar towers.

Yard: An open space that lies between the required setback of the principal or accessory building(s) and the nearest lot line. Such yard is unoccupied and unobstructed from the ground upward except as may be specifically provided in this Ordinance.

ARTICLE II

GENERAL USE REGULATIONS

Section 201. General Restrictions

A. No building or land shall hereafter be used or occupied, no new lot shall be created, and no building or part thereof shall be erected, moved or structurally altered, as defined in the BOCA Code adopted by the Town of Freeport, except in conformity with the regulations herein specified for the district within which it is located and in conformity with the regulations contained within the definitions set forth in Section 104 of this Ordinance. Except as otherwise provided in the District Regulations, accessory uses and structures, home occupations; a lemonade stand operated by a minor on the parent's property; agricultural farm stands; peddler trucks; peddler activities including the sale of goods, as well as the preparation, sale and service of food, conducted by Freeport-based religious, charitable, educational and other non-profit institutions; forest management activities, state granted snowmobile trails and open space uses are permitted in every district.

The operation of a lemonade stand, an agricultural farm stand, a peddler truck or a peddler activity pursuant to this Section 201-A shall not be considered a permanent use of the property and shall not acquire the status of a lawful non-conforming use in the event of subsequent changes to this Ordinance.

B. No part of a yard or other open space around any building required for the purpose of complying with the provisions of this Ordinance shall be included as a part of a yard or other open space similarly required for another building, and no lot shall be changed in area after the enactment of this Ordinance so as to reduce the dimensions of any lot below the minimum herein required; except that a single lot of record containing more than one principal structure that was in existence prior to February 20,1976 and used as dwelling units may be divided so that each structure is contained on a separate lot, if the following conditions are met:

1. The principal structures were in existence and functioning as a year round dwelling unit prior to February 20, 1976 and there are no records in the Town's possession indicating that the structures were unlawful when originally constructed.
2. Each structure is a year round dwelling. As used in this section, the term "year round dwelling" means a structure that is (i) constructed on a permanent foundation; (ii) capable as being used as a permanent residence for one or more persons; (iii) serviced by utilities (including but not limited to, heating, water supply, sewage treatment, electricity and cooking facilities) which are functional during the full calendar year.
3. Each new lot complies individually to the fullest extent possible with the dimensional requirements of this Ordinance.
4. Each lot is serviced by public sewer or a subsurface wastewater disposal system in accordance with Maine law. Each lot is served by public water or a well.

5. A plot plan, drawn to scale, showing the dimensions of the new lots and the locations of structures is submitted to the Codes Enforcement Officer.
6. The Codes Enforcement Officer determines that the division of land complies with all of the requirements of this section and approves the plot plan.

{Amended, Effective 02/07/12}

C. No more than one principal building and its accessory buildings as regulated by this Ordinance may be located in any one lot used as a residential lot.

D. Lots which abut more than one street shall provide the required front yard setbacks along every street except as specifically provided for in the Freeport Subdivision Ordinance.

E. The use of any building, structure or land shall comply with the performance standards of this Ordinance. The Codes Enforcement Officer, when reviewing an application for any permit required by law, shall determine that a use complies with all performance standards applicable.

F. When a lot is transected by a zoning district boundary, the regulations set forth in this Ordinance for each district shall apply to the area of the lot in each district, except as permitted by Section 201.H below.

G. Excavation or filling and earthmoving as described in Section 509 D.2. shall be permitted in any district unless otherwise regulated by this Ordinance. Ponds, as regulated in Section 525, and short term excavations, as regulated in Section 509, are permitted in any district unless otherwise regulated by this Ordinance.

H. When part of a lot is in a Resource Protection District RPI, that area in the Resource Protection I District shall be counted toward the required minimum lot area of the other District only if all other applicable space standards can be satisfied within that part of the lot which is in the other district.

I. If residential and non-residential uses are located on the same lot, the area of the lot must equal or exceed the sum of the minimum lot sizes required for each user, except in the Village District I (V-I), Village Commercial District I (VC-I), Village Commercial District II (VC-II), Village Commercial District III (VC-III), Village Commercial District IV (VC-IV), Medium Density Residential District II (MDR II), Village Mixed Use District 1 (VMU-1), Village Mixed Use District 2 (VMU-2), Village Mixed Use District 3 (VMU-3), Commercial District I, Commercial District III, Commercial District IV, and as provided in Section 402.II.C. below. For the purposes of this section, accessory structures and facilities such as but not limited to sewage and water pumping stations, telephone electronic stations, and electrical transformers, to public utilities are considered to be residential uses. *{Amended, Effective 06/19/12}*

J. No building or structure which is not a dwelling unit as defined in this Ordinance may be used as a residence.

K. Public sewer pump stations are exempt from the space standards and landscape setback requirements of this Ordinance.

Public sewer pump stations shall be designed to be as unobtrusive as possible through the use of such measures as landscaping and buffering.

Section 202. Non-Conformance

A. Continuance of Non-Conformance: The lawful use of any building, structure, or land which is made nonconforming by reason of the enactment of this Ordinance, or which shall be made non-conforming by reason of a subsequent amendment, may be continued, subject to the following provisions:

B. Non-Conforming Uses

1. Repairs and Alterations: A building or structure devoted to a non-conforming use may be repaired, maintained or improved, provided the number of square feet of floor area devoted to the non-conforming use is not increased except in accordance with the provisions of Section 202.C.(5). A non-conforming use may not be reconstructed except in accordance with the provisions of Section 202.C.(2);

2. Extension of Use: The Zoning Board of Appeals may grant a variance for a one-time expansion of a non-conforming use up to a maximum of 15% of the gross floor area of the existing structure(s). A non-conforming open use of land may not be extended to any part of the remainder of the land except that excavation existing on January 16, 1990 may expand without a variance if such expansion is allowed under Section 509 of this Ordinance;

3. Change in Use: A non-conforming use of a building, structure or land may be changed to another non-conforming use only when the impact of the new use on adjacent properties, water bodies wetlands, and upon the Town is less adverse than the impact of the former use and a permit is issued for such change by the Codes Enforcement Officer applying the standards of and utilizing the procedures of Section 602. Upon such a change in use, the prior use shall be deemed abandoned. Whenever a non-conforming use is changed to a permitted use, such use shall not thereafter revert to non-conforming status;

4. Abandonment: A non-conforming use of a building, structure or land shall be considered abandoned if, in the case of a building or structure, it remains vacant for a period of eighteen (18) months, and in the case of an activity, it ceases for a period of eighteen (18) months. Subsequent use shall conform to the regulations specified in this Ordinance for the district in which it is located.

5. Use Begun Prior to Ordinance: Nothing herein contained shall require any change in plans, construction or structure, the construction of which shall have been diligently prosecuted previous to the date of enactment of this Ordinance, provided complete plans for such a use, building or structure shall have been timely filed with and accepted by the Codes Enforcement Officer;

6. In the Shoreland Zones the following additional requirements shall be met. In the case of a conflict with another provision of this Ordinance, the standards of this section shall prevail *{Amended, Effective 07/01/09}*

    a. Resource Protection I: A residential use which becomes non-conforming as a result of its location under this Ordinance in a Resource Protection I District may be expanded, reconstructed, or accessory buildings added, if the Codes Enforcement Officer determines that the project meets the criteria listed in Section 602.F.1.L. of the Site Plan Review regulations and the requirements of Section 507 and is subject to the restrictions described below:

        a. Total lifetime expansion on the parcel is limited to the addition of 500 square feet of gross floor area to buildings existing as of September 7, 1988. If any portion of the expansion is located within the required shore setback, that portion may be expanded by no more than 30 percent of the floor area existing within the setback area and no more than 30 percent of the volume existing within the setback area, and only upon the granting of a variance by the Zoning Board of Appeals.

        b. A seasonal use shall not be converted to a year-round use;

        c. The expansion shall not increase the non-conformance of any existing shore setback.

        d. If the Zoning Board of Appeals grants a setback variance request under the Sec. C.1. below, it shall be counted in the maximum total lifetime expansion area permitted.

    b. All other Shoreland Zones: -

        (1) Expansions. Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining approval from the Board of Appeals, be expanded within the existing residential structures or within an expansion of a structure as allowed in Sec. 202.C.1 Expansions below.

        (2) Resumption prohibited. A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use.

Notwithstanding anything to the contrary in this Ordinance or Section 302 of Title 1 of MRSA, this Section 202.B.(6) shall apply to any application for any permit or approval filed on or after September 7, 1988.

C. Non-Conforming Buildings

1. Expansion: *{Amended, Effective 08/05/14}*

In the Shoreland Zone a non-conforming building or structure may be added to or expanded after obtaining a permit from the Codes Enforcement Officer, if such expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (a) and (b) below:

a. After January 1, 1989, if any portion of a building or structure is less than the required shore setback, that portion of the building or structure shall not be expanded, as measured in floor area or volume, by 30% or more, during the lifetime of the building or structure. These provisions shall not restrict expansion of portions of a building or structure located outside of the required setback. If a replacement building or structure conforms with the requirements of Sec.202 (C)2 below, and is less than the required shore setback, the replacement building or structure may not be expanded if the original building or structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date.

b. Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming building or structure, the building or structure and new foundation must be placed such that the setback requirement is met to the greatest extent practical extent as determined by the Codes Enforcement Officer, basing its decision on the criteria specified in Sec. 202(C)4 below. If the completed foundation does not extend beyond the exterior dimensions of the building or structure, except for expansion in conformity with Sec. 202(C)1 above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from the original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.

For purposes of this section, when determining the setback line, if minor attachments such as stairs, landings and basement bulkhead doors are within the required shore setback for buildings or structures, expansions of the main portion of the building or structure toward the front edge of these minor attachments shall be considered an increase in the non-conformity of structure or attachment.

New stairways for the sole purpose of gaining access to, or egress from, a building or structure need not be considered when determining its setback, provided that the stairway and landing, if any, is no wider than five feet and extends no closer to the water than is necessary to accomplish its purpose. If the elevation at the top of the stairway or landing is greater than four feet above ground level, the stairway must be constructed such that it parallels the wall of the building or structure rather than extending toward the shoreline.

2. Reconstruction or Replacement: If a non-conforming building or structure is destroyed or damaged by less than 50% of the market value of the structure before the damage regardless of the cause, the owner retains the right to rebuild or restore the non-conforming building or structure provided that a permit is obtained within a period of twelve (12) months, or thereafter conform with the space requirements of this Ordinance unless a variance from such requirement is granted by the Board of Appeals.

   If a non-conforming building or structure is destroyed or damaged by more than 50% of its value regardless of the cause, the building or structure may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of said damage, destruction, or removal, and provided compliance with all setback requirements is met to the greatest practical extent as determined by the Codes Enforcement Officer in accordance with the purposes of this Ordinance. In no case shall a building or structure be reconstructed or restored so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed in Sec. 202.1 Expansions, above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the required setback for the new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Sec.202.4 below.

   In determining whether the building or structure reconstruction or restoration meets the shore setback to the greatest practical extent, the Codes Enforcement Officer shall consider, in addition to the criteria in Section 602.F.1.L. below, the physical condition and type of the existing foundation, if any, and whether it is reasonably feasible to relocate it. *{Amended, Effective 07/01/09}*

3. Use of Non-Conforming Building: Notwithstanding any space and bulk requirements of this Ordinance, a non-conforming building or structure may be used for any use allowed in the zoning district where it is located, unless the definition of such use contained in Section 104 of this Ordinance or the district regulations contain specific dimensional requirements peculiar to the use which cannot be met in the existing structure or on the existing lot.

4. Relocation: In the Shoreland Zone, a non-conforming building or structure may be relocated within the boundaries of the parcel on which the building or structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Codes Enforcement Officer and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules) or that a new system can be installed in compliance with the law and said Rules. In no case shall a building or structure be relocated in a manner that causes it to be more non-conforming.

In determining whether the building or structure relocation meets the setback to the greatest practical extent, the Codes Enforcement Officer shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other buildings and structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the required setback in order to relocate a structure, the Codes Enforcement Officer shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

a. Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five (5) trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

   Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must be similar in nature to the native vegetation and/or ground cover that was disturbed, destroyed or removed.

b. Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

{Amended, Effective 08/05/14}

5. Construction Begun Prior to Ordinance: Nothing herein contained shall require any change in plans, construction or structure, the construction of which shall have been diligently prosecuted previous to the date of enactment of this Ordinance provided complete plans for such a building or structure shall have been timely filed with and accepted by the Codes Enforcement Officer.

6. Residential Dwelling: Any existing residential dwelling and accessory buildings which, at the effective date of adoption or amendment of this Ordinance, becomes non-conforming because of failure to satisfy either the use standards or the space standards of the district in which it is located, may be extended or expanded or reconstructed provided that said extension, expansion or reconstruction is in compliance with all provisions of this Ordinance.

7. Hotels and Motels: Upon approval of a site plan by the Project Review Board, a hotel or motel which existed on July 5, l995 and which at any time thereafter is non-conforming because it exceeds the maximum number of units allowed by the district regulations may

increase the number of units by up to 30 units more than the number existing on July 5, l995 and may, in connection with such increase, expand accessory facilities such as restaurants, meeting rooms and recreational facilities. Such increase or expansion shall not be considered an extension of use subject to Section 202 (B)(2). An increase or expansion under this Paragraph 7 shall preclude any further increase or expansion under Section 202 (B)(2). As used in this Paragraph 7, "unit" means every room which provides sleeping accommodations for guests, except that a suite of no more than two rooms may be counted as a single unit provided the rooms share an entry from the exterior or an interior common area and share one toilet facility which is accessible only from within that group of rooms.

D. Non-Conforming Lots of Record:

1. A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the minimum lot size, minimum road frontage and/or minimum shore frontage of the district in which it is located, may be built upon without a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership and provided further that all other provisions of this Ordinance are met, except that the minimum land area per dwelling unit or mobile home space standard requirement shall not apply to the construction or placement of a single dwelling unit or a single mobile home on such a lot of record;

2. If two or more contiguous lots or parcels are in single ownership of record at the time of adoption or amendment of this Ordinance, or at any time thereafter, and if all or part of the lots do not meet the minimum lot size of this Ordinance, the lands involved shall be considered to be a single parcel for the purposes of this Ordinance, and no portion of said parcel shall be built upon or sold which does not meet the minimum lot size of this Ordinance; nor shall any division of the parcel be made which creates any dimension or area below the requirements of this Ordinance. This subsection (2) shall apply only to lots which have not been improved separately with buildings or structures.

   For the purposes of this sub-paragraph, lots shown on a subdivision plan approved by the Planning Board or the Project Review Board and recorded in the Registry of Deeds shall not be treated as lots held in common ownership if, within the three (3) years immediately preceding the effective date of this Ordinance or within three (3) years from the date on which such plan was approved, whichever is later, the owner or his predecessor has improved each lot by the completed construction of roads and the installation of utility services.

Section 203. Changes and Amendments

A. This Ordinance may be amended and its regulations, boundaries, and district classifications changed by the Town Council at a regular or special meeting pursuant to the following procedures:

1. Amendments or changes may be initiated by the Planning Board, Project Review Board or Town Council, or may be requested by any owner of property (or authorized agent) or other person with equivalent right, title or interest in the property (or authorized agent). Amendments or changes may also be initiated by any person as permitted by the Constitution and laws of the State of Maine;

2. All requests for amendments to the text of the Zoning Ordinance, or for changes in zone boundary lines, or other requests to change the zoning map, initiated by persons other than the Planning Board, the Town Council, or other Town Boards and Commissioners, shall be accompanied by a fee which shall be set by the Town Council. No such request shall be referred to the Planning Board for public hearing or otherwise considered as a Planning Board agenda item until the required fee has been paid;

3. For request for amendments or changes shall be referred to the Town Council for consideration until the Planning Board has held a public hearing on that request, notice of which shall be given at least ten (10) days prior to such hearing in a newspaper of general circulation in the Town of Freeport and to all abutters of the affected property if a zoning map change is being considered. Abutters shall include owners of property separated from the affected property by a public or private way;
4. Submissions: All requests for amendment or changes other than those initiated by the Planning Board, Project Review Board, or Town Council shall include:

    a. A map showing existing and proposed zone lines;
    b. Address or exact location of the request;
    c. Name and address of property owner and applicant;
    d. Statement regarding existing and proposed land use;
    e. Existing and proposed zone classification;
    f. Statement, where applicable, indicating the developer has the financial ability to complete the proposed development.
    g. If the request is for designation as a MEOD District, the following additional submissions are required:

        (1) Total project acreage;
        (2) Approximate acreage and locations of areas to be excavated and areas to be left undisturbed;
        (3) Locations of wetlands, water bodies, flood zones and environmentally sensitive land as defined in subparagraph (e) of the definition of Net Residential Acreage in Section 104 of this Ordinance;
        (4) General description of the extraction methods, amount of extraction, shipping procedures and land reclamation.

(5) Description of visual impact on abutting residential properties of the extraction operation and methods of screening the view of the operation from surrounding properties;
(6) Explanation of how the project will meet the standards listed in Section 509 G.

5. On the initiative of a person requesting an amendment or change ("petitioner") or at the request of the Planning Board, Project Review Board or the Town Council, a proposed amendment or change may be based upon, and the amendment or change conditioned upon and limited to, development of the affected property in accordance with a site plan drawn in accordance with the Site Plan Review requirements; and the property shall not be rezoned unless the petitioner has posted a performance bond equal to at least 25% of the estimated cost of the development. The bond shall become payable to the municipality if the petitioner fails to begin construction in a substantial manner within two years of the effective date of the rezoning or fails to construct the project in accordance with the final site plan approved by the Project Review Board, except that the Town Council, upon a showing by the petitioner that due to extenuating circumstances beyond the petitioner's control, it is no longer economically or technically feasible to construct the development, may waive payment and release the bond. If an amendment or change under this paragraph 5 is finally approved by the Town Council, no changes or alterations in the site plan shall be made without resubmitting the proposed changes for approval by the Project Review Board.

   Nothing in this paragraph 5 limits the authority of the Planning Board to consider and make a recommendation regarding a proposed amendment or change which is submitted without a site plan.

   Nothing in this paragraph 5 limits the authority of the Town Council to consider and act upon a proposed amendment or change which is submitted without a site plan.

   Nothing in this paragraph 5 limits the ability of a petitioner to decline a request from the Planning Board or the Town Council to condition the amendment or change on development in accordance with a site plan, or to request a change or amendment not so conditioned.

   Nothing in this paragraph 5 prohibits a petitioner from submitting or the Planning Board or Town Council from requesting the submission of conceptual plans not drawn in accordance with the Site Plan Review requirements either as preliminary plans in anticipation of a change or amendment conditioned upon development in accordance with a site plan or as illustrative materials in support of a change or amendment not so conditioned.

6. The Planning Board shall review all requests for amendments or changes and make its recommendations to the Town Council regarding the land use implications of the request. If the Planning Board has made recommendations on a proposed amendment or change which is not conditioned upon and limited to development in accordance with a site plan

under paragraph 5 and the Town Council then requests that the proposal be so conditioned and limited, the site plan shall be submitted to the Planning Board for its recommendations before the Council takes final action on the proposed amendment or change.

7. If the provisions of the Shoreland Zone are amended, copies of amendments, attested and signed by the Town Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the Town Council and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the Town within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

   If amendments are made in the Shoreland Zone boundaries, such changes shall be made on the Official Zoning Maps within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

8. The Federal Insurance Administration and the State Coordinating Office shall be notified before Flood Plain Management Regulations are amended based upon modified data reflecting natural or man-made changes.

Section 204 Contract Zoning

204.1 Authority and purpose

Pursuant to 30-A M.R.S.A., Section 4352, contract zoning is hereby authorized for rezoning of property by the Town Council where, for reasons such as the unusual nature or the unique location of a proposed development, the Town Council finds it appropriate and in the best interest of the town to rezone the property by agreement with the property owner. In such cases, the Town Council shall impose conditions or restrictions in order to ensure that the rezoning is consistent with the town's Comprehensive Plan, compatible with the existing uses in the zone and with the other allowed uses in the zone. Nothing in this section shall authorize an agreement which is inconsistent with the Town's Comprehensive Plan.

204.2 Applicability

Contract zoning is authorized in the following zoning districts only; Village Commercial 1 (VC-1), Village Commercial 2 (VC-2), Village Commercial 3 (VC-3), Village Commercial 4 (VC-4), Village Mixed Use 1 (VMU1), Village Mixed Use 2 (VMU 2), Industrial 1 (I-1), Industrial 2 (I-2), Commercial 1 (C-1), Commercial 2 (C-2), Commercial 3 (C-3), and Commercial 4 (C-4).

204.3 Notice and hearing

a. The Town Council shall conduct a public hearing as governed by Section 2.13 of the Charter of the Town of Freeport prior to referring an application to the Project

Review Board. The purpose of this public hearing is for the Council to determine if the proposed application is an appropriate use of contract zoning. In determining if an application is an appropriate use of contract zoning the Council shall consider factors such as, but not limited to, its sensitivity to the environment, its compatibility with the surrounding properties or the ability to adequately buffer the project from surrounding properties, it will not create an adverse traffic or circulation impact, and the appropriate parts of the land are being developed and are being left in their natural state.

b. Before a recommendation is made by the Project Review Board, the Planning Board shall review requests for contract zoning and shall provide advisory comments to the Project Review Board.

c. The Project Review Board shall conduct a public hearing prior to making a recommendation to the Town Council on the request for contract zoning. Notice of the hearing shall be:
   i) posted in the town clerk's office at least thirteen (13) days prior to the public hearing,
   ii) published in a newspaper of general circulation within the town at least two (2) times, the date of the first publication to be at least seven (7) days prior to the hearing, and
   iii) mailed to the owner or owners of the property to be rezoned and to the owners of all property within 900' of the property to be rezoned at their last known address. This notice shall contain a copy of the proposed conditions and restrictions, with a map indicating the property to be rezoned.

d. Town Council procedure is governed by Section 2.13 of the Charter of the Town of Freeport.

e. Notice also must be sent to a public drinking water supplier if the area to be rezoned is within its source water protection area or if the area is within the water district service area.

f. Notice also must be sent to the sewer district if the area is within the sewer district service area.

204.4 Conditions and restrictions

Any zone change adopted pursuant to this section shall be subject to a contractual agreement executed by authorized representatives of both the property owner and the Town, providing for the implementation and enforcement of the conditions of the agreement. Conditions may be met on the site or off the site. Conditions and restrictions shall only relate to the physical development and operation of the development, such as, but not limited to:

a. **limitations on the number and type of uses allowed on the property;**
b. the height and lot coverage of any structure;
c. the setback of any structure;

d. the installation, operation and maintenance of physical improvements such as parking lots, traffic control devices, fencing, shrubbery and screening;
e. the creation of open space areas, public areas, or buffer zones;
f. the dedication of property for public purposes, such as streets, parks, utility systems; and conservation easements;
g. the required number of parking spaces, not applicable in the VC-1 district, and/or
h. expansions of grandfathered (e.g., legal) non-conforming uses

204.5 Procedures

Applications for contract zoning shall also be subject to the provisions of Section 203.A, subsections 1, 2, 4 and 7.

Adopted May 15, 2007, effective as of March 4, 2008 when the Town Council adopted standards for contract zoning applications.

ARTICLE III

ESTABLISHMENT OF ZONING DISTRICTS

Section 301. Zoning Districts

For purposes of this Ordinance the Town of Freeport is hereby divided into zoning districts:

Rural Residential District I	“RR-I”
Rural Residential District IA	“RR-IA”
Rural Residential District II	“RR-II”
Medium Density Residential District I	“MDR-I”
Medium Density Residential District II	“MDR-II”
Medium Density District	“MD”
Village District I	“V-I”
Village District I-R	“V-IR”
Village District II	“V-II”
Commercial District I	“C-I”
Commercial District II	“C-II”
Commercial District III	“C-III”
Commercial District IV	"C-IV
Village Commercial District I	“VC-I”
Village Commercial District II	“VC-II”
Village Commercial District III	“VC-III”
Village Commercial District IV	“VC-IV”
Village Mixed Use District I	“VMU-I”
Village Mixed Use District II	“VMU-II”
Local Business District	“L-B”
Industrial District I	“I-I”
Industrial District II	“I-II”
Marine Waterfront District	“MW”
Resource Protection District I	"RP-I”
Resource Protection District II	“RP-II”
Island District	“ID”
Mining & Extracting Overlay District	“MEOD”
Freeport Village Overlay District	“FVOD”

Section 302. Zoning Map

The Zoning Districts and Shoreland Zone of the Town are shown on a map entitled “Town of Freeport, Maine, Zoning Map”, dated October, l975 as subsequently amended on June 6, 1986, digital copy adopted February 26, 2013 and certified by the Town Clerk, which accompanies and which, with all explanatory matter thereon, is hereby made a part of this Ordinance.

Field verification of any distance indicated on the map from the normal high-water line of the water body or the upland edge of the wetland or the 100-year flood plains when associated with rivers and adjacent to tidal waters in the Shoreland Zone is required to determine the actual boundary of the zone.

Regardless of the existence of other printed copies of the zoning map which from time to time may be made or published, the official zoning map filed in the municipal office of the Town shall be the final authority as to the current zoning status of the land and water areas, buildings and other structures in the Town.

Before the Planning Board recommends changes to the Zoning Map, the Codes Enforcement Officer shall notify, by mail, those property owners, as determined by the Planning Board, who would be affected by such a change.

Section 303. Zoning District Boundaries

A. Where uncertainty exists with respect to the boundary of any district as shown on the Town of Freeport Zoning Map, the following rules shall apply:

(1) Where district boundaries are so indicated as to approximately follow lot lines, such lot lines shall be construed to be such district boundaries;

(2) Where district boundaries are indicated as approximately following the center lines of roads, streets, highways, streams, rivers or other public/semi-public rights of way, such center lines shall be construed to be such boundaries;

(3) Where uncertainty exists in determining the precise location of any district boundary line, the Zoning Board of Appeals, shall interpret the intent and purpose of the zoning map.

Section 304. Map Corrections - Shoreland Zone and Resource Protection District RP-1

Any person owning a parcel of land which is shown within the Shoreland Zone or the Resource Protection District, RP-1 on the Town of Freeport Zoning Map, may apply to the Planning Board for a map correction for his/her parcel. The Planning Board shall process the application using the public hearing procedures described in Section 602.C.1.c.4.c of this Ordinance and the Planning Board may recommend to the Town Council reimbursement of up to one-half of the cost of any professional studies required for the determination. In making its decision, the Planning Board may consider evidence from a Maine certified soil scientist, a Maine certified geologist, a Maine licensed land surveyor, biologist, or other person with relevant training and experience.

If the Planning Board determines that the applicant's land or any portion of the applicant's land was incorrectly included in the Shoreland Zone or in the Resource Protection District, RP-1, the Planning Board shall issue a "Notice of Map Correction" finding that the applicant's property or some

specifically described portion of the applicant's property was incorrectly mapped. If the map correction eliminates the applicant's land or any portion thereof from the Resource Protection District, RP-1, the affected land shall be governed by the regulations applicable in the zoning district which abuts the affected land (or, if there is more than one abutting zoning district, by the regulations applicable in the most restrictive abutting zoning district). The Notice of Map Correction shall be recorded in the office of the Town Clerk and may be recorded by the applicant in the registry of deeds.

A map correction under this Section 304 shall constitute administrative action by the Planning Board and shall not constitute a rezoning or an amendment to the Town of Freeport Zoning Map or the Town of Freeport Zoning Ordinance and shall not require action by the Town Council. Map corrections do require review and approval by the Department of Environmental Protection. However, any corrections established by a map correction under this Section 304 shall be incorporated into any subsequent amendments of the Town of Freeport Zoning Map.

ARTICLE IV

ZONING DISTRICT REGULATIONS

Section 401. Purpose and Land Use Controls

The following tables state the purpose and land use regulations for each of the zoning districts of this Ordinance. Except as otherwise provided in Section 202 (Nonconformance), any structure or land that hereafter is used or occupied, and any structure or portion thereof that is erected, moved, constructed, reconstructed, extended, enlarged, or altered shall be in conformity with the regulations herein specified for the zoning district in which it is located and the general use regulations of this Ordinance.

Section 402. Rural Residential District I "RR-I" and Rural Residential District IA "RR-IA"

I. RR-I

A. Purpose: The Rural Residential District I is the most open and rural area in town and extends generally beyond the area of Freeport that is serviced by public water and sewer. It is intended that open space, agricultural and low-density residential uses be encouraged, in that they tend to enhance, reinforce, and protect the rural, open space atmosphere now characterizing much of the Town.

B. The following are permitted Uses:

1. Single Family Dwelling
2. Two-Family Dwelling
3. Mobile Home
4. Agriculture *{Amended, Effective 06/18/13}*
5. Agritourism Activity *{Amended, Effective 06/18/13}*
6. Timber Harvesting

The following uses are subject to subdivision review

7. Open Space Subdivisions for single family and two family dwellings
8. Expanded Open Space Subdivisions for single family and two family dwellings
9. Large Lot Subdivisions for single family and two family dwellings;

The following uses are subject to site review regardless of size:

10. Municipal Facility
11. Commercial Recreation, Outdoor
12. Public Utilities
13. Campgrounds
14. Religious Institution
15. Public or Private School
16. Outdoor Recreation School up to 5,000 square feet of gross floor area or up to 5,000 square feet total gross square footage of all buildings on any parcel. The lot size must be at least 5 acres.
17. Cemeteries
18. Nursing Homes which may include congregate care multi-family units
19. Private Assembly
20. Bed and Breakfast Inn
21. Day Care Center Facilities
22. Wireless Telecommunication Facility only if the base of any on-site tower is located at or above elevation 240 feet above mean sea level (See Sec. 528).
23. Parking area for open space *{Amended, Effective 12/02/14}*

The following use is subject to a Coastal Waters Commission permit as described in Section 507.R.

24. Aquaculture

C. Space Standards for Lots Which Are Not Within Subdivisions as Listed in D Below:

1. Minimum lot size:		2.5 acres
2. Minimum road frontage:		200 feet
3. Maximum building height:		35 feet
4. Minimum setback-	front:	50 feet
	side:	50 feet
	rear:	75 feet
	shore:	75 feet
5. Minimum land area per dwelling unit:		1 .5 acres
6. Minimum shore frontage:		See Section 507
7. Minimum lot width:		150 feet
8. Maximum Height - Wireless Telecommunication Facility (single user):		100 feet
Wireless Telecommunication Facility (co-located):		150feet

D. Space Standards for Lot in Subdivisions approved after April 9, 2002

1. Open Space Subdivisions requirements
   A. Net residential density, single family*:* *1 unit per 2.5 acres of net residential acreage*

B. Net residential density, per dwelling unit, two-family dwelling: *1 unit per 1.5 acres of of net residential acreage*

C. Minimum lot size, single family: *20,000 s.f.*

D. Average lot size for single family: *not less than 1 acre*

E. Minimum lot area per dwelling unit, two-family: *20,000 sq. feet*

F. Average lot area per dwelling, two-family: *not less than 30,000 sq. feet*

2. Expanded Open Space Subdivisions requirements

A. Net residential density, single family: *1 unit per 2.1 acres of net residential acreage*

B. Net residential density per dwelling unit, two-family dwelling: *1 unit per 1.25 acres of net residential acreage*

C. Minimum lot size, single family: *20,000 square feet*

D. Average lot size, single family: *not less than 25,000 sq. ft.*

E. Minimum lot area per dwelling unit, two-family dwelling: *10,000 square feet*

F. Average lot area per dwelling unit, two-family dwelling: *not less than 15,000 sq. ft.*

3. Large Lot Subdivisions requirements

A. Net residential density, single family: *1 unit per 5 acres of net residential acreage*

B. Net residential density per dwelling unit, two-family dwelling: *1 unit per 3acres of net residential acreage*

C. Large lot subdivision minimum lot size, single family: *5 acres*

D. Large lot subdivision minimum lot size per dwelling unit, two-family dwelling: *3 acres*

E. Bulk Standards for Lot in Subdivisions approved after April 9, 2002

1. Minimum road frontage and lot width, open space and expanded open space Subdivisions: 50 feet
2. Average road frontage and lot width, open space and expanded open space subdivisions: not less than 80 feet
3. Minimum road frontage large lot subdivisions: 200 feet
4. Minimum lot width large lot subdivisions: 150 feet
5. Minimum setback for open space and expanded open space subdivisions

front:	25 feet
rear:	40 feet
side:	10 feet
combined side:	40 feet

6. Minimum setback for large lot subdivisions

front:	50 feet
rear:	75 feet

	side:	50 feet
7. Maximum building height:		35 feet
8. Minimum shore frontage:		See Section 507

F. Other Standards:

1. Parcels within the Shoreland Zone shall meet the requirements of Section 507
2. For the purposes of this section, a shed is defined as a structure that is no greater than 200 square feet with a building height of no more than 12 feet and that is used soley for the storage of property, not shelter for animals, people, or passenger vehicles. Sheds as defined in this section have a minimum side and rear setback requirement of 25 feet. *{Amended, Effective 08/04/15}*

II. RR-IA

A. Purpose: The Rural Residential District I has in it, in limited areas along well-traveled roads or at intersections, areas where historically and traditionally dispersed small businesses have been located on property which is also the primary residence of the business owner. These rural uses are more intense than Home Occupations but less intense and limited than other commercial and industrial uses. They are a part of the rural character and diversity of housing types which the Comprehensive Plan seeks to protect. These areas are sub-districts of RR-I and are Rural Residential District IA or "RR-IA". Except as provided herein, RR-IA shall in all other respects be treated as RR-I.

The purpose is to restrict the RR-IA Zone to areas of the Town of Freeport in which a number of businesses, not home occupations, had been and were in existence on the well-traveled ways for which the zone has been established.

B. Permitted Uses:

1. All uses listed in Section 402.I.B. as permitted and all permitted uses subject to site plan review regardless of size;

2. In addition, the following uses are permitted and subject to site plan review regardless of size:

   a. The following uses are permitted only when the owner of the property on which the use is located uses the property as the owner's primary residence and is also the majority owner of the following permitted small business use located on the property:

      (1) Auto repair service garage;
      (2) Auto sales, used;
      (3) Landscaping;
      (4) Arboriculture.

C. Space Standards:

Space standards shall be the same as those required for the RR-I District (Sec. 402.I.C.) except that the minimum lot size shall be the total of the minimum required for the residential use of the property plus a minimum of one acre for the uses listed in Sec. 402.II.B. above.

D. Other Standards Applicable only to uses listed in Sec. 402.II.B.2. above.

1. Non-Conformance: As used in this Subsection 1 and except as otherwise indicated, the words "existing", "non-conforming", "legally", "illegal" and "illegally" shall be applied as of August 21, 1991, and the word "use" shall mean any of the uses listed in Section 402.II.B.2. An existing legally non-conforming use shall not require site plan review in order to continue. An existing legally non-conforming use which is proposed to expand shall require site plan review only for the expansion. An existing use, a portion of which is legally non-conforming and a portion of which has expanded illegally prior to August 21, 1991, shall require site plan review only for the illegal expansion. An illegally existing use shall require site plan review for the entire existing use as well as the any proposed expansion.

2. Except for non-conforming uses or expansions which are exempt from site plan review under Subsection 1 above, all uses listed in Section 402.II.B.2. are subject to the following standards:

   a. Setbacks: No exterior storage of materials, commercial vehicles used by the business, parking areas or any other exterior indications of the business use shall be permitted in any setback except that plantings rooted in the ground shall be permitted in the side and rear setbacks. In the front setback, in a strip extending along the entire frontage, for a depth of a minimum of fifty (50) feet, except for accessways, landscaping is required.
   b. Buffering: Buffers shall be provided in the setbacks at the district boundaries, where required. In addition, except as permitted in Section 402.II.D.2.a., buffers are required in the side and rear setbacks of each lot and shall meet the standards listed in Sec. 506.A, B, C and D.
   c. The performance standards of Article V, where applicable, shall be met. Objectionable conditions such as, but not limited to, noise, smoke, dust, odors or glare shall not be generated by any use, including those otherwise exempt from these standards under Subsection 1 above.
   d. In addition to the residents of the dwelling unit, no more than two full-time employees or combination of full-time and part-time employees or a number of part-time employees equivalent to the time worked by two full-time employees (a maximum of 80 hours per week) may be employed by the business use and no more than a total of five employees shall be on the site at any one time.
   e. Size Limitations: The area used by the business shall not occupy more than fifty percent (50%) or 20,000 square feet of the land area of the parcel, whichever is less. Included in this business occupancy area calculation shall be all the primary, accessory, and secondary structures, storage areas, display areas, parking areas

and accessory uses areas related to the business activity. Excluded from this business occupancy area calculation shall be all of the residential uses and uses accessory to the residential uses, open space, personal use areas, and all setbacks except for business use accessways.

f. The owner of any existing use as defined in Section 402.II.D.1. must register with the Code Enforcement Officer (CEO) within sixty (60) days of the effective date of the RR-IA zoning of the parcel on which the use is located. The registration shall describe and calculate the existing business occupancy area as defined in Section 402.II.D.2.e. The CEO shall verify the calculation within thirty (30) days of the registration. This calculation shall be used thereafter for determining the extent of any expansion. Failure to register shall cause any existing use to become a new use and it must receive Project Review Board site review and approval in order to continue.

3. For the purposes of this section, a shed is defined as a structure that is no greater than 200 square feet with a building height of no more than 12 feet and that is used soley for the storage of property, not shelter for animals, people, or passenger vehicles. Sheds as defined in this section have a minimum side and rear setback requirement of 25 feet. *{Amended, Effective 08/04/15}*

Section 403. Rural Residential District II "RR-II"

A. Purpose:

The Rural Residential District II is similar to the RR-I District. It is generally rural and underdeveloped and contains poor soils and some steep slopes which are constraints on development. Its unique characteristic is that it comprises most of the Harraseeket Historic District. The uses permitted within it are, therefore, limited to those which are compatible with its historic and rural qualities.

B. The following are permitted Uses:

1. Single Family Dwelling
2. Two-Family Dwelling
3. Agriculture *{Amended, Effective 06/18/13}*
4. Agritourism Activity *{Amended, Effective 06/18/13}*
5. Timber Harvesting

The following uses are subject to subdivision review

6. Open Space Subdivisions for single family and two family dwellings,
7. Expanded Open Space Subdivisions for single family and two family dwellings
8. Large Lot Subdivisions for single family and two family dwellings;

The following uses are subject to site review regardless of size:

9. Municipal Facility
10. Public Utilities
11. Campgrounds
12. Religious Institution
13. Public or Private School
14. Outdoor Recreation School up to 5,000 square feet of gross floor area or up to 5,000 square feet total gross square footage of all buildings on any parcel. The lot size must be at least 5 acres.
15. Cemeteries
16. Nursing Home with a maximum of 20 beds
17. Private Assembly
18. Bed and Breakfast Inn
19. Parking area for open space *{Amended, Effective 12/02/14}*

The following use is subject to a Coastal Waters Commission permit as described in Section 507.R.

20. Aquaculture

C. Space Standards for Lots Which Are Not Within Subdivisions as Listed in D Below:

1. Minimum lot size:		2.5 acres
2. Minimum road frontage:		200 feet
3. Maximum building height:		35 feet
4. Minimum setback -	front:	50 feet
	side:	50 feet
	rear:	75 feet
	shore:	75 feet
5. Minimum land area per dwelling unit:		2 acres
6. Minimum shore frontage:		See Section 507
7. Minimum lot width:		150 feet

D. Space Standards for Lot in Subdivisions approved after April 9, 2002

1. Open Space Subdivisions requirements

A. Net residential density, single family:	*1 unit per 2.5 acres of net residential acreage*
B. Net residential density per dwelling unit, two-family dwelling:	*1 unit per 2 acres of net residential acreage*
C. Minimum lot size, single-family:	*20,000 sq. ft.*
D. Average Lot Size Single Family:	*not less than 1 acre*
E. Minimum lot area per dwelling unit, two-family dwelling:	*15,000 sq. ft.*
F. Average lot area per dwelling unit, two family dwelling:	*not less than 30,000 sq. ft.*

2. Expanded Open Space Subdivisions requirements

A. Net residential density, single family: *1 unit per 2.l acres of net residential acreage*
B. Net residential density per dwelling unit, two-family dwelling: *1 unit per 1.75 acres of net residential acreage*
C. Minimum lot size, single family: *20,000 square feet*
D. Average lot size, single family: *not less than 25,000 sq. ft.*
E. Minimum lot area per dwelling unit, two-family dwelling: *15,000 square feet*
F. Average lot area per dwelling unit, two family dwelling: *not less than 20,000 sq. ft.*

3. Large Lot Subdivisions requirements

A. Net residential density, single family: *1 unit per 5 acres of net residential acreage*
B. Net residential density per dwelling unit, two-family dwelling: *1 unit per 4 acres of net residential acreage*
C. Large lot subdivision minimum lot size, single family: *5 acres*
D. Large lot subdivision minimum lot size per dwelling unit, two-family dwelling: *4 acres*

E. Bulk Standards for Lot in Subdivisions approved after April 9, 2002

1. Minimum road frontage and lot width, open space and expanded open space subdivisions: 50 feet
4. Average road frontage and lot width, open space and expanded open space subdivisions: Not less than 80 feet
5. Minimum road frontage large lot subdivisions: 200 feet
6. Minimum lot width large lot subdivisions: 150 feet
5. Minimum setback for open space and expanded open space subdivisions

front:	25 feet
rear:	40 feet
side:	10 feet
combined side:	40 feet

6. Minimum setback for large lot subdivisions

front:	50 feet
rear:	75 feet
side:	50 feet

7. Maximum building height: 35 feet
8. Minimum shore frontage: See Section 507

F. Other Standards:

1. Parcels within the Shoreland Zone shall meet the requirements of Section 507

2. For the purposes of this section, a shed is defined as a structure that is no greater than 200 square feet with a building height of no more than 12 feet and that is used soley for the storage of property, not shelter for animals, people, or passenger vehicles. Sheds as defined in this section have a minimum side and rear setback requirement of 25 feet. *{Amended, Effective 08/04/15}*

Section 404. Medium Density Residential District I "MDR-I"

A. Purpose:

It is the intent of this district to provide for locations where a diversity of residential housing types is permitted at a higher density than in the rural districts. Since public water and sewer are not available, densities are set at the maximum which would be compatible with on-site facilities.

B. The following are permitted Uses:

1. Single Family Dwelling
2. Two-Family Dwelling
3. Mobile Home
4. Agriculture *{Amended, Effective 06/18/13}*
5. Agritourism Activity *{Amended, Effective 06/18/13}*
6. Timber Harvesting

The following uses are subject to subdivision review

6. Open Space Subdivisions for single dwellings, two family, and multiple family dwellings
7. Expanded Open Space Subdivisions for single family, two family, and multiple family dwellings
8. Large Lot Subdivisions for single family, two family, and multiple family dwellings;

The following uses are subject to site review regardless of size:

9. Municipal Facility
10. Multiple Family Dwelling - Maximum of 6 units per building
11. Public Utilities
12. Religious Institution
13. Public or Private School
14. Outdoor Recreation School up to 5,000 square feet of gross floor area or up to 5,000 square feet total gross square footage of all buildings on any parcel.

The lot size must be at least 100,000 s.f.

15. Bed and Breakfast Inn
16. Expansion of existing mobile home park subject to the requirements of Article V, Sec. 524.
17. Wireless Telecommunication Facility (See Sec. 528)
18. Parking area for open space *{Amended, Effective 12/02/14}*

C. Space Standards for Lots Which Are Not Within Subdivisions as Listed in D Below:

1. Minimum lot size:		50,000 s.f.
2. Minimum road frontage:		150 feet
3. Maximum building height:		35 feet
4. Minimum setback front:		30 feet
	side:	20 feet
	rear:	30 feet
	shore:	75 feet
5. Minimum land area per dwelling unit:		30,000 s.f.
6. Minimum shore frontage:		See Section 507
7. Minimum lot width:		100 feet
8. Maximum Height B Wireless Telecommunication Facility		
	(single user):	100 feet.
Wireless Telecommunication Facility, Co-located:		150 feet.

D. Space Standards for Lot in Subdivisions approved after April 9, 2002

1. Open Space Subdivisions requirements

A. Net residential density, single family: *1 unit per 50,000 square feet of net residential acreage*
B. Net residential density, per dwelling unit, two family, and multiple family dwellings: *1 unit per 30,000 square feet of net residential acreage*
C. Minimum lot size, single family: *20,000 square feet*
D. Average lot size, single family: *not less than 25,000 square feet*
E. Minimum lot area per dwelling unit, two family, and multiple family dwellings: *10,000 square feet*
F. Average lot area per dwelling unit, two family and multiple family dwellings: *not less than 15,000 square feet*

2. Expanded Open Space Subdivisions requirements

A. Net residential density, single family: *1 unit per 1 acre of net residential acreage*
B. Net residential density, per dwelling unit, two family, and multiple family dwellings: *1 unit per 25,500 square feet of net residential acreage*
C. Minimum lot size, single family, if connected to public sewer: *12,000 square feet*
D. Average lot size single family, if connected to public sewer: *17,000 square feet*

E. Minimum lot size, single family, if not connected to public sewer: *20,000 square feet*

F. Minimum lot area per dwelling unit, two family, and multiple family dwellings if connected to public sewer: *10,000 square feet*

3. Large Lot Subdivisions requirements

A. Net residential density, single family: *1 unit per 100,000 square feet of net residential acreage*

B. Net residential density, per dwelling unit, two family, and multiple family dwellings: *1 unit per 60,000 square feet*

C. Large lot subdivision minimum lot size, single family: *100,000 square feet*

D. Large lot subdivision minimum lot size per dwelling unit, two family, and multiple family dwellings: *60,000 square feet*

E. Bulk Standards for Lot in Subdivisions approved after April 9, 2002

1. Minimum road frontage and lot width, open space and expanded open space subdivisions 45 feet
2. Average road frontage and lot width, open space and expanded open space subdivisions: not less than 60 feet
3. Minimum road frontage, large lot subdivisions: 150 feet
4. Minimum lot width, large lot subdivisions: 100 feet
5. Minimum setback for open space and expanded open space subdivisions

front:	20 feet
rear:	25 feet
side:	10 feet
combined side:	30 feet

6. Minimum setback for large lot subdivisions

front:	30 feet
rear:	30 feet
side:	20 feet

7. Maximum building height: 35 feet
8. Minimum shore frontage: See Section 507

F. Other Standards:

1. Parcels within the Shoreland Zone shall meet the requirements of Section 507

Section 405. Medium Density Residential District II "MDR-II"

A. Purpose:

It is the intent of this District to permit a denser pattern of residential development than in the rural district. Because of the historic nature of some of the areas located in this District, mobile homes are not permitted. Large road frontages along major roads are required in order to limit the number of access points and retain a more rural atmosphere.

B. Permitted Uses:

1. Single Family Dwelling
2. Two-Family Dwelling
3. Agriculture *{Amended, Effective 06/18/13}*
4. Agritourism Activity *{Amended, Effective 06/18/13}*
5. Timber Harvesting

The following uses are subject to subdivision review

5. Open Space Subdivisions for single family, two family, and multiple family dwellings. Two family and multiple family dwelling units must be connected to the public water system.
6. Expanded Open Space Subdivisions for single family, two family, and multiple family dwellings,
7. Large Lot Subdivisions for single family, two family, and multiple family dwellings;

The following uses are subject to site review regardless of size:

8. Municipal Facility
9. Multiple Family Dwelling - Maximum of 6 units per building
10. Public Utilities
11. Religious Institution
12. Bed & Breakfast Inn
13. Public or Private School
14. Outdoor Recreation School up to 5,000 square feet of gross floor area or up to 5,000 square feet total gross square footage of all buildings on any parcel. The lot size must be at least100,000 s.f.
15. Wireless Telecommunication Facility (see Sec. 528)
16. Parking area for open space *{Amended, Effective 12/02/14}*

C. Space Standards for Lots Which Are Not Within Subdivisions as Listed in D Below:

1. Minimum lot size:	50,000 s.f.
2. Minimum road frontage:	150 feet
3. Maximum building height:	35 feet

4. Minimum setback	front:	30 feet
	side:	20 feet
	rear:	30 feet
	shore:	75 feet
5. Minimum land area per dwelling unit:		30,000 s.f.
6. Minimum shore frontage:		See Section 507
7. Minimum lot width:		100 feet
8. Maximum Height B Wireless		
Telecommunication Facility (single user):		100 feet
Wireless Telecommunication Facility, Co-located:		150 feet.

Please consult the Freeport Village Design Standards for additional standards that may apply.

D. Space Standards for Lot in Subdivisions approved after April 9, 2002

1. Open Space Subdivisions requirements

A. Net residential density, single family: *1 unit per 50,000 square feet of net residential acreage*

B. Net residential density, per dwelling unit, two family, and multiple family dwellings: *1 unit per 30,000 square feet of net residential acreage*

C. Minimum lot size, single family: *20,000 square feet*

D. Average lot size, single family: *not less than 25,000 square feet*

E. Minimum lot area per dwelling unit, two family, and multiple family dwellings: *10,000 square feet*

F. Average lot area per dwelling unit, two family, and multiple family dwellings: *not less than 15,000 square feet*

2. Expanded Open Space Subdivisions requirements

A. Must be connected to the public sewer system

B. Net residential density, single family: *1 unit per 1 acre of net residential acreage*

C. Net residential density, per dwelling unit, two family, and multiple family dwellings: *1 unit per 25,000 square feet of net residential acreage*

D. Minimum lot size, single family: *12,000 square feet*

E. Average lot size, single family: *not less than 17,000 square feet*

F. Minimum lot area per dwelling unit, two family, and multiple family dwellings: *7,500 square feet*

G. Average lot area per dwelling unit, two family, and multiple family dwellings, *Not less than 10,000 sq. ft.*

3. Large Lot Subdivisions requirements

A. Net residential density, single family: *1 unit per 100,000 square feet of net residential acreage*

B. Net residential density, per unit, two family, and multiple family dwellings: *1 unit per 60,000 square feet*

C. Large Lot subdivision minimum lot size, single family: *100,000 square feet*

D. Large Lot subdivision minimum lot size per dwelling unit, two family, and multiple family dwellings: *60,000 square feet*

E. Bulk Standards for Lot in Subdivisions approved after April 9, 2002

1. Minimum road frontage and lot width, open space and expanded open space subdivisions: 50 feet
2. Average road frontage and lot width, open space and expanded open space subdivisions: Not less than 75'
3. Minimum road frontage, large lot subdivisions: 150 feet
4. Minimum lot width, large lot subdivisions: 100 feet
5. Minimum setback for open space and expanded open space subdivisions

front:	20 feet
rear:	25 feet
side:	10 feet
combined side:	30 feet

6. Minimum setback for large lot subdivisions

front:	30 feet
rear:	30 feet
side:	20 feet

7. Maximum building height: 35 feet
8. Minimum shore frontage: See Section 507

F. Other Standards:

1. Parcels within the Shoreland Zone shall meet the requirements of Section 507.

Section 406. Medium Density Districts - "MD-A and MD-B"

{Amended, Effective 01/07/14}

A. Purpose:

It is the intent of this District to maintain the present balance between residential and limited business uses in an area which includes some moderately densely developed areas containing structures of historical significance in sections which are more rural in nature. Route 1 is the major roadway in this District and extends from the Village to the Town of Brunswick border. Provisions below are intended to allow a mix of residential and commercial uses while protecting the neighborhoods and residential properties.

B. Permitted Uses: *{Amended, Effective 06/18/13}*

1. Single Family Dwelling
2. Two-Family Dwelling
3. Mobile Home
4. Agriculture *{Amended, Effective 06/18/13}*
5. Agritourism Activity *{Amended, Effective 06/18/13}*
6. Timber Harvesting
7. Peddler on Private Property subject to the requirements of Section 526.

The following uses are subject to subdivision review:

8. Open Space Subdivisions for single family, two family dwellings, and multiple family dwelling,
9. Expanded Open Space Subdivisions for single family, two family, and multiple family dwellings,
10. Large Lot Subdivisions for single family, two family, and multiple family dwellings;

The following uses are subject to site review regardless of size:

11. Municipal Facility
12. Multiple Family Dwelling
13. Hotel/Motel - Maximum of 30 units including retail trade as an accessory use up to 1,000 square feet of gross floor area.
14. Commercial Recreation - Outdoor
15. Commercial Recreation - Indoor
16. Public Utilities
17. Business and Professional Office
18. Hospital
19. Nursing Home and/or Residential Health Care Facility
20. Religious Institution
21. Public or Private School
22. Commercial School

23. Outdoor Recreation School up to 5,000 square feet of gross floor area or up to 5,000 square feet total gross square footage of all buildings on any parcel. The lot size must be at least 100,000 s.f. in MD-A, 80,000 s.f. in MD-B without public water and sewer, and 40,000 s.f. in MD-B with public water and sewer.
24. Cemeteries
25. Private Assembly
26. Bed and Breakfast Inn
27. Convenience Store limited to a maximum of 2500 sq. ft. of gross floor area
28. Junkyard existing as of May 11, 1999
29. Mobile Home Park subject to the requirements of Article V, Sec. 524
30. Day Care Center Facilities
31. Wireless Telecommunication Facility (see Sec 528)
32. Auto Repair Service Garage up to 2,500 square feet of building footprint and up to 5,000 square feet of outdoor vehicle storage area. Auto sales may occur on the premises with no limitation on the percentage of the above building and storage area used as long as an auto repair service garage is operated on the premises within the enclosed building.
33. Construction services
34. Campgrounds
35. Art Gallery/Museum up to 2,500 square feet of building footprint
36. Manufacturing and processing and research and development facilities up to 10,000 square feet of gross floor area of building with up to 5,000 square feet of outdoor storage area. The type of items to be stored outdoors must be approved by the Project Review Board.
37. Restaurant limited to a maximum of fifty (50) seats.
38. Retail trade up to 1,000 square feet of gross floor area
39. Warehouse and Storage Facility, subject to the following limitations:

    (a) On a lot less than three acres, a warehouse and storage facility may contain:

        1) No more than one principal building
        2) No more than 2,500 square feet of gross floor area
        3) No more than 5,000 square feet of outdoor storage area, except that total outdoor storage area may be increased to no more than 10,000 square feet when the storage includes at least 5,000 square feet of lumber and wood products.
        4) No outdoor storage of any items other than the types of items approved by the Project Review Board.

    (b) On a lot of three acres or more, a warehouse and storage facility may contain:

        1) In the MD-A District, one or more principal buildings with a total gross floor area of no more than 2,500 square feet for the first three acres plus an additional 2,500 square feet for each additional 50,000 square feet of land area over three acres, up to a total of no more than 10,000 square feet of gross floor area per lot.

2) In the MD-B District, one or more principal buildings with a total gross floor area of no more than 2,500 square feet for the first three acres plus an additional 2,500 square feet for each additional 40,000 square feet of land area over three acres, up to a total of no more than 10,000 square feet of gross floor area per lot.
3) No more than 2,500 square feet of gross floor area in any single building.
4) No greater than 40 feet of separation between any two buildings on the lot.
5) No more than 10,000 square feet of outdoor storage area.
6) No outdoor storage of any items other than the types of items approved by the Project Review Board.

40. Parking area for open space *{Amended, Effective 12/02/14}*
41. Artisan Food and Beverage *{Effective 12/17/14}*
    a. food truck(s) as an accessory use is allowed subject to the provisions of Sec. 526A – Food Trucks

C. Space Standards for Lots Which Are Not Within Subdivisions as Listed in D Below:

1. Minimum lot size:

MD-A -	50,000 s.f.
MD-B -	40,000 s.f. without public water & sewer
	20,000 s.f. with public water & sewer

2. Minimum road frontage:

Route 1	200 feet
All other roads:	100 feet

3. Maximum building height: 35 feet
4. Minimum setbacks

Minor Street:		
	front:	60 feet
	side:	40 feet
	rear:	40 feet
U.S. Route 1:		
	Front:	50 feet
	Side:	50 feet
	Rear:	50 feet

From residential buildings: In addition to the setback requirements listed above, new buildings for the uses of auto repair service garage, construction services, manufacturing and processing, and/or warehouse and storage facility that require Site Plan Review approval shall not be located any closer than 100 feet from the closest point of a residential building on an adjacent property. For the purposes of this section, a residential building means a single family, two-family, multiple family or mobile home, as well as commercial uses that are either temporary or permanent shelter such as campgrounds, hotels and motels, and nursing homes.

5. Minimum land area per dwelling unit: 20,000 feet
6. Maximum impervious surface to lot area: 50%
7. Minimum lot width: 75 feet
8. Maximum Height B
   Wireless Telecommunication Facility (single user): 100 feet
   Wireless Telecommunication Facility, Co-located: 150 feet

D. Space Standards for Lot in Subdivisions approved after April 9, 2002

1. Open Space Subdivisions requirements

   A. MD-A net residential density, single family: *1 unit per 50,000 square feet of net residential acreage*
   B. MD-B net residential density without public water and sewer, single family: *1 unit per 40,000 square feet of net residential acreage*
   C. MD-B net residential density with public water and sewer, single family: *1 unit per 20,000 square feet of net residential acreage*
   D. MD-A and MD-B net residential density, per dwelling unit, two family and multiple family: *1 unit per 20,000 square feet*
   E. MD-A minimum lot size, single family: *25,000 square feet*
   F. MD-B minimum lot size, single family if not connected to public water and sewer: *20,000 square feet*
   G. MD-B minimum lot size, single family if connected to public water and sewer: *10,000 square feet*
   H. Minimum lot area per dwelling unit, two family, and multiple family dwellings: *10,000 square feet*

2. Expanded Open Space Subdivisions requirements

   A. MD-A net residential density, single family: *1 unit per 41,500 square feet of net residential acreage*
   B. MD-B net residential density without public water and sewer, single family: *1 unit per 33,000 square feet of net residential acreage*
   C. MD-B net residential density with public water and sewer, single family: *1 unit per 17,000 square feet of net residential acreage*
   D. MD-A and MD-B net residential density, per dwelling unit, two family and multiple family: *1 unit per 17,000 square feet*
   E. MD-A minimum lot size, single family: *20,000 square feet*
   F. MD-B minimum lot size, single family if not connected to public water and sewer: *20,000 square feet*
   G. MD-B minimum lot size, single family if connected to public water and sewer: *7,000 square feet*
   H. Minimum lot area per dwelling unit, two family, and multiple family dwellings: *7,000 square feet*

3. Large Lot Subdivisions requirements

A. MD-A net residential density, single family: *1 unit per 100,000 square feet of net residential acreage*
B. MD-A net residential density, per dwelling unit, two family, and multiple family dwellings: *1 unit per 40,000 square feet of net residential acreage*
C. MD-B net residential density without public water and sewer, single family: *1 unit per 80,000 square feet of net residential acreage*
D. MD-B net residential density without public water and sewer, per dwelling unit, two family, and multiple family dwellings: *1 unit per 40,000 square feet of net residential acreage*
E. MD-B net residential density with public water and sewer, single family and per dwelling unit, two family, and multiple family dwellings: *1 unit per 40,000 square feet of net residential acreage*
F. MD-A minimum lot size, single family: *100,000 square feet*
G. MD-B minimum lot size without public water and sewer, single family: *80,000 square feet*
H. MD-B minimum lot size with public water and sewer, single family: *40,000 square feet*
I. Minimum land area per dwelling unit, two family, and multiple family dwellings: *40,000 square feet*

E. Bulk Standards for Lot in Subdivisions approved after April 9, 2002

1. Minimum road frontage and lot width, open space and expanded open space subdivisions: 75 feet
2. Minimum road frontage, large lot subdivisions: 100 feet
3. Minimum lot width, large lot subdivisions: 75 feet
4. Minimum setback for open space and expanded open space subdivisions
   - front: 30 feet
   - rear: 25 feet
   - side: 10 feet
   - combined side: 30 feet
5. Minimum setback for large lot subdivisions
   - front: 60 feet
   - rear: 40 feet
   - side: 40 feet
6. Maximum building height: 35 feet
7. Minimum shore frontage: See Section 507

F. Prohibited Uses:

Specifically include, but are not limited to, the following:

1. Manufacture, fabrication, disposal or any use of asbestos products
2. Paper Manufacturing

3. Petroleum and petrochemical refining and reprocessing
4. Production of lubrication oils and grease
5. Manufacture of explosives including, but not limited to, ammunition and fireworks
6. Offal or dead animal disposal and reprocessing
7. Abattoirs and slaughterhouses

G. Other Standards:

1. Outdoor storage for home occupation uses is prohibited in the front setback.
2. For all lots other than those with single and two-family uses, the following buffer requirements shall apply:

   Landscaping is required in all front, side and rear setbacks for a minimum depth of 25 feet. The purpose of the landscaping is to provide a buffer between low density residential uses and commercial/industrial uses. The Project Review Board shall determine the type of landscaping to be required and may use the applicable standards listed in Section 506 (Buffer Zones) below.
3. Minimum outdoor storage standards for non-residential uses are:
   a. The storage area shall be fully fenced with an opaque material 5 to 6 feet high.
   b. Only materials and/or equipment used in the business shall be stored.
   c. Stored materials shall be no higher than the height of the fence.
   d. No outdoor storage shall be allowed in any setback areas.
4. The Project Review Board may reduce any setback requirement if doing so will increase the distance between an existing residential building and a commercial building, if environmentally sensitive areas will be avoided, or if a lot shares access with another commercial building, and /or varying the setback will alter the front lines of the buildings.
5. All buildings that are subject to Site Plan Review and that are plainly visible from a public road shall be required to meet the building design standards of this section. For the purposes of this section, buildings that are screened by a depth that is the same or more than the front setback requirement of natural, mature vegetation, and/ or another building, and/or a change in elevation or other method as approved by the Project Review Board are not considered to be visible from the road, These building may be seen from the road, but they are not considered to be in plain sight.
   a. Designs that are characterized by long monotonous unrelieved shape or form or by the unbroken extension of line for any building are not permitted. Wall projections, recesses, windows, roof elevation variations and design features such as moldings, color changes, material changes, signs, awnings, dormers and so on can be used to break up the visual expanse of a building facing a public or private road.
   a. Efforts should be made to vary the setback of the building on a parcel from the setback of adjacent buildings to avoid a monotonous, visual building line along a road. In situations where this is not possible landscaping, parking lot design and building design are some examples of site features which can be used to minimize the uniformity of the setback line.
6. Buildings that are subject to Site Plan Review that are not plainly visible as described in Sec.406.G.5 above shall provide extra attention to the entrance rather

than the building. For example, signs for the business or a simple address sign might be made of a distinctive material, or decorative plantings, lighting, or art work may be included. The Project Review Board may base the appropriateness of an entrance design on the amount of customer recognition that is needed for a business.

7. Non-residential uses are allowed one overhead door on a side of the building visible from U.S. Route One. The Project Review Board may approve more than one overhead door on a side of a building visible from Route One if the size and shape of the lot are such that no other feasible alternative exists or if the building is not plainly visible from U.S. Route One as described in Sec. 406.G.5.

Section 407. Village I - "V-I"

A. Purpose:

It is the intent of this District to begin the transition from the Village Commercial Districts to the neighboring residential districts and to encourage a high density of residential development.

B. Permitted Uses:

1. Single Family Dwelling
2. Two-Family Dwelling

The following uses are subject to subdivision review

3. Subdivisions for one-family, two-family, or multiple family dwellings. Any such subdivision must be designed as a Village Open Space Subdivision.
    a. Buildings in existence prior to January 22, 2013 shall not be subject to the provisions of Section 407.D.2, 4 and 6 below provided the provisions of section 407.E.4 below are met *{Amended, Effective 01/22/13}*

The following uses are subject to site review regardless of size:

4. Multi-Family Dwelling
    a. Buildings in existence prior to January 22, 2013 shall not be subject to the provisions of Section 407.C.5 below provided the provisions of section 407.E.4 below are met *{Amended, Effective 01/22/13}*
5. Religious Institution
6. Public or Private School
7. Commercial School
8. Outdoor Recreation School
9. Municipal Facility
10. Public Utilities
11. Private Assembly
12. Business and Professional Offices:

A minimum 20,000 sq. ft. lot or a nonconforming lot of record may contain one of the following:

(a) New Structure: Gross floor area of a new structure shall not exceed 4,000 s.f. No floor shall exceed a maximum of 2,000 s.f. A maximum of 4,000 s.f. of gross floor area may be used for business and professional offices; or

(b) Existing Structure: A maximum of 5,000 s.f. of gross floor area may be used for business and professional offices; or

(c) Combined New and Existing Structure: Total gross floor area shall not exceed 4000 sq. ft.

13. Bed and Breakfast Inn
14. Nursing Home
15. Day Care Center Facility
16. Construction Services, provided the use is:
    (a) conducted in a building existing on November 17, 1999
    (b) engages in no outdoor storage or outdoor parking of commercial vehicles except for vehicles with load capacity of one ton or less except for loading and unloading, and
    (c) produces no noise, smoke, dust, odors or glare detectable beyond the boundaries of the lot.
17. Parking area for open space *{Amended, Effective 12/02/14}*

C. Space Standards for Lots Which Are Not Within Subdivisions as Listed in D Below:

1. Minimum lot size, except for lots that meet all of the standards in Sec. 407.E.4 below: *{Amended, Effective 01/22/13}*		20,000 s.f.
2. Minimum road frontage:		50 feet
3. Maximum building height:		35 feet
4. Minimum setback	front:	25 feet
	side:	15 feet
	rear:	25 feet
	shore:	100 feet
5. Minimum land area per dwelling unit:		5,000 s.f.

Please consult the Freeport Village Design Standards for additional standards that may apply.

D. Space Standards for Lots in Village Open Space Subdivisions approved after August 2, 2005

1. Net residential density; single family - 1 unit per 12,000 s.f. of net residential acreage
2. Net residential density per dwelling unit; two family and multiple family – 1 unit per 3,630 s.f. of net residential acreage
3. Average lot size for single family – not less than 6,000 s.f.
4. Average lot size area per dwelling unit; two family and multiple family – not less than 1,800 s.f.

5. Minimum lot size; single family 3,000 s.f.
6. Minimum lot area per dwelling unit; two family and multiple family - 600 s.f.
7. Minimum road frontage 25 ft.
8. Average road frontage not less than 30 ft.
9. Maximum impervious surface to lot area ratio 80%

E. Other Standards:

1. Parking lots located in the V-I District, which were developed and existing on May 6, 1986, may be used to satisfy the parking requirements for the conversion of a use in the VC-I District, made non-conforming by the enactment of this Ordinance, to a use permitted in the VC-I District.
2. Any new construction, addition, or reconstruction in this District are also subject to the Freeport Village Design Standards as indicated as being applicable in those Standards.
3. Building height requirements and building setback requirements are included in the Freeport Village Design Standards.
4. Additions to the building are prohibited. Decks, open air porches, garages used solely for storage and vehicles, and fire escapes necessary to meet the Life Safety Code are not considered to be additions. The parking requirements and maximum impervious surface to lot area ratio must be able to be met on-site. No building may have more than 8 units unless the land area per dwelling unit requirement can be met. All units must be connected to the public water and sewer system. To encourage the development of affordable housing for every three units that are created at least one of those units must be a one-bedroom or efficiency unit that is no greater than 650 sf. *{Amended, Effective 01/22/13}*

5. To allow for a variety of housing types at a variety of prices, lots that are smaller than the minimum lot size may be created and will be considered conforming lots provided all of the following provisions are met:
    a. The small lot is no less than 5,000 square feet.
    b. The remaining lot is no less than 20,000 square feet.
    c. Only one small lot may be created per lot of record as of January 22, 2013.
    d. The gross floor area of the house and garage on a small lot can be no more than 1,300 square feet. This does not include covered or uncovered open air porches, decks, basements or outbuildings that are used solely for storage such as sheds. This applies to the lifetime of the structure. This requirement shall be set forth in a deed covenant or other legal instrument that binds the lot owner and that runs with the land so that future lot owners are also bound to the same restriction.
    e. The house shall meet the minimum front and rear setback requirements as established in the Freeport Village Design Standards.
    f. The side setback requirements shall be as set forth in this section, not the Freeport Village Design Standards. The side setback requirement that is adjacent to the lot from which the small lot was created shall have a

minimum setback requirement of 5'and a maximum of 10'. Side lot lines adjacent to lots other than the one that the small lot was created from shall have a minimum setback requirement of 15'.

g. The road frontage requirement shall be no less than 50'.
h. Small lots must be connected to the public water and sewer system.
i. The lot may be used for single family houses only.

{Amended, Effective 01/22/13}

Section 407.A Village I-R - "V-IR" *{Amended, Effective 03/15/16}*

A. Purpose:

It is the intent of this District to begin the transition from the Village Commercial Districts and Village 1 District to the neighboring residential districts and to encourage a high density of residential development.

B. Permitted Uses:

1. Single Family Dwelling
2. Two-Family Dwelling

The following uses are subject to subdivision review

3. Subdivisions for one-family, two-family, or multiple family dwellings. Any such subdivision must be designed as a Village Open Space Subdivision.
   b. Buildings in existence prior to January 22, 2013 shall not be subject to the provisions of Section 407.D.1

The following uses are subject to site review regardless of size:

4. Multi-Family Dwelling
5. Religious Institution
6. Public Utilities

C. Space Standards for Lots Which Are Not Within Subdivisions as Listed in D Below:

1. Minimum lot size, except for lots that meet all of the standards in Sec. 407.E.4 below:		20,000 s.f.
2. Minimum road frontage:		50 feet
3. Maximum building height:		35 feet
4. Minimum setback	front:	25 feet
	side:	15 feet
	rear:	25 feet
	shore:	100 feet
5. Minimum land area per dwelling unit:		5,000 s.f.

Please consult the Freeport Village Design Standards for additional standards that may apply.

D. Space Standards for Lots in Village Open Space Subdivisions approved after August 2, 2005

1. Net residential density; single family – 1 unit per 12,000 s.f. of net residential acreage
2. Net residential density per dwelling unit; two family and multiple family – 1 unit per 3,630 s.f. of net residential acreage
3. Average lot size for single family – not less than 6,000 s.f.
4. Average lot size area per dwelling unit; two family and multiple family – not less than 1,800 s.f.
5. Minimum lot size; single family 3,000 s.f.
6. Minimum lot area per dwelling unit; two family and multiple family - 600 s.f.
7. Minimum road frontage 25 ft.
8. Average road frontage not less than 30 ft.
9. Maximum impervious surface to lot area ratio 80%

E. Other Standards:

1. Any new construction, addition, or reconstruction in this District are also subject to the Freeport Village Design Standards as indicated as being applicable in those Standards.
2. Building height requirements and building setback requirements are included in the Freeport Village Design Standards.

Section 408. Village II "V-II"

A. Purpose:

It is the intent of this District to recognize the existing South Freeport Village, which is an historic, residential area, and adjacent neighborhoods.

B. Permitted Uses:

1. Single Family Dwelling
2. Two-Family Dwelling

The following uses are subject to site review regardless of size:

3. Religious Institution
4. Public or Private School

5. Commercial School
6. Outdoor Recreation School
7. Municipal Facility
8. Public Utilities
9. Private Assembly
10. Day Care Center Facility
11. Wireless Telecommunication Facility (see Sec 528)
12. Parking area for open space *{Amended, Effective 12/02/14}*

C. Space Standards:

1. Minimum lot size:		20,000 s.f.
2. Minimum road frontage:		100 feet
3. Maximum building height:		35 feet
4. Minimum setback -	front:	25 feet
	side:	15 feet
	rear:	25 feet
	shore:	75 feet
5. Minimum land area per dwelling unit:		12,000 s.f.
6. Minimum shore frontage:		See Section 507
7. Minimum lot width:		75 feet

8. Maximum Height B

Wireless Telecommunication Facility (single user):	75 feet
Wireless Telecommunication Facility, Co-located:	75 feet

D. Other Standards:

1. Parcels within the Shoreland Zone shall meet the requirements of Section 507.

Section 409. Commercial District I "C-I"

A. Purpose:

It is the intent of this District to provide for suitable locations for commercial uses which are appropriately situated at highway locations and to encourage an attractive entrance to the Town of Freeport. This District comprises land along the U.S. 1 corridor from Yarmouth to the plaza just north of Desert Road and is the major local connector between Yarmouth and Freeport. This district is intended to be flexible with regard to minimum lot size, road frontage requirement, and setbacks from property lines provided points of access onto U.S. Route One are limited, and design standards are met.

B. Permitted Uses:

1. Single Family Dwelling

2. Two Family Dwelling
3. Agriculture *{Amended, Effective 06/18/13}*
4. Agritourism Activity *{Amended, Effective 06/18/13}*
5. Timber Harvesting
6. Peddler on Private Property subject to the requirements of Section 526

The following uses are subject to site review regardless of size:

7. Public or Private School
8. Commercial School
9. Outdoor Recreation School
10. Auto Repair Service Garage subject to the standards of Sec. 409.D.6 listed below
11. Auto Service Station
12. Retail Trade up to 15,000 s.f. building footprint
13. Commercial Sales and Service - Outdoor
14. Business and Professional Offices
15. Commercial Recreation – Indoor and Outdoor
16. Public Utilities
17. Convenience Store with Gas Pumps
18. Restaurant
19 Restaurant - Drive-Up
20. Restaurant - Carry-Out
21. Bed and Breakfast Inn
22. Hotel/Motel
23. Boatyard
24. Public and Private Assembly Indoor
25. Parking Facility
26. Commercial Sales and Service
27. Manufacturing and Processing
28. Day Care Center Facilities
29. Auto Sales for up to 30 vehicles stored outdoors
30. Flea Markets
31. Art Gallery and Museum
32. Residential Health Care Facility
33. Nursing Home
34. Construction Services
35. Research and Development Facility
36. Parking area for open space *{Amended, Effective 12/02/14}*
37. Artisan Food and Beverage *{Effective 12/17/14}*
    a. food truck(s) as an accessory use is allowed subject to the provisions of Sec. 526A – Food Trucks

The following uses are permitted 300 feet or more from the easterly edge of the U.S. Route One right-of-way **or if closer than 300 feet from the easterly edge of U.S. Route One the standards of Section 409.D.9 shall be met**, and are subject to site review regardless of size:

38. Multiple Family Dwelling
39. Warehouse and Storage Facility
40. Wireless Telecommunication Facilities
41. Truck Facilities

C. Space and Bulk Standards

1. Minimum lot size and road frontage requirement if the building or use is connected to the public water and sewer system and if one of the following conditions exists or is provided[1]:
    a. there is no more than one access point (existing or proposed) per lot of record as of May 6, 2008 on U.S. Route One, or
    b. the only access point off U.S. Route One is shared with an adjacent lot or lots and the lot or lots sharing the access points don't have other access points on U.S. Route One; or
    c. a lot has more than one existing access point per lot of record as of May 6, 2008; provided, however, that (i) in these situations the Project Review Board may relocate some or all of the access points, (ii) the development shall not have more access points than exist on May 6, 2008, and (iii) the Project Review Board may in its discretion limit access points to a number less than the number existing on May 6, 2008 if the Project Review Board shall determine that the maintenance of the number of access points existing as of May 6, 2008 is likely to[2]:
        A. detract from public safety considering such factors such as accidents in the area, traffic volumes, road geometrics, types and frequency of traffic moving to and from existing uses within 1,000' of the proposed use; or
        B. adversely effect the ability of vehicular traffic to maintain the existing speed limit; or
        C. threaten an environmentally sensitive area,

West side of U.S. Route One and lots in the C-1 District just prior to May 6, 2008

Minimum lot size	20,000 s.f.
Minimum land area per dwelling unit if part of a mixed use development	10,000 s.f.
Road frontage requirement	none

East side of U.S. Route One other than lots in the C-1 District just prior to May 6, 2008

Minimum lot size	40,000 s.f.

[1] It is the intent of this section to provide the incentives of reduced minimum lot sizes and road frontage requirements for developments that limit or share access points on to U.S. Route One. The limitation of access points on U.S. Route One applies to developments that intend to take advantage of the incentives of reduced minimum lot sizes and road frontage requirements when a new lot is created. The limitation of access points does not apply to existing developments, buildings, or uses or to existing developments, buildings, or uses that propose a change of some sort but that are not creating a new lot. For more information on the intent of this section refer to the Freeport Comprehensive Plan, Section VI.B – Future Land Use Directions – Commercial.

[2] It is the intent of this section to give the Project Review Board the authority to consider allowing two access points if the two access points existed prior to May 6, 2008. This exception was intended for proposed developments that are expected to have a minimal increase in traffic such as small residential developments or commercial uses with limited traffic needs, and for proposed developments that can easily meet the standards of this section.

Minimum land area per dwelling unit within 300' of U.S. Route One	40,000 s.f.
Minimum land area per dwelling unit 300' or beyond U.S. Route One	15,000 s.f.
Minimum land area per dwelling unit if part of a mixed use development	10,000 s.f.
Road frontage requirement	none

2. Minimum lot size and road frontage requirements for lots that do not meet the requirements of Section 409.C.1 above

West side of U.S. Route One and lots in the C-1 District just prior to May 6, 2008

Minimum lot size	1 acre
Road frontage requirement	300 feet

East side of U.S. Route One other than lots in the C-1 District just prior to May 6, 2008

Minimum lot size	3 acres
Road frontage requirement	300 feet

3 Maximum building height:		35 feet
4. Maximum impervious surface to lot area:		70%
5. Minimum setback	front:	15 feet
	side:	15 feet
	rear:	15 feet

D. Other Standards:

1. Outdoor storage for non-residential uses is prohibited in the front setback. Outdoor storage areas shall be fenced.

2. In the front setback, in a strip extending along the entire frontage of Route One, except for driveways, for a depth of 15 feet, landscaping is required. Landscaping is also required in all side setbacks for a depth of 15 feet extending from the front property line to the furthest back edge of the developed area (buildings, parking lots, other impervious surface). The Project Review Board shall determine whether the side landscaping shall consist of plantings and/or retention of the natural cover. Only accessways, walkways, pedestrian and vehicle connectors between parking lots on abutting lots and common driveways for abutting lots are permitted in the side landscaped setbacks.

3. Items for sale are allowed within all of the required setbacks.

4. If existing or proposed parking spaces are eliminated due to the creation of parking lot connectors and/or common driveways for abutting lots, the property shall be credited for each lost space so that no net loss of parking spaces shall occur.

5. The Project Review Board may reduce the setback requirements if the proposed building is adjacent to an existing building used for commercial purposes, if a lot shares access, parking, or other facilities with another lot, or if environmental constraints on the property limit the logical location of buildings to be closer to the property line.

6. Non-residential uses are allowed one overhead door on a side of the building visible from U.S. Route One. The Project Review Board may approve more than one overhead door on a side of the building visible from U.S. Route One if the size and shape of the lot are such that no other feasible alternatives exist.

7. The Project Review Board may allow building heights up to 45' provided the building can be adequately screened from U.S. Route One, I-295, Old South Freeport Road and South Freeport Road as applicable with existing trees and the building is 300' or greater from U.S. Route One.

8. The Performance Standards of Section 527 are applicable.

9. For uses that require outdoor storage of materials or the operation/storage of large equipment (other than inventory for sale), the Project Review Board shall require screening that visually obscures the storage area(s) and/or reduces the ambient noise level of the use to the greatest extent practicable. Such screening may include plantings, retention of existing vegetation, berms, fences, or other vegetative or constructed barriers to mitigate the visual and auditory impact of the development on the surroundings.

   The final shape, size and location of all screening shall be determined, at the discretion of the Project Review Board. In determining the shape and size of the screening, the board shall consider the amount of land being used for outdoor storage, the type of screening being used, the amount of noise that may be generated by the outdoor storage, the proximity of the outdoor storage to the road, and the amount of natural vegetation being maintained.

Section 411. Commercial District III - "C-III"

A. Purpose:

It is the intent of this District to create an attractive entrance to the Village. A mix of commercial and residential uses are permitted with restrictions on building size and parking locations. Landscaping requirements are mandated in the front setback. In order to limit access points on heavily traveled U.S. Route 1, access on other streets and on service roads is encouraged through decreased road frontage requirements. This District is part of the Design Review District and contains historically and architecturally significant buildings and structures which should influence the design of future development.

B. Permitted Uses:

1. Single Family Dwelling
2. Two Family Dwelling

The following uses are subject to site review regardless of size:

3. Public or Private School
4. Commercial School
5. Outdoor Recreation School
6. Cemeteries
7. Public Utilities excluding commercial communications towers
8. Municipal Use
9. Multiple-family Dwelling
    a. Existing buildings shall not be subject to the provisions of Section 411.D.6 below
10. PUD (Subject to the provisions of Article V, Section 504)
11. Restaurant
12. Restaurant - Carry-Out
13. Bed & Breakfast Inn
14. Business and Professional Offices
15. Public Assembly - Indoor
16. Private Assembly
17. Auto Repair Service Garage
18. Religious Institutions
19. Hotel - Motel
20. Commercial Sales and Service, including up to 200 square feet of incidental, accessory outdoor storage. This outdoor storage is permitted only on a seasonal basis (April to October). Materials such as propane, which must be located outdoors at all times, are exempt from the seasonal restriction, but they must be screened from abuttor and street views.
21. Parking Facility
22. Retail Trade
23. Manufacturing and Processing
24. Day Care Center Facilities
25. Commercial Recreation – Indoor
26. Parking area for open space *{Amended, Effective 12/02/14}*
27. Artisan Food and Beverage *{Effective 12/17/14}*
    a. food truck(s) as an accessory use is allowed subject to the provisions f Sec. 526A – Food Trucks

C. Prohibited Uses:

Specifically include, but are not limited to, the following:

1. Manufacturing, fabrication, disposal, or any use of asbestos products.
2. Paper manufacturing
3. Petroleum and petrochemical refining and reprocessing
4. Production of lubrication oils and grease

5. Manufacture of explosives including, but not limited to, ammunition and fireworks
6. Offal or deer animal disposal and reprocessing
7. Abattoirs and slaughterhouses

D. Space Standards:

1. Minimum lot size:	2 acres
2. Maximum Building Height:	35 feet
3. Minimum Road Frontage	
U.S. Route 1 and Pine Street:	300 feet
Other Streets:	150 feet
4. Maximum Impervious Surface to lot area ratio:	70%
5. Minimum Setback:	
a. All setbacks except from I-95 boundary:	
<u>Front</u>: 50 feet, if parking is located between the 25' front landscaped setback and the 50' setback. 25' if parking is located beyond 50' of the front property boundary line.	
<u>Side</u>: On a lot with two side lot lines, the total combined minimum width of both side setbacks shall be 75' and the minimum side setback from one of the side lot lines shall be 25'. If a parcel has only one side lot line, the minimum side setback shall be 35'.	
<u>Rear</u>: 35 feet	
b. All setbacks from I-95 boundary:	25 feet
6. Minimum Land Area per Dwelling Unit:	7,000 s.f.
7. Maximum Gross Floor Area per lot:	40,000 s.f.

E. Other Standards:

1. Buffer strips, as required by Section 506, shall consist of at least the minimum required setbacks.
2. Landscaping is required in the setback from U.S. Route 1 and in the front setback from all other streets for a minimum of 25 feet except for driveways. Landscaping is required in all side setbacks for a depth of 15 feet extending from the front property line to the furthest back edge of the developed area (buildings, parking lots, other impervious surface). The Project Review Board shall determine whether the side landscaping shall consist of plantings and/or retention of the natural vegetative cover. Only accessways, walkways, pedestrian and vehicle connectors between parking lots on abutting lots and common driveways for abutting lots are permitted in the side setback.
3. Outdoor storage is prohibited except as permitted in Section 411 B.17 above.
4. The Performance Standards of Section 527 shall be considered.
5. If existing or proposed parking spaces are eliminated due to the creation of parking lot connectors and/or common driveways for abutting lots, the property shall be credited for each lost space so that no net loss of parking spaces shall occur.
6. Curb cuts on Route One and Pine Street should be limited, where possible, to one per lot.

In addition, because of the limited sight distance at certain parcels containing frontage on Pine Street, if any lot fronting on Pine Street is subdivided after May 1, 1997, one common driveway location which provides access to all existing and new lots shall be provided in the deed. The common driveway location shall meet MDOT requirements for sight distance and all necessary easements shall be included in each deed.

Section 412. Commercial District IV "C-IV"

A. Purpose:

This District is intended to provide suitable locations for uses which require nearby major highway connections and public utility services. Uses are designed to serve both local and regional markets and regulations are included to protect abutting residential uses and districts.

B. Permitted Uses:

1. One single family dwelling per Lot of Record as of November 1, 1995

The following uses are subject to site review regardless of size:

2. Public or Private School
3. Commercial School
4. Outdoor Recreation School
5. Local convenience goods stores accommodating local needs such as but not limited to retail bakeries, delicatessens, candy, nut and fish stores, fruit and vegetable stores, grocery and food stores, 5 & 10 stores, hardware stores, auto parts supply, book stores, branch banks, dry goods stores and florist shops;
6. Personal service stores such as but not limited to beauty and barber shops, laundromats, cleaners, photography studios, shoe, jewelry and household appliance repair services and alterations services;
7. Supermarket
8. Business and Professional Offices
9. Commercial Recreation - Indoor
10. Commercial Recreation - Outdoor
11. Municipal Facilities
12. Public Utilities
13. Warehouse and Storage Facilities
14. Commercial Sales and Service
15. Truck Facility
16. Manufacturing and Processing which does not involve the basic refinement of bulk raw material
17. Hotel/Motel
18. Day Care Center Facilities
19. Convenience Store with Gas Pumps
20. Auto Service Station

21. Auto Repair Service Garage
22. Restaurant
23. Restaurant - Carry Out
24. Restaurant - Drive-up
25. Construction Services
26. Public Assembly
27. Private Assembly
28. Wireless Telecommunication Facility (See Sec. 528)
29. Parking area for open space *{Amended, Effective 12/02/14}*
30. Artisan Food and Beverage *{Effective 12/17/14}*
    a. food truck(s) as an accessory use is allowed subject to the provisions of Sec. 526A – Food Trucks

C. Space Standards:

1. Minimum Lot Size:
   20,000 s.f. provided curb cuts on Hunter Road or Desert Road are at least 300 feet apart on the relevant side of the road; otherwise the minimum lot size is 1 acre. The minimum lot size of lots having frontage on roads other than Hunter Road or Desert Road is 20,000 s.f. provided that access to the lot is on a driveway serving 2 or more lots; otherwise the minimum lot size is 1 acre.
2. Maximum Building Height: 35 feet
3. Minimum Road Frontage:
   a. Minimum Road Frontage for Lots that have one or more access(es) that is not shared with other lots: 100 feet
   b. No Minimum Road Frontage for lots that share an access with one or more other lots.
4. Maximum Impervious Surface to Lot Area Ratio: 70%
5. Minimum Setback:

front:	25 feet
side:	25 feet
rear:	25 feet

6. Maximum Height - Wireless Telecommunication Facility (single user): 75 feet
   Wireless Telecommunication Facility, Co-located: 125 feet

D. Prohibited Uses:

1. Manufacture, fabrication, disposal or any use of asbestos products
2. Paper Manufacturing
3. Petroleum and petrochemical refining and reprocessing
4. Production of lubrication oils and grease
5. Manufacture of explosives including, but not limited to, ammunition and fireworks
6. Offal or dead animal disposal and reprocessing
7. Abattoirs and slaughterhouses

E. Other Standards:

1. A 25 foot buffer shall be required where the adjacent property within this District is presently used for residential purposes. A 100 foot buffer strip shall be required where it abuts residential districts
2. Landscaping is required in the front setback
3. The Performance Standards of Section 527 shall be considered.

Section 413. Village Commercial "VC-I"

A. Purpose:
It is the intent of this District to concentrate commercial activity within the Village Center:

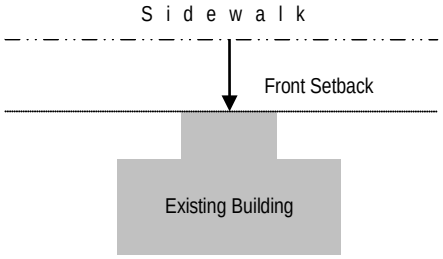
B. Permitted Uses subject to site review regardless of size:
1. Retail Trade
2. Commercial Recreation, Indoor
3. Business and Professional Offices
4. Arts Center – Indoor and/or Outdoor with or without permanent structures
5. Municipal Facility
6. Private Assembly
7. Public Assembly - Indoor
8. Public Utilities
9. Public or Private School
10. Commercial School
11. Outdoor Recreation School
12. Religious Institution
13. Peddler on Private Property subject to the requirements of Section 526
14. One or two dwelling units on other than the first floor
15. Multiple Family Dwelling
16. Restaurant
17. Restaurant - Carry-Out
18. Visitors' Center
19. Manufacturing accessory to or associated with a retail trade located in this District
20. Bed and Breakfast Inn
21. Day Care Center Facilities
22. Convenience Store
23. Parking lots to serve A & B buildings, as defined in the Freeport Design Review Ordinance in the VC-II District, which meet the requirements of Section 413.D.2.
24. Personal Services
25. Parking Structure subject to the standards of Sec. 413.D.7 below
26. Inn – not over 25 rooms and shall be at least two stories high
27. Parking area for open space *{Amended, Effective 12/02/14}*
28. Artisan Food and Beverage *{Effective 12/17/14}*

C. Space Standards:
1. Minimum lot size: 8,000 s.f.

2. Minimum road frontage: None
3. Maximum building height: 35 feet
4. Minimum setback/front:
   a. Where a sidewalk exists:
      i. New Structures
         - 10 feet from the property line if roof pitches toward the sidewalk;
         - 5 feet from the property line if roof pitches away from the sidewalk;

      ii. Additions to existing structures: the distance between the closest point of the existing building and the edge of the sidewalk closest to the building. In no instance shall the addition encroach into the public right-of-way;

      Example:



   b. Where no sidewalk exists: 15 feet from property line;

   c. Landscaping or other amenities such as planters, benches or expanded sidewalk shall be required within the front setback.

5. Minimum setback side and rear: None if masonry construction is used and roof does not pitch in that direction. Five (5) feet if masonry construction is used and roof pitches in that direction. Fifteen (15) feet for non-masonry construction or walls with points of ingress or egress in them.
6. Minimum land area per dwelling unit: 2,000 s.f.
7. Maximum impervious surface to lot area ratio 90%

D. Other Standards:

1. For Shared Parking, the requirements for off-street customer parking in the Village Commercial I Zone shall be seventy five percent (75%) of those stated in Section 514 for retail trade, restaurant, and restaurant-carry out. This reduction does not apply to the required parking for employees, to restricted (non-shared) customer parking, Inns, or to parking structures. Parking spaces in a parking structure shall not be restricted (non-shared) customer parking. Parking in the VC-I District is further subject to the provisions of Section 514.A.10 of this Ordinance.
   a. For shared parking, fifty percent (50%) of basement and upper level space for the uses of Retail Trade, Restaurant, and Restaurant – Carry out in the Village

Commercial 1 District (VC1) shall be exempt from the calculation of required customer parking spaces. This provision does not apply to basement and/or upper level space associated with a business which operates on the ground level. *{Amended, Effective 09/17/13}*

2. There is no parking requirement for the uses of "Visitors' Centers" and "Arts Center - Outdoor not requiring permanent structures", and public restrooms that are open to the general public not just customers of the business. *{Amended, Effective 09/17/13}*
3. At least 50% of the required parking for Inns shall be provided on the same or abutting parcel as the Inn. The remaining parking spaces may be provided off-site provided a valet parking service is available. All valet parking services shall be provided outside the public right-of-way. All off-site parking spaces for Inns shall be restricted for Inn use only and shall be new spaces created specifically for the Inn.
4. A Buffer Zone as required by Article V, Section 506 shall be at least 20 feet in depth, and shall be required whenever new construction or renovation requiring a building permit is applied for. Where existing structures are within the 20-foot area, no further encroachment shall be permitted.
5. Parking lots located in the V-I District, which were developed and existing on May 6, 1986, may be used to satisfy the parking requirements for the conversion of a use in the VC-I District, made nonconforming by the enactment of this Ordinance, to a use permitted in the VC-I District.
6. Peddler trucks are prohibited.
7. Parking structures shall meet the following design standards:
    a. Active uses such as retail, display windows, or other Permitted Uses shall be incorporated into a parking structure. At least 50% of the total pedestrian-level frontage facing streets or other pedestrian areas shall incorporate retail, display windows, or other Permitted Uses. For the purposes of this section, pedestrian areas shall mean existing or proposed sidewalks, walkways, or plazas. The required frontage incorporating retail, display windows or other Permitted Uses may be included in another structure that is physically separate from the parking structure provided that such other structure is separated by no more than 10 feet from the parking structure. If the space between such separate structures abuts a public street, other pedestrian area or parking lot, such space shall be integrated into the building design as a sidewalk or it shall be concealed from view from such street, pedestrian area or parking lot in a manner consistent with this Ordinance. Neither vehicular access to parking structures nor the parking portion of the structure shall be permitted on the street level of Main and Bow Streets. Upper levels of parking structures on these streets shall be designed to be compatible with the street level structure.
    b. The retail, display windows or other Permitted Uses meeting the 50% frontage requirement described above may be allocated across different elevations of the structure in any manner, provided that the result of such allocations in conjunction with other adjacent uses is not to cause any street upon which the parking structure has frontage to be significantly lacking in pedestrian destinations with the result that the street is inconsistent with the character of the District.
    c. The parking space dimension and aisle width of Section 514 of this Ordinance may be reduced to maximize the efficiency of the parking structure provided the safety of the structure is not reduced.

d. Parking structures may exceed the maximum impervious surface to lot area requirement; provided the required pervious land area is met on another property in the VC-1, VC-2, or VC-4 Districts provided a permanent agreement is documented publicly in a format approved by the Town Attorney.
e. At least 75% of the street level of the parking structure that does not include retail, display windows or other Permitted Uses shall be screened with landscaping, art work, plants that grow on vines, or other material that softens the appearance of the parking structure. The 75% does not include entrances and exits or commercial uses. Street trees shall be provided at 1 tree for every 30' feet of parking garage clearly visible from a public street or a parking lot. If the Project Review Board determines that street trees are not appropriate in the sidewalk along the parking structure, the standard may be met at another location in the VC-1 District or at the village gateways at exit 20 and/or 21 provided a permanent agreement is documented publicly in a format approved by the Town Attorney.
f. The façade of the parking structure along the street or sides of the structure that are clearly visible from a road, other pedestrian area or parking lot shall consist of materials found on nearby buildings such as brick, stone, or wood-like material; or shall have a functional use such as a climbing wall.
g. The façade of the structure along sides other than those described in paragraph f. above shall be treated to soften the stark appearance of concrete, for example red sand mixed with the concrete provides a brick-like color and texture to the minimally visible walls.
h. On the side of the structure facing the street or sides of the structure that are clearly visible from a road, other pedestrian area or parking lot, the façade shall have vertical elements that cover support columns and shall be done in such a way to mimic window openings similar to nearby buildings, while providing proper ventilation, such as grill work, window boxes or other types of adornment that soften the look of the structure. The sides of the structure along other buildings shall maximize the openings between floors to improve ventilation.
i. Pedestrian access is required on all sides of a parking structure that run along a public street, sidewalk, other pedestrian area or parking lot and shall be clearly marked.
j. At no point shall a parking structure exceed 40 feet in height.
k. A plan for providing security to parking structures is required. This plan shall include provisions for interior lighting and provisions for protecting the public such as but not limited to: surveillance cameras, regular patrol, etc.
l. The Project Review Board may allow minor reductions to any of the standards listed above if strict compliance with the standard would result in the need for a mechanically ventilated parking structure. The Board may only allow a reduction up to the point where the standards of an open parking structure are in accordance with the BOCA code being enforced by the Town of Freeport.

8. The requirement for off-street parking in the Village Commercial 1 District listed in Section 514 for "Business and Professional Offices" shall be reduced by fifty percent (50%) for those uses located in basement and upper level space. *{Amended, Effective 09/17/13}*

Section 414. Village Commercial II "VC-II"

A. Purpose:

It is the intent of this District to begin the transition from the Village Commercial District to the neighboring residential districts.

B. Permitted Uses:

1. Single Family Dwelling
2. Two-Family Dwelling
3. Peddler on Private Property subject to the requirements of Section 526

The following uses are subject to subdivision review

4. Subdivisions for one-family, two-family, or multiple family dwellings. Any such subdivision must be designed as a Village Open Space Subdivision.
   a. Buildings in existence prior to January 22, 2013 shall not be subject to the provisions of Section 414.D.2, 4 and 6 below provided the provisions of section 414.E.6 below are met *{Amended, Effective 01/22/13}*

The following uses are subject to site review regardless of size:

5. Religious Institution
6. Public or Private School
7. Commercial School
8. Outdoor Recreation School
9. Municipal Facility
10. Multiple Family Dwelling
    a. Buildings in existence prior to January 22, 2013 shall not be subject to the provisions of Section 414.C.5 below provided the provisions of section 414.E.6 below are met *{Amended, Effective 01/22/13}*
11. Retail Trade
    A minimum 20,000 sq. ft. lot may contain one of the following:
    (a) New Structure: Gross floor area of a new structure shall not exceed 5,000 s.f. No floor shall exceed a maximum of 2,500 s.f. A maximum of 5,000 s.f. of floor area may be used for retail trade; or
    (b) Existing Structure: A maximum of 6,000 s.f. of gross floor area in an existing building may be used for retail trade; or
    (c) Combined New and Existing Structure: Total gross floor area shall not exceed 5,000 sq. ft.
12. Public Utilities
13. Business and Professional Offices New, existing or combined new and existing structures: total gross floor area shall not exceed 10,000 square feet. No floor shall exceed a maximum of 5,000 square feet.

14. Public Assembly, Indoor
15. Bed & Breakfast Inn
16. Hotel or Motel - not over 10 units
17. Private Assembly
18. Restaurant
19. Restaurant - Carry-Out
20. Restaurant Drive-Up, provided there is no vehicle access to Main Street, provided that the restaurant contains a minimum of 75 indoor seats, an outdoor intercom system shall use the lowest volume level necessary to service the intended user but to not be audible at the property line. Outdoor broadcast systems are prohibited. *{Amended, Effective 12/07/10}*
21. Arts Center – Indoor and/or Outdoor with or without permanent structures
22. Parking lots serving A & B buildings, as defined in the Freeport Design Review Ordinance, located in the VC-II District, when such parking is provided pursuant to Section 413.D.2.
23. Parking area for open space *{Amended, Effective 12/02/14}*
24. Artisan Food and Beverage *{Effective 12/17/14}*

C. Space Standards for Lots Which Are Not Within Subdivisions as Listed in D Below:

1. Minimum lot size, except for lots that meet all of the standards in Sec. 414.E.6 below: *{Amended, Effective 01/22/13}* 20,000 s.f.
2. Minimum road frontage: 100 feet
3. Maximum building height: 35 feet
4. Minimum Setback front: 25 feet, except for the east side of Main Street and the north side of Davis Avenue where it shall be 10 feet from the interior edge of any sidewalk or 15 feet from lot line if no sidewalk.
   Side: 15 feet
   Rear: 25 feet
5. Minimum land area per dwelling unit: 5,000 s.f.
6. Maximum impervious surface to lot area ratio 90%

Please consult the Freeport Village Design Standards for additional standards that may apply.

D. Space Standards for Lots in Village Open Space Subdivisions approved after August 2, 2005

1. Net residential density; single family - 1 unit per 12,000 s.f. of net residential acreage
2. Net residential density per dwelling unit; two family and multiple family – 1 unit per 3,630 s.f. of net residential acreage
3. Average lot size for single family – not less than 6,000 s.f.
4. Average lot size area per dwelling unit; two family and multiple family – not less than 1,800 s.f.
5. Minimum lot size; single family 3,000 s.f.
6. Minimum lot area per dwelling unit; two family and multiple family - 600 s.f.
7. Minimum road frontage 30 ft.

8. Maximum impervious surface to lot area ratio 80%

E. Other Standards:

1. Peddler trucks are prohibited.
2. The following conditions shall be met for all non-residential uses which are located on parcels having access to Main Street or Mallett Drive as well as minor streets as defined in the Street Acceptance and Standards Ordinance of the Town of Freeport:
    a. Access to Map 12, Lots 7, 30A, 30D, 31A and 33A shall be from Mallet Drive only. Lots on Davis Avenue shall not provide access directly to Main Street. Wherever possible, common access ways shall be created for adjacent lots.
    b. Parking areas shall not be located within the side and rear setback. Driveways and drive-throughs shall not be located within the side and rear setback.
    c. Buffering, consisting of natural features, plantings and/or fencing, shall be required to provide an effective visual and physical screen between residential and nonresidential uses at the lot boundaries and surrounding parking areas. During site review, the Project Review Board shall review and approve the type, size and quantity of materials which will provide the most harmonious transition between uses.
3. If an existing building, which is classified A or B in the Freeport Design Review Ordinance and is going to be converted to non-residential use, does not have sufficient space on site or within 300' to meet the existing parking requirements, and municipal parking spaces are unavailable, the parking requirements may be satisfied by permitting spaces to be owned and developed within the VC-I and/or VC-II Districts. The purpose of this provision is to encourage the preservation of historically significant structures.
4. Any new construction, addition, or reconstruction in this District are also subject to the Freeport Village Design Standards as indicated as being applicable in those Standards.
5. Building height requirements and building setback requirements are included in the Freeport Village Design Standards.
6. Additions to the building are prohibited. Decks, open air porches, garages used solely for storage and vehicles, and fire escapes necessary to meet the Life Safety Code are not considered to be additions. The parking requirements and maximum impervious surface to lot area ratio must be able to be met on-site. No building may have more than 8 units unless the land area per dwelling unit requirement can be met. All units must be connected to the public water and sewer system. To encourage the development of affordable housing for every three units that are created at least one of those units must be a one-bedroom or efficiency unit that is no greater than 650 sf. *{Amended, Effective 01/22/13}*
7. To allow for a variety of housing types at a variety of prices, lots that are smaller than the minimum lot size may be created and will be considered conforming lots provided all of the following provisions are met:
    a. The small lot is no less than 5,000 square feet.
    b. The remaining lot is no less than 20,000 square feet.
    c. Only one small lot may be created per lot of record as of January 22, 2013.

d. The gross floor area of the house and garage on a small lot can be no more than 1,300 square feet. This does not include covered or uncovered open air porches, decks, basements or outbuildings that are used solely for storage such as sheds. This requirement shall be set forth in a deed covenant or other legal instrument that binds the lot owner and that runs with the land so that future lot owners are also bound to the same restriction.
e. The house shall meet the minimum front and rear setback requirements as established in the Freeport Village Design Standards.
f. The side setback requirements shall be as set forth in this section, not the Freeport Village Design Standards. The side setback requirement that is adjacent to the lot from which the small lot was created shall have a minimum setback requirement of 5'and a maximum of 10'. Side lot lines adjacent to lots other than the one that the small lot was created from shall have a minimum setback requirement of 15'.
g. The road frontage requirement shall be no less than 50'.
h. Small lots must be connected to the public water and sewer system.
i. The lot may be used for single family houses only.
{Amended, Effective 01/22/13}

Section 415. Village Commercial III "VC-III"

A. Purpose:

It is the intent of this District to begin the transition from the Village Commercial District to the neighboring districts. This District, which is included in the Design Review District, contains a mixture of residential and commercial uses which are located in structures maintaining a residential design and scale. New construction and renovation shall be compatible with the visual appearance and placement on the parcel of the existing buildings.

B. Permitted Uses:

1. One- Family Dwelling
2. Two-Family Dwelling
3. Peddler on Private Property subject to the requirements of Section 526

The following uses are subject to subdivision review:

4. Subdivisions for one-family, two-family, or multiple family dwellings. Any such subdivision must be designed as a Village Open Space Subdivision.
   a. Buildings in existence prior to January 22, 2013 shall not be subject to the provisions of Section 415.D.2, 4 and 6 below provided the provisions of section 415.E.5 below are met *{Amended, Effective 01/22/13}*

The following uses are subject to site review regardless of size:

5. Religious Institution
6. Public or Private School
7. Commercial School
8. Outdoor Recreation School
9. Municipal Facility
10. Multiple Family Dwelling
    a. Buildings in existence prior to January 22, 2013 shall not be subject to the provisions of Section 415.C.5 below provided the provisions of section 415.E.5 below are met *{Amended, Effective 01/22/13}*
11. Retail Trade
    A minimum of 20,000 sq. ft. lot may contain the following:
    Gross floor area shall not exceed 6,000 s.f., No floor shall exceed a maximum of 3,500 s.f.
12. Public Utilities
13. Business and Professional Offices:
    Gross floor area shall not exceed 6,000 s.f. No floor shall exceed a maximum of 3,500 s.f.
14. Public Assembly, Indoor
15. Bed & Breakfast Inn
16. Hotel or Motel not over 20 units
17. Private Assembly
18. Restaurant
19. Manufacturing and Processing which does not involve the basic refinement of bulk raw materials.
20. Parking area for open space *{Amended, Effective 12/02/14}*
21. Artisan Food and Beverage *{Effective 12/17/14}*

C. Space Standards for Lots Which Are Not Within Subdivisions as Listed in D Below:

1. Minimum lot size:		20,000 s.f.
2. Minimum road frontage:		100 feet
3. Maximum building height:		35 feet
4. Minimum Setback	front:	25 feet
	side:	15 feet
	rear:	25 feet
5. Minimum land area per dwelling unit:		5,000 s.f.

Please consult the Freeport Village Design Standards for additional standards that may apply.

D. Space Standards for Lots in Village Open Space Subdivisions approved after August 2, 2005

1. Net residential density; one family - 1 unit per 12,000 s.f. of net residential acreage
2. Net residential density per dwelling unit; two family and multiple family –

1 unit per 3,630 s.f. of net residential acreage

3. Average lot size for one family – not less than 6,000 s.f.
4. Average lot size area per dwelling unit; two family and multiple family – not less than 1,800 s.f.
5. Minimum lot size; one family 3,000 s.f.
6. Minimum lot area per dwelling unit; two family and multiple family - 600 s.f.
7. Minimum road frontage 30 ft.
8. Maximum impervious surface to lot area ratio 80%

E. Prohibited Uses:

Specifically include but not limited to:

1. Manufacturing, fabrication, disposal, or any use of asbestos products.
2. Paper manufacturing
3. Petroleum and petrochemical refining and reprocessing
4. Production of lubrication oils and grease
5. Manufacture of explosives including, but not limited to, ammunition and fireworks
6. Offal or dead animal disposal and reprocessing
7. Abattoirs and slaughterhouses
8. Drive-up/Drive-through

F. Other Standards:

1. Peddler trucks are prohibited.
2. The following conditions shall be made for all non-residential uses which are located on parcels having access to Main Street and/ or minor streets as defined in the Street Acceptance and Standards Ordinance of the Town of Freeport
    a. Parking areas shall not be located within the side and front setbacks. Driveways shall not be located within the side and rear setback.
    b. Buffering, consisting of natural features, plantings and/or fencing, shall be required to provide an effective visual and physical screen between residential and nonresidential uses at the lot boundaries and surrounding parking areas. During site review, the Project Review Board shall review and approve the type, size and quantity of materials which will provide the most harmonious transition between uses.
3. Any new construction, addition, or reconstruction in this District are also subject to the Freeport Village Design Standards as indicated as being applicable in those Standards.
4. Building height requirements and building setback requirements are included in the Freeport Village Design Standards.
5. Additions to the building are prohibited. Decks, open air porches, garages used solely for storage and vehicles, and fire escapes necessary to meet the Life Safety Code are not considered to be additions. The parking requirements and maximum impervious surface to lot area ratio must be able to be met on-site. No building may have more than 8 units unless the land area per dwelling unit requirement can be met. All units

must be connected to the public water and sewer system. To encourage the development of affordable housing for every three units that are created at least one of those units must be a one-bedroom or efficiency unit that is no greater than 650 sf. *{Amended, Effective 01/22/13}*

6. To allow for a variety of housing types at a variety of prices, lots that are smaller than the minimum lot size may be created and will be considered conforming lots provided all of the following provisions are met:
   a. The small lot is no less than 5,000 square feet.
   b. The remaining lot is no less than 20,000 square feet.
   c. Only one small lot may be created per lot of record as of January 22, 2013.
   d. The gross floor area of the house and garage on a small lot can be no more than 1,300 square feet. This does not include covered or uncovered open air porches, decks, basements or outbuildings that are used solely for storage such as sheds. This applies to the lifetime of the structure. This requirement shall be set forth in a deed covenant or other legal instrument that binds the lot owner and that runs with the land so that future lot owners are also bound to the same restriction.
   e. The house shall meet the minimum front and rear setback requirements as established in the Freeport Village Design Standards.
   f. The side setback requirements shall be as set forth in this section, not the Freeport Village Design Standards. The side setback requirement that is adjacent to the lot from which the small lot was created shall have a minimum setback requirement of 5'and a maximum of 10'. Side lot lines adjacent to lots other than the one that the small lot was created from shall have a minimum setback requirement of 15'.
   g. The road frontage requirement shall be no less than 50'.
   h. Small lots must be connected to the public water and sewer system.
   i. The lot may be used for single family houses only.
   {Amended, Effective 01/22/13}

Section 416. Village Commercial IV "VC-IV"

A. Purpose:

It is the intent of this District to mix commercial and residential activity within the Village Center, and by offering flexibility of use, encourage the preservation of existing buildings, in particular, the old Town Hall.

B. Permitted Uses:

1. One Family Dwelling
2. Two Family Dwelling

The following uses are subject to subdivision review:

3. Subdivisions for one-family, two-family, or multiple-family dwellings. Any such subdivision must be designed as a Village Open Space Subdivision.

The following uses are subject to site review regardless of size:

4. Business and Professional Offices
5. Municipal Facility
6. Public Assembly - Indoor
7. Public Utilities
8. Multiple Family Dwelling
   a. Existing buildings shall not be subject to the provisions of Section 415A.C.1 below.
9. Hotel/Motel
   a. New structures shall not exceed 65,000 sq.ft., measured from the exterior face of exterior walls, grade level and above.
10. Religious Institution
11. Public or Private School
12. Commercial School
13. Outdoor Recreation School
14. Private Assembly
15. Bed and Breakfast Inn
16. Day Care Center Facility
17. Nursing homes
18. Buildings in existence prior to (date of acceptance) within the VC-IV District may contain one or more of the following uses;
    (a) restaurant
    (b) restaurant carry-out
    (c) personal service store such as but not limited to beauty and barber shops, Laundromats, cleaners, photography studios, shoe, jewelry and household appliance repair services, and alteration services
    (d) meeting space accessory to a hotel
19. Local convenience goods stores accommodating local needs, such as but not limited to, retail bakeries, delicatessens, fish stores, meat markets, farmers' markets, grocery and food stores, florist shops and combinations thereof.
20. Parking area for open space *{Amended, Effective 12/02/14}*
21. Artisan Food and Beverage *{Effective 12/17/14}*

C. Space Standards for Lots Which Are Not Within Subdivisions as Listed in D Below:

1. Minimum lot size: 10,000 ft.
2. Minimum road frontage: 50 feet
3. Maximum building height: 35 feet
4. Minimum setback/front: 10 feet, except (see additions to or enlargement of existing structures below)

   <u>Additions to or enlargement of existing structures</u> - the interior edge of sidewalk or the existing building line, whichever produces the greater setback ("building

line" means a line parallel to the property line or edge of sidewalk from which the setback is being measured and which touches the existing building at the point nearest to that property line or edge of sidewalk);

Landscaping or other amenities such as planters, benches or expanded sidewalk shall be required within the front setback.

5. Minimum setback side and rear: 25 feet, and the minimum rear setback adjacent to a railroad right-of-way shall be 5 feet.
6. Minimum land area per dwelling unit: 5,000 square feet.
7. Maximum impervious surface to lot area ratio: 80%
8. Maximum gross floor area per lot: 30,000 s.ft., except where otherwise noted
9. Buildings greater than 20,000 s.ft. gross floor area shall not be located east of Park Street.

Please consult the Freeport Village Design Standards for additional standards that may apply.

D. Space Standards for Lots in Village Open Space Subdivisions approved after August 2, 2005

1. Net residential density; one family - 1 unit per 10,000 s.f. of net residential acreage
2. Net residential density per dwelling unit; two family and multiple-family – 1 unit per 5,000 s.f. of net residential acreage
3. Average lot size for one family – not less than 5,000 s.f.
4. Average lot size area per dwelling unit; two-family and multiple-family – not less than 5,000 s.f.
5. Minimum lot size; one family 3,000 s.f.
6. Minimum lot area per dwelling unit; two family and multiple family - 2,000 s.f.
7. Minimum road frontage 30 ft.
8. Maximum impervious surface to lot area ratio 80%

E. Other Standards:

1. A buffer zone shall be at least 10 feet in depth when a commercial property abuts the V-I District, and 5 feet in depth when a commercial use abuts a property within the VC-IV District that is currently used for residential purposes. The buffer zone shall maintain the natural features of the land when possible, or, if necessary, fencing or screening may be used and shall be located and constructed in such a manner that it can be maintained from the developer's property except that where a commercial property abuts a residential use, the screening shall be vegetated in nature.
2. Overnight parking is allowed in VC-IV.
3. Peddler trucks and/or peddler carts are prohibited.
4. Offsite parking is allowed provided the parking area is within the VC-IV District.
5. Any new construction, addition, or reconstruction in this District are also subject to the Freeport Village Design Standards as indicated as being applicable in those Standards.

6. Building height requirements and building setback requirements are included in the Freeport Village Design Standards.

Section 417. Village Mixed Use District 1 –VMU-1

A. Purpose:

It is the intent of the Village Mixed Use District I District to recapture some of the character of a local town center allowing commercial uses and all residential housing types at a scale that is compatible with the surrounding area. The commercial uses in this District would be limited to those providing goods and services to local residents on a regular basis. Development in this district needs to be pedestrian friendly with both on-road and off-road facilities, as can be accommodated, and a variety of open spaces. Roads in the district should minimize the amount of pavement required while balancing the need for adequate and safe traffic flow, pedestrians, and bicyclists. There should be measures to calm traffic in non-structural ways and to provide adequate space for pedestrian amenities, walkers at different speeds, handicapped accessible, and safe for travel by bicyclists.

It is essential that the neighborhoods in the Village Mixed Use District I maintain the historical and/or architectural significance of existing residential and commercial buildings. The protections built into the ordinance will ensure that development on historic properties will be reviewed with the intent of protecting Freeport's historic resources.

B. Permitted uses:

1. Single Family Dwelling
2. Two-Family Dwelling

The following uses are subject to subdivision review:

3. Subdivisions for one-family, two-family, or multiple family dwellings. Any such subdivision may include other uses in either attached or detached structures and must be designed as a Village Open Space Subdivision.
   a. Buildings in existence prior to January 22, 2013 shall not be subject to the provisions of Section 417.D.2, 4 and 6 below provided the provisions of section 417.E.10 below are met *{Amended, Effective 01/22/13}*

The following uses are subject to site review and the Freeport Village Design Standards regardless of size:

4. Multi-family Dwelling

a. Buildings in existence prior to January 22, 2013 shall not be subject to the provisions of Section 417.C.5 below provided the provisions of section 417.E.10 below are met. *{Amended, Effective 01/22/13}*

5. Religious Institution
6. Public or Private School
7. Commercial School
8. Outdoor Recreation School
9. Municipal Facility
10. Local Retail Trade
11. Mixed Use Development; mixed use development with local convenience goods stores may have a building footprint up to 15,000 square feet. as allowed in Sec. E.6 below
12. Business and Professional Offices
13. Art Gallery/Museum
14. Public Utilities
15. Public Areas
16. Private Assembly
17. Public Assembly – Indoor
18. Village Cafe – up to 40 seats
19. Bed and Breakfast Inn
20. Day Care Center Facility
22. Parking area for open space *{Amended, Effective 12/02/14}*

C. Space Standards for Lots Which Are Not Within Subdivisions as Listed in D Below:

1. Minimum lot size – residential 8,000 s.f.
2. Minimum lot size – commercial or mixed use development none
3. Minimum road frontage –
   a. single and two-family 50 feet
   b. commercial, mixed use, or multi-family developments that have one or more accesses that are not shared 50 feet
   c. commercial, mixed use, or multi-family developments that have one access that is shared none
4. Maximum building height 35 feet
5. Minimum land area per dwelling unit 2,500 s.f.
6. Maximum impervious surface to lot area 80%
   (for the purposes of this section, sidewalks and public areas required to meet the build-to requirements of the Village design Standards are not considered an impervious surface)
7. Setback requirements - see Freeport Village Design Standards

D. Space Standards for Lots in Village Open Space Subdivisions approved after April 3, 2007

1. Net residential density; single family -
   1 unit per 8,000 s.f. of net residential acreage
2. Net residential density per dwelling unit; two family and multiple family –

1 unit per 2,500 s.f. of net residential acreage

3. Average lot size for single family – not less than 5,000 s.f.
4. Average land area per dwelling unit; two family and multiple family – not less than 1,800 s.f.
5. Minimum lot size; single family 3,000 s.f.
6. Minimum land area per dwelling unit; two family and multiple family - 600 s.f.
7. Minimum road frontage per lot created after (date of adoption) 30 ft.,
   a. for Lots that have one or more access(es) that is not shared with other lots: 30 feet
   b. for Lots that have one access that is shared with other lots: none
8. Maximum impervious surface to lot area ratio 80%
   (for the purposes of this section, sidewalks and public areas required to meet the build-to requirements of the Village design Standards are not considered an impervious surface)
9. Maximum building height 35 feet

E. Other standards:

1. The installation of sidewalks in or adjacent to the public right-of-way, at least 5 feet wide, or a fee in lieu of installing sidewalks is mandatory for all development within this zone. For the purposes of this section, development shall mean new construction requiring site plan review, new construction of single family or duplex residential development, residential or commercial additions that are heated greater than 1,000 s.f., or changes of use from residential to commercial regardless of any building expansions. The Project Review Board shall decide whether a sidewalk should be constructed or whether a fee in lieu of a sidewalk is appropriate. In making that decision, the Board shall consider the proximity to the nearest sidewalk, long and short term plans to build sidewalks in the area, and/or other pertinent information. The fee shall be based on the current cost of constructing 5 feet wide sidewalks including curbing if determined to be necessary by the Public Works Director.

   If sidewalks at least 5’ wide exist adjacent to a proposed development, a fee shall be paid to cover the cost of periodic repair and reconstruction. That fee shall be based on the current cost of sidewalk reconstruction.

   Fees shall be established by order of the Town Council and may be amended from time to time. The fees shall be uniform throughout this District. Fees shall be deposited into an account dedicated to constructing sidewalks, or repair and reconstruction of sidewalks as appropriate. The fees shall be used at the discretion of the Town Council for constructing, repairing or reconstructing sidewalks in this District. The fees may also be used to reimburse the Town for sidewalk construction, repair, or reconstruction that was completed up to ten years before the fee was paid.

2. The Project Review Board may require the construction of a public road or a service alley to connect rear parking lots if the road or service alley would improve traffic circulation and/or would connect two public roads or provide a link that could

connect two public roads over time. The Project Review Board shall have the authority to waive the road standards of the Freeport Village Design Overlay District for these types of roads and alleys if strict compliance with standards would result in excessive pavement, if significant open spaces can be protected, if pedestrian and/or bicycle connections can be constructed or enhanced, and/or public utilities are not needed.

3. Any new construction, addition, or reconstruction in this District is also subject to the Freeport Village Design Standards as indicated as being applicable in those Standards. The Project Review Board may vary the standards of Section 4.2 of the Village design Standards (setbacks and build-to requirements) when a project is a common lot development.

4. Building setback requirements and minimum building height requirements are included in the Freeport Village Design Standards.

5. No structure shall exceed a building footprint of 4,000 s.f. unless specifically stated in Sec. 417.B above.

6. Local convenience goods stores may be up to 15,000 square feet provided the first floor elevation is at least 10 feet lower than the average grade of Bow Street that is adjacent to the building. The footprint of commercial buildings above such a convenience store at the level of Bow Street and above shall not exceed 4,000 square feet, residential buildings above such a grocery store at the level of Bow Street and above shall not exceed 2,500 square feet, the combined footprints of buildings at the level of Bow Street and above shall not be greater than 80% of the footprint of the convenience store.

7. Buildings existing as of (insert date of adoption) that are greater than 4,000 square feet shall be allowed a 25% expansion of the footprint of the building provided the expansions on either the front or the sides of the building shall not be any closer to the property line than that of the existing building. For example, if the existing building is 10 feet from the front and side property line at the closest point, the expansion of the building may not be greater than 10 feet from those property lines.

8. At least 50% of the required parking shall be met on-site or within 150’ of the property. The balance of the required parking shall be provided within 500’ of the parcel and may be leased using the Leased Parking Standards of Article V of this Ordinance. The Project Review Board may allow less than 50% of the required parking to be provided on the site if the location of the required parking is in a location that appears to be part of the development although it may not be on the same lot.

9. Local retail trade uses and village cafes shall not be open for business between 10 PM and 6 AM.

10. Additions to the building are prohibited. Decks, open air porches, garages used solely for storage and vehicles, and fire escapes necessary to meet the Life Safety Code are not considered to be additions. The parking requirements and maximum impervious surface to lot area ratio must be able to be met on-site. No building may have more than 8 units unless the land area per dwelling unit requirement can be met. All units must be connected to the public water and sewer system. To encourage the development of affordable housing for every three units that are created at least one of those units must be a one-bedroom or efficiency unit that is no greater than 650 sf. *{Amended, Effective 01/22/13}*

Section 418. Village Mixed Use District 2 –VMU-2

A. Purpose:

It is the intent of this District is similar to the Village Mixed Use District I except at a smaller scale.

B. Permitted uses:

1. Single Family Dwelling
2. Two-Family Dwelling

The following uses are subject to subdivision review:

3. Subdivisions for one-family, two-family, or multiple family dwellings. Any such subdivision may include other uses in either attached or detached structures and must be designed as a Village Open Space Subdivision.
    a. Buildings in existence prior to January 22, 2013 shall not be subject to the provisions of Section 418.D.2, 4 and 6 below provided the provisions of section 418.E.8 below are met *{Amended, Effective 01/22/13}*

The following uses are subject to site review regardless of size:

4. Multi-family Dwelling
    a. Buildings in existence prior to January 22, 2013 shall not be subject to the provisions of Section 418.C.5 below provided the provisions of section 418.E.8 below are met *{Amended, Effective 01/22/13}*
5. Religious Institution
6. Public or Private School
7. Commercial School
8. Municipal Facility
9. Construction Services up to 3,000 s.f building footprint, provided the use:
    (a) engages in no outdoor storage or outdoor parking of commercial vehicles except for vehicles with a load capacity of one ton or less except for loading and unloading, and

(b) produces no noise, smoke, dust, odors, or glare detectable beyond the boundaries of the lot.

10. Local Retail Trade
11. Mixed Use Development
12. Business and Professional Offices
13. Art Gallery/Museum
14. Public Utilities
15. Public Areas
16. Private Assembly
17. Public Assembly – Indoor
18. Bed and Breakfast Inn
19. Day Care Center Facility
20. Village Cafe – up to 20 seats
21. Parking area for open space *{Amended, Effective 12/02/14}*

C. Space Standards for Lots Which Are Not Within Subdivisions as Listed in D Below:

1. Minimum lot size – residential 8,000 s.f.
2. Minimum lot size – commercial or mixed use development none
3. Minimum road frontage
   single and two-family 50 feet
   commercial, mixed use, or multi-family developments that have one or more accesses that are not shared 50 feet
   commercial, mixed use, or multi-family developments that has one accesses that is shared none
4. Maximum building height 35 feet
5. Minimum land area per dwelling unit 2,500 s.f.
6. Maximum impervious surface to lot area 80%
   (for the purposes of this section, sidewalks and public areas required to meet the build-to requirements of the Village design Standards are not considered an impervious surface)
7. Setback requirements - see Freeport Village Design Standards

D. Space Standards for Lots in Village Open Space Subdivisions approved after April 3, 2007

1. Net residential density; single family -
   1 unit per 8,000 s.f. of net residential acreage
2. Net residential density per dwelling unit; two family and multiple family –
   1 unit per 2,500 s.f. of net residential acreage
3. Average lot size for single family – not less than 5,000 s.f.
4. Average land area per dwelling unit; two family and multiple family –
   not less than 1,800 s.f.
5. Minimum lot size; single family 3,000 s.f.
6. Minimum land area per dwelling unit; two family and multiple family - 600 s.f.
7. Minimum road frontage per lot created after (date of adoption)

a. Minimum Road Frontage for Lots that have one or more access(es) that is not shared with other lots: 30 feet

b. No Minimum Road Frontage for lots that share an access with one or more other lots.

8. Maximum impervious surface to lot area ratio 80%
   (for the purposes of this section, sidewalks and public areas required to meet the build-to requirements of the Village design Standards are not considered an impervious surface)
9. Maximum building height 35 feet

E. Other standards:

1. The installation of sidewalks in or adjacent to the public right-of-way, at least 5 feet wide, or a fee in lieu of installing sidewalks is mandatory for all development within this zone. For the purposes of this section, development shall mean new construction requiring site plan review, new construction of single family or duplex residential development, residential or commercial additions that are heated greater than 1,000 s.f., or changes of use from residential to commercial regardless of any building expansions. The Project Review Board shall decide whether a sidewalk should be constructed or whether a fee in lieu of a sidewalk is appropriate. In making that decision, the Board shall consider the proximity to the nearest sidewalk, long and short term plans to build sidewalks in the area, and/or other pertinent information. The fee shall be based on the current cost of constructing 5 feet wide sidewalks including curbing if determined to be necessary by the Public Works Director.

   If sidewalks at least 5' wide exist adjacent to a proposed development, a fee shall be paid to cover the cost of periodic repair and reconstruction. That fee shall be based on the current cost of sidewalk reconstruction.

   Fees shall be established by order of the Town Council and may be amended from time to time. The fees shall be uniform throughout this District. Fees shall be deposited into an account dedicated to constructing sidewalks, or repair and reconstruction of sidewalks as appropriate. The fees shall be used at the discretion of the Town Council for constructing, repairing or reconstructing sidewalks in this District. The fees may also be used to reimburse the Town for sidewalk construction, repair, or reconstruction that was completed up to ten years before the fee was paid.

2. The Project Review Board may require the construction of a public road or a service alley to connect rear parking lots if the road or service alley would improve traffic circulation and/or would connect two public roads or provide a link that could connect two public roads over time. The Project Review Board shall have the authority to waive the road standards of the Freeport Village Design Overlay District for these types of roads and alleys if strict compliance with standards would result in excessive pavement, if significant open spaces can be protected, and/or public utilities are not needed.

3. Any new construction, addition, or reconstruction in this District is also subject to the Freeport Village Design Standards as indicated as being applicable in those Standards. The Project Review Board may vary the standards of Section 4.2 of the Village design Standards (setbacks and build-to requirements) when a project is a common lot development.

4. Building setback requirements and minimum building height requirements are included in the Freeport Village Design Standards.

5. No structure shall exceed a building footprint of 2,500 s.f. unless specifically stated in Sec. 418.B above

6. At least 50% of the required parking shall be met on-site or within 150' of the property. The balance of the required parking shall be provided within 500' of the parcel and may be leased using the Leased Parking Standards of Article V of this Ordinance. The Project Review Board may allow less than 50% of the required parking to be provided on the site if the location of the required parking is in a location that appears to be part of the development although it may not be on the same lot.

7. Local retail trade and village cafes uses shall not be open for business between the hours of 10PM and 6AM.

8. Additions to the building are prohibited. Decks, open air porches, garages used solely for storage and vehicles, and fire escapes necessary to meet the Life Safety Code are not considered to be additions. The parking requirements and maximum impervious surface to lot area ratio must be able to be met on-site. No building may have more than 8 units unless the land area per dwelling unit requirement can be met. All units must be connected to the public water and sewer system. To encourage the development of affordable housing for every three units that are created at least one of those units must be a one-bedroom or efficiency unit that is no greater than 650 sf. *{Amended, Effective 01/22/13}*

Section 419. Village Mixed Use District 3 –VMU-3 *{deleted 01/26/10}*

Section 420. Local Business District "LB"

A. Purpose:

This District is intended to provide an opportunity for retail, service and municipal facilities that primarily serve local residents. Service of any extended area or regional market is ancillary to the local market.

B. Permitted Uses:

The specific permitted uses which are listed below are intended to provide examples of a type of permitted use. Uses similar to those examples which are specifically listed are permitted if their primary purpose is to serve local needs. All uses are subject to site review.

1. Peddler on Private Property subject to the requirements of Section 526.
2. Local convenience goods stores accommodating local needs such as but not limited to retail bakeries, delicatessens, candy, nut and fish stores, fruit and vegetable stores, grocery and food stores, 5 & 10 stores, hardware stores, auto parts supply, book stores, branch banks, dry goods stores, apparel stores and florist shops. All types of restaurants, as defined in this Ordinance, are not included in this definition and, therefore, are prohibited.
3. Personal service stores such as but not limited to beauty and barber shops, laundromats, cleaners, photography studios, shoe, jewelry and household appliance repair services, and alterations services.
4. Shopping Center including a supermarket, department store, local convenience goods and personal service stores.
5. Business and Professional Offices
6. Commercial Recreation - Indoor
7. Municipal Facility
8. Public or Private School
9. Commercial School
10. Outdoor Recreation School
11. Timber framing millwork and cabinetry
12. Warehouse and Storage Facility
13. Parking area for open space *{Amended, Effective 12/02/14}*
14. Artisan Food and Beverage *{Effective 12/17/14}*
    a. food truck(s) as an accessory use is allowed subject to the provisions of Sec. 526A – Food Trucks

C. Space Standards:

1. Minimum lot size:		1 acre
2. Minimum road frontage:		150 feet
3. Maximum building height:		35 feet
4. Minimum setback	front:	50 feet
	side:	35 feet
	rear:	35 feet
	shore:	75 feet
5. Minimum shore frontage:		See Section 507
6. Maximum Impervious Surface to Lot Area:		70%
8. Maximum gross floor area per local convenience goods & personal service store:		12,000 s.f.

Supermarkets will be excluded from this space standard.

D. Other Standards

1. Buffer strips separating the LB District from the boundaries of districts which permit residential uses shall be at least 50' and shall consist of natural growth, landscaping or fencing to effectively screen business uses from residential areas. Buffer strip requirements shall not apply where the district boundary is a road as defined in this Ordinance.
2. Outdoor storage shall be fenced. No outdoor storage is permitted in the front setback. No temporary or permanent outdoor storage areas shall be permitted unless they are approved by the Project Review Board under site review.
3. Landscaping is required in the front setback.
4. Parking standards: Shopping centers larger than 25,000 s.f. of gross floor area - 4.0 spaces per 1,000 s.f. of gross floor area. All other uses must conform to the parking and loading requirements of this Ordinance.
5. Access to streets or sections of streets from a business use on land, under one ownership, aggregating more than 300 feet of continuous frontage shall be from service roads. The number of service roads, grade, provision of curbs, sidewalks and esplanade reservation shall be subject to site review.
6. Parcels within the Shoreland Zone shall meet the requirements of Section 507

Section 421. Industrial District I "I-I"

A. Purpose:

It is the intent of this District to provide for suitable locations, near major transportation routes, for industrial, office, business, and warehouse uses, including industrial parks, which will be environmentally sound and physically attractive assets to the Town. Off-site utilities are presently or potentially available. In order to assure that developments shall be compatible with adjacent residential districts, all uses are subject to site review and shall conform to the appropriate performance standards of Article V. Specific uses which have been determined to be incompatible with residential uses are prohibited.

B. Permitted Uses:

1. Timber Harvesting
2. Agriculture *{Amended, Effective 06/18/13}*
3. Agritourism Activity *{Amended, Effective 06/18/13}*
4. Peddler on Private Property subject to the requirements of Section 526

The following uses are subject to site plan review regardless of size:

5. Public or Private School

6. Commercial School
7. Outdoor Recreation School
8. Manufacturing and Processing which does not involve the basic refinement of bulk raw material
9. Business and Professional Offices
10. Warehouse and Storage Facilities
11. Commercial Sales and Service
12. Public Utilities
13. Commercial Recreation - Outdoor
14. Truck Facility
15. Parking area for open space *{Amended, Effective 12/02/14}*
16. Artisan Food and Beverage *{Effective 12/17/14}*
    a. food truck(s) as an accessory use is allowed subject to the provisions of Sec. 526A – Food Trucks

C. Space Standards:

1. Minimum lot size:		3 acres
2. Maximum building height:		35 feet
Building height may be increased one (1) foot for every five (5) feet that all set-backs are increased to a maximum of 45 feet		
3. Minimum road frontage:		500 feet
4. Maximum impervious surface to lot area:		70%
5. Minimum setback -	front:	100 feet
	side:	15 feet
	rear:	15 feet
6. Minimum setback from lot line of a parcel containing a residential use:		100 feet

D. Prohibited Uses:

1. Manufacturing, fabrication, disposal, or any use of asbestos products.
2. Paper manufacturing
3. Petroleum and petrochemical refining and reprocessing
4. Production of lubrication oils and grease
5. Manufacture of explosives including, but not limited to, ammunition & fireworks
6. Offal or dead animal disposal & reprocessing
7. Abattoirs and slaughterhouses

E. Other Standards:

1. A buffer strip of at least one hundred (100) feet in depth shall be created around the perimeter of the District. It shall meet the requirements of Section 506, B-D. No use other than access roads shall be allowed in the buffer strip. Access roads shall be perpendicular to the road or buffer strip unless specifically waived by the Project Review Board.

2. Landscaping is required in the front setback.
3. Parking and outdoor storage are prohibited in buffer strip.

Section 422. Industrial District II "I-II"

A. Purpose:
It is the intent of this District to provide for suitable locations, near major transportation routes, for industrial, office, business and warehouse uses, including industrial parks, which will be environmentally sound and physically attractive assets to the Town. Off-street utilities are presently or potentially available. In order to assure that development shall be compatible with adjacent residential districts, all uses are subject to site review and shall conform to the appropriate performance standards of Article V. Specific uses which have been determined to be incompatible with residential uses are prohibited.

B. Permitted Uses:

1. Timber Harvesting
2. Agriculture *{Amended, Effective 06/18/13}*
3. Agritourism Activity *{Amended, Effective 06/18/13}*

The following uses are subject to site review regardless of size:

4. Manufacturing and Processing which does not involve the basic refinement of bulk raw material
5. Business and Professional Offices
6. Warehouse and Storage Facilities
7. Commercial Sales and Service
8. Public Utilities
9. Public of Private School
10. Commercial School
11. Outdoor Recreation School
12. Commercial Recreation - Outdoor
13. Truck Facility
14. Wireless Telecommunication Facility (See Sec 528)
15. Parking area for open space *{Amended, Effective 12/02/14}*
16. Artisan Food and Beverage *{Effective 12/17/14}*
    a. food truck(s) as an accessory use is allowed subject to the provisions of Sec. 526A – Food Trucks

C. Space Standards:

1. Maximum building height: 35 feet

Building height may be increased one (1) foot for every five (5) feet that all setbacks are increased to a total of 45 feet.

2. Maximum impervious surface to lot area: 70%
3. Maximum Height:
   Wireless Telecommunication Facility (singer user): 75 feet
   Wireless Telecommunication Facility, Co-located: 125 feet.

4. Minimum setback -

front	100 feet
side	15 feet
rear	15 feet

D. Prohibited Uses:

l. Manufacture, fabrication, disposal or any use of asbestos products
2. Paper manufacturing
3. Petroleum and petrochemical refining and re-processing
4. Production of lubrication oils and grease
5. Manufacture of explosives including, but not limited to, ammunition and fireworks
6. Offal or dead animal disposal & reprocessing
7. Abattoirs and slaughterhouses

E. Other Standards:

1. A buffer strip of at least one hundred (100) feet in depth shall be created around the perimeter of the District. It shall meet the requirements of Section 506, B-D. No use other than access roads shall be allowed in the buffer strip. Access roads shall be perpendicular to the road or buffer strip unless specifically waved by the Project Review Board.
2. Parking and outdoor storage are prohibited in the buffer strip.

Section 423. Marine Waterfront District "MW" (Section removed and replaced with Section 507.E.4 and Table 1)

{Amended, Effective 07/01/09}

Section 424. Resource Protection District I "RP-I" (Section removed and replaced with Section 507.E.1 and Table 1)

{Amended, Effective 07/01/09}

Section 425. Resource Protection II "RP-II"

A. Purpose:

It is the intent of this District to protect the quality and quantity of the groundwater resources of Freeport.

This zone applies to all lands identified as aquifer recharge protection zones on the Town of Freeport, Maine Zoning Map. Recharge areas are defined by the extent of sand and gravel deposits associated with aquifers and wetlands within them that drain into the aquifer, together with:

1. an appropriate protective strip so drawn that its bounds can be definitely established upon the site;
2. the shorelands around any stream, including an appropriate protective strip, that flows into the recharge area.

Where bounds as delineated are in doubt or in dispute, the burden of proof shall be upon the Town.

B. The following are permitted Uses:

1. Single Family Dwelling
2. Two-Family Dwelling
3. Mobile Home
4. Timber Harvesting
5. Agriculture *{Amended, Effective 06/18/13}*
6. Agritourism Activity *{Amended, Effective 06/18/13}*

The following uses are subject to subdivision review

7. Open Space Subdivisions for single family and two family dwellings;
8. Large Lot Subdivisions for single family and two family dwellings;

The following uses are subject to site review regardless of size:

9. Outdoor Recreation School up to 5,000 square feet of gross floor area or up to 5,000 square feet total gross square footage of all buildings on any parcel. The lot size must be at least five acres.
10. Municipal Facilities
11. Parking area for open space *{Amended, Effective 12/02/14}*

C. Space Standards for Lots Which Are Not Within Subdivisions as Listed in D Below:

1. Minimum lot size:	2 ½ acres
2. Minimum road frontage:	200 feet

3. Maximum building height:		35 feet
4. Minimum setback-	front:	50 feet
	side:	50 feet
	rear:	75 feet
	shore:	100 feet
5. Minimum land area per dwelling unit:		2 ½ acres
6 Minimum shore frontage:		See Section 507
7. Maximum lot coverage with impervious surfaces:		10%
8. Minimum lot width:		150 feet

D. Space Standards for Lot in Subdivisions approved after April 9, 2002

1. Open Space Subdivisions requirements

   A. Net residential density, single family and per dwelling unit, two-family *1 unit per 2.5 acres of net residential acreage*

   B. Minimum lot size, single family and per dwelling unit, two-family *1 acre*

2. Large Lot Subdivisions requirements

   A. Net residential density, single family and per dwelling unit, two-family: *1 unit per 5 acres of net residential acreage*

   B. Large lot subdivision minimum lot size, single family and per dwelling unit, two-family: *5 acres*

E. Bulk Standards for Lot in Subdivisions approved after April 9, 2002

1. Minimum road frontage and lot width, Open Space Subdivisions		100 feet
2. Minimum road frontage large lot subdivisions		200 feet
3. Minimum lot width large lot subdivisions:		150 feet
4. Minimum setback for open space subdivisions		
	front:	25 feet
	rear:	40 feet
	side:	10 feet
	combined side :	40 feet
5. Minimum setback for large lot subdivisions		
	front:	50 feet
	rear:	75 feet
	side:	50 feet
6. Maximum building height:		35 feet
7. Minimum shore frontage:		See Section 507

F. Prohibited Activities: (not to imply that such activities are permitted elsewhere) *{Amended, Effective 06/18/13}*

1. Disposal of solid waste (except brush and stumps), leachable wastes (except subsurface disposal of domestic sewage) and sludge;
2. Storage of petroleum or gasoline;
3. Storage of leachable wastes or solid wastes;
4. Mining or excavation in excess of 10 cubic yards other than excavation for permitted uses or approved uses and within public rights-of-way and as otherwise permitted in Section 509;
5. Application of de-icing chemicals except sand with a salt content of no more than 10% can be used on public rights of way. Herbicides, pesticides and fertilizers shall be applied in accordance with manufacturer's specifications and direction; No more than 3,000 sq. ft. of lawn area cultivated by means of fertilization shall be permitted per acre of residential use;
6. Use and storage of hazardous materials as defined in Chapter 14 of Title 38 of the Maine Revised Statutes and hazardous wastes as defined in Chapter 13 of Title 38 of the Maine Revised Statutes;
7. Stormwater detention and retention ponds from parking lots for municipal facilities;
8. Overnight storage and maintenance of vehicles in municipal facilities.

G. Other Standards:

1. Parcels within the Shoreland Zone shall meet the requirements of Section 507.
2. Roof drainage from municipal facilities shall be designed to maximize recharge to the District.
3. For the purposes of this section, a shed is defined as a structure that is no greater than 200 square feet with a building height of no more than 12 feet and that is used soley for the storage of property, not shelter for animals, people, or passenger vehicles. Sheds as defined in this section have a minimum side and rear setback requirement of 25 feet. *{Amended, Effective 08/04/15}*

Section 426. Island District "ID"

A. Purpose:

Freeport's Islands are acknowledged to be among the Town's most treasured natural resources, and their attractiveness contributes to the well-being of the Town.
It is the intent of the Island District to protect these unique natural areas and especially their fragile shorelines and surrounding waters by discouraging inappropriate uses, prohibiting development on certain islands, and restricting development on the others to single family dwellings which do not materially disturb wildlife habitat, contribute to water pollution, or alter the natural and scenic appearance of the landscape when viewed from offshore. This zone applies to the following islands: Bartol, Bowman, Crab, French, French's Ledge, Googins, Indian, Little Bustins, Little Flying Point, Little French, Pettengill, Pound of Tea, Pumpkin Knob, Sister, Sister's Ledge, Sow and Pigs, and Williams. Bustin's Island is not included.

B. Permitted Uses: *{Amended, Effective 06/18/13}*

All uses are subject to site review regardless of size:

1. Non-Residential Facilities for Nature Interpretation
2. Piers, Docks and Wharves (subject to the requirements of Art. XIII of the Coastal Waters Commission Ordinance, and Sec. 507 G of this Ordinance).
3. Single Family Dwelling
4. Fishing, excluding fish processing
5. Timber Harvesting subject to the restrictions in Article IV, Section 422, D.3. below.

C. Space Standards:

1. Maximum structure height:		20 feet
2. Minimum setback -	shore:	125 feet
	side:	50 feet
3. Maximum lot coverage with non-vegetated surfaces:		20%

D. Restrictions:

1. Only one dwelling unit may be maintained on each Island or lot of record existing as of January 1, 1979. Only one accessory structure and one pier, dock or wharf may be maintained on each Island or lot of record existing as of January 1, 1979. In addition, an outdoor swimming pool may be maintained on each lot of record on any island connected to the mainland by a causeway.

2. No dwellings or other structures may be erected on the following Islands, which are deemed unsuitable for such use because of their small size, exposure to the elements, critical wildlife habitat, thin and unstable soils, and/or scenic importance: Bowman, Crab, Googins, Indian, Little Bustins, Little French, French's Ledge, Pound of Tea, Pumpkin Knob, Sister's Ledge, and Sow and Pigs. Once destroyed or removed, any structures currently existing on one of these Islands may not be reconstructed or replaced unless accomplished within two (2) years. The location of a replaced structure may differ from the location of the original structure.

3. The cutting of standing timber shall not be permitted except as follows:
   a. The right to cut and restore trees and shrubs that are disturbed by the forces of nature;
   b. The right to gather, use, or remove dead wood, provided that no tree supporting an osprey nest may be cut;
   c. The right to cut timber standing where a permitted structure is to be erected;
   d. The right to cut trees and shrubs only if the purpose is to maintain and encourage a healthy forest environment and a well distributed stand of trees is retained. The plan must be approved by a Registered Professional Forester.

4. Any modification, alteration, construction or reconstruction of any waste disposal system shall be done in a manner that will prevent the direct or indirect discharge of any waste, treated or otherwise, into the salt water.

5. No buildings or accessory structures, or alterations to existing buildings or accessory structures, shall be permitted which materially alter the natural and scenic appearance of the landscape when viewed from offshore. No such buildings or accessory structures shall be located within the areas between the low and high water marks or between the high water mark and a line parallel to, and set back one-hundred twenty-five (125) feet from, said high water mark.

6. Without limiting the generality of the foregoing, signs, collectively aggregating more than six (6) square feet, trailers, mobile homes, inter-island bridges or causeways, and bridges or causeways from any island to the mainland, or utilization of any island as an aircraft landing site are specifically prohibited. The bridges or causeways from the mainland to Bartol's Island and Little Flying Point may be maintained and reconstructed, as necessary, provided that once removed or destroyed, the same may not be reconstructed or replaced unless accomplished within a period of three (3) years thereafter.

E. Other Standards:

1. Parcels within the Shoreland Zone shall meet the requirements of Section 507.

Section 427 - Mining and Extraction Overlay District - "MEOD"

A. Purpose and Applicability:

It is the intent of this District to provide for the excavation, processing, and storage of mineral deposits in locations which will be compatible with surrounding land uses and the general character of the area; to ensure the orderly development of mineral resources in a manner compatible with the overall development of the Town of Freeport; to assure the best management practices for maximum control of potential adverse environmental impacts; to provide for future reuse of mined land and to provide for the public health, safety and welfare.

The creation by the Town Council of a Mining and Extraction Overlay District shall not change the existing zoning district classification of any property. The regulations of the Mining and Extraction Overlay District shall be in addition to and shall apply concurrently with the regulations of the underlying zoning district. Where a conflict exists between the requirements of the Mining and Extraction Overlay District and the requirements of the underlying zoning district, the more restrictive requirement shall apply.

B. Permitted Uses:

The following uses are subject to the review requirements of Section 509 of this Ordinance:

1. Excavation;
2. A residence for the caretaker, operator or owner of the property where the excavation is occurring. No more than one residence shall be permitted;

3. Equipment and/or structures which are necessary and accessory to the operation of the extraction, e.g., garage, storage shed, fuel tanks, but excluding residences not otherwise permitted by subparagraph 2 of this Section 423(B);
4. Uses accessory to excavation, limited to the following activities:
    a. Washing, cleaning and sifting of raw mined material (ore) into salable condition;
    b. Sedimentation ponds when used in conjunction with washing and cleaning of raw ore;
    c. Stockpiling of raw ore;
    d. Sale of stockpiled and excavated ore, including a sales office where business operations exclusively for this use are conducted;
    e. Parking areas for employee vehicles, trucks and equipment used in the mining operation;
    f. Waiting and loading area for trucks moving the ore;
    g. Facilities for the storage, maintenance and repair of equipment used on the site.
5. Processing Uses: Processing of earth materials into a stone or concrete product, including crushing mined rock, sawing, grinding and polishing quarry stone and mixing sand and gravel with cement to form concrete or asphalt, provided that on an annual basis, no more than thirty-three percent (33%) of all aggregate processed on the site may be brought in from a location outside the site;
6. Public or private parks and recreation areas which are created as a result of the reclamation of the site;
7. Public Utilities;
8. Municipal Facility.

C. Space Standards

1. Minimum lot area:
   The minimum lot area shall be determined by the sum of the maximum area of extraction plus the area required to meet the setback requirements and performance standards of Section 509. However, the minimum lot area shall be no less than 5 acres;
2. Maximum building height: 35 feet
3. Minimum Setbacks: 150 feet, front, side, rear and shore.

D. Other Standards

1. A minimum of 50’ of frontage on a public road is required for access to the operation.
2. The requirements of Section 509 shall be met
3. One parking space shall be provided for each employee based on the expected average employee occupancy. In addition, sufficient parking and/or waiting space shall be provided for each truck and each piece of mobile equipment used in the extraction operation and any accessory uses.

ARTICLE V

PERFORMANCE STANDARDS

Section 501. Temporary Activity *{Amended, effective 01/06/15}*

A. An activity that is of a decidedly temporary nature and which can meet the minimum requirements of the performance standards below Sec. 501.A.2-4, may be allowed under the provisions of a Special Permit issued by the municipal Codes Enforcement Officer. The conditions of issuance or of renewal for any such permit are:

1. The proposed activity or use will not continue beyond a maximum time period of one (1) week for no more than three times per year per property except as allowed in 501.C and 501.D below or as allowed in this section. If additional time beyond one week is requested by the applicant, the Codes Enforcement Officer must obtain the concurrence of the municipal Project Review Board before such an extension is granted. Upon expiration of the Special Permit, the activity must be immediately discontinued or brought into conformance with the minimum standards of performance or be in violation of this Ordinance.
2. The proposed activity will not create, cause or increase any health, safety or public nuisance problems.
3. The proposed activity will not cause immediate or future damage to adjacent properties.
4. Reasonable provision is made to prevent or minimize harmful environmental impacts of the proposed activity.

B. This section is not intended to permit uses which do not conform to the use requirements of the District in which the temporary activity is planned.

C. Temporary Activity Permits for outdoor retail sales, including but not limited to, rack and container sales in the Village Commercial 1-4 and Commercial 1-4 Districts issued by the CEO, shall be unlimited provided all of the sales are conducted outside of the public right-of-way and do not displace parking spaces and on the same property that the business requesting a temporary activity permit is located.

D. Peddler activities and food trucks during special events such as concerts, festivals, and holiday festivities on private property but not including privately owned parking lots in the VC-1-4 Districts are considered a temporary activity subject to the requirements of Subsections A.2-4 and Section 526 or Section 526A. .

E. In the VC-I and VC-II Districts, no Temporary Activity Permits shall be issued between the week before Memorial Day and the week after Labor Day if required parking is displaced by the activity.

F. All temporary activities require a temporary activity permit from the Codes Enforcement Officer. Fees for temporary activities are established by order of the Town Council.

Section 502. Temporary Structures

A. Temporary structures used in conjunction with construction work shall be permitted only during the period that the construction work is in continuous progress. Permits for temporary structures shall be issued for a six (6) month period and may be renewed by the Codes Enforcement Officer for additional six (6) month periods.

B. Residing in basement of foundation structures before the completion of the total structures shall be permitted for a period of three (3) years from the date of issuance of a building permit subject to issuance of a temporary Certificate of Occupancy. The municipal Codes Enforcement Officer may issue a temporary Certificate of Occupancy for two additional one-year periods if, in his judgment, reasonable progress is being made and if nuisance conditions do not exist. Applications for permit extension shall be made before the permit expires. The Temporary Certificate of Occupancy may require such conditions and safeguards as will protect the safety of the occupants and the public. A valid plumbing permit shall be required.

C. Other temporary structures, except those specifically permitted by this Ordinance or other Town Ordinances, are prohibited.

Section 503. Home Occupations

Home occupations shall be accessory to a residential use and clearly incidental and secondary to the residential use of the dwelling unit. Home occupations shall conform with the following requirements:

1. Exterior storage of materials, commercial vehicles used by the home occupation, or other exterior indication of the home occupation shall be permitted, except in the setbacks, provided that it is not incompatible with the residential character of surrounding properties.

2. The performance standards of Article V, where applicable, shall be met. Objectionable conditions such as but not limited to noise, smoke, dust, odors, or glare shall not be generated.

3. No traffic shall be generated by such home occupation in substantially greater volumes than would normally be expected in the neighborhood.

4. In addition to the off-street parking provided to meet the normal requirements of the dwelling, adequate off-street parking shall be provided for the vehicles of each employee and the vehicles of the maximum number of users the home occupation may attract during peak operating hours.

5. Except for family and group day care homes and bed and breakfast inns of 3 guest rooms or less, and uses approved under the terms of Subsection 503 (8) below, no home occupation may utilize more than twenty-five percent (25%) of the gross floor area of the

dwelling (excluding basement floor areas) or more than 600 square feet of gross floor area in an accessory structure.

6. Additional structures may be used in the case of the raising, breeding or keeping of livestock or fowl.

7. The home occupation shall be carried on exclusively by a resident or resident members of the dwelling unit. In addition to the residents of the dwelling unit, no more than two full-time employees or that number of part-time employees required to do the work of two full-time employees may be employed in the home occupation on the site at any one time.

8. A home occupation may expand beyond the 600 square foot limitation in an accessory structure only if the following conditions are met:

    a. The home occupation is in existence as of July 6, l993;

    b. The existing home occupation is located in an accessory structure in existence as of July 6, l993;

    c. The proposed expansion of the existing home occupation will be located within an accessory structure in existence as of July 6, l993;

    d. The maximum gross floor area of the existing accessory structure used for the expanded home occupation shall be 3,000 square feet for all home occupations on the site and a footprint no greater than 2,000 square feet or 0.56% of contiguous land area owned by the applicant, whichever is smaller;

    e. An existing accessory structure may be expanded by a maximum of 750 square feet only if the total gross floor area of the accessory structure used for the home occupation will not exceed the accessory structure size and land area limitations of Section 503 8.d. above and the expansion is physically attached to the existing accessory structure;

    f. Only one principal use shall occur on land area required for an expanded accessory structure;

    g. No variance shall be granted on the relationship between the size of the accessory structure and the area of the lot or on the permitted size of the accessory structure;

    h. Site plan approval shall be required;

    i. Site plan approval for such permitted expansion shall become void if the required minimum land area is no longer owned by the applicant or subsequent assignees;

j. An existing home occupation may be replaced by a new home occupation under this Section 503.8 only if the new home occupation is the same or similar in character and impact, or will have less impact, than the existing home occupation.

k. If a proposed replacement home occupation will not be the same or similar or have less impact than the existing home occupation which received site plan approval under this Section 503.8, it shall not be permitted to expand beyond the space limitations described in Section 503.5 above.

l. The expansion of the accessory structure shall be visually compatible with existing buildings and landscape in its vicinity, as further described in Section 602.f.1.b.

m. Side and front setbacks of any newly constructed accessory area shall be increased by one (1) foot per each fifty (50) square feet in excess of six hundred (600) square feet;

n. Notice of decision of site plan approval shall be recorded in the Registry of Deeds on a form provided by the Town

Section 504A. OPEN SPACE, EXPANDED OPEN SPACE, AND LARGE LOT RESIDENTIAL DEVELOPMENTS

504A.1 Purpose

The purpose of these provisions is to encourage flexibility in the design of residential development, encourage creative development that preserves fields, forests, farmland, shoreland and related scenic vistas and protects the most significant natural, historic and archaeological resources, to conserve open land, to create good neighborhood development, to minimize the cost of constructing and maintaining utilities and streets, and to protect and preserve sensitive wildlife habitats and other natural areas.

504A.2 Applicability

1. This section 504A shall apply to:
   a. all applications for approval of new subdivisions and
   b. any application to amend a previously approved subdivision, except as provided in subsection (2) below.

2. This section 504A shall not apply to an application to amend a subdivision approved prior to April 9, 2002 if such amendment would not create two or more additional lots. Any such amendment is subject to those space and bulk standards which the applicable zoning district regulations require for lots within subdivisions approved prior to April 9,2002.

504A.3 Design and Construction Standards

The Project Review Board shall be authorized to approve Open Space Subdivisions, Expanded Open Space Subdivisions, and Large Lot Subdivisions which conform to the requirements of this

Ordinance, the Subdivision Ordinance of the Town of Freeport, and all other applicable ordinances of the Town of Freeport.

504A.4. Uses Permitted on Required Open Space Lands

1. Non-commercial recreation which does not require permanent structures

2. Up to 10% of the land may be used for non-commercial recreation which requires permanent structures

3. Agriculture *{Amended, Effective 06/18/13}*

21. Neighborhood open spaces such as village greens, commons, picnic areas and other similar passive recreation uses

22. Timber harvesting provided a forest management and harvest plan as defined by Title 36 M.R.S.A. § 573.3-A is submitted prior to the commencement of any timber harvesting. This plan must be prepared by a licensed professional forester or a landowner and be reviewed and certified by a licensed professional forester.

23. Access to sewer or water lines, or other public utility purposes, but excluding wireless telecommunications facilities

24. Water supply and sewage disposal systems for subdivision lots provided the appropriate easements are in place

25. Easements for drainage

26. Unpaved, unlighted parking for subdivision residents

504A.5. Ownership Options for Open Space

1. Some or all of the required open space may be dedicated to the Town of Freeport, subject to acceptance by the Town Council. All open space lands shall be permanently protected from development. Under no circumstances shall any development be permitted in the open space at any time, except for those uses listed in Sec. 504A.4. Any such dedication shall be accomplished by deeds or other appropriate legal instruments acceptable to the town attorney.

2. Some or all of the required open space may be conveyed to a non-profit tax exempt land trust or similar organization for conservation, passive recreation, or active recreational purposes. All open space lands shall be permanently protected from development. Under no circumstances shall any development be permitted in the open space at any time, except for those uses listed in Sec. 504A.4. Any such conveyance shall be accomplished by deeds or other appropriate legal instruments acceptable to the town attorney.

3. Some or all of the required open space may be held in common by the individual lot owners of the proposed residential development. All open space lands shall be permanently protected from development. Under no circumstances shall any development be permitted in the open space at any time, except for those uses listed in Sec. 504A.4. The developer shall be required to establish a homeowner's association consisting of individual lot owners which shall include the following:

    a. Covenants shall be included in each deed from the developer to an individual lot owner which shall require mandatory membership in the association and shall set forth the owner's rights, interests, privileges, and obligations in the association and in the common open space including the association's responsibility and obligation to maintain the common open space and any recreational facilities located therein

    b. The association shall develop a system to levy and collect annual charges against any and all lot owners to defray expenses connected with the maintenance of common open space and recreational facilities located therein and this system shall be set forth in the deed covenants or other legal instrument binding upon the lot owner and running with the land.

    c. The developer shall be responsible for its maintenance until at least 75% of the lots have been sold to individual lot owners after which time the association shall be responsible for such maintenance and this requirement shall be set forth in the deed covenants or other legal instrument binding upon the lot owner and running with the land.

    d. All proposed deed covenants and legal documents relating to such common open space shall be reviewed by the town attorney and the Project Review Board and, if approved, shall be recorded in the Cumberland County Registry of Deeds and included or referred to in the deed of each lot.

4. Some or all of the required open space may be held in “non-common private ownership” provided the land is permanently restricted from future development through a conservation easement or other mechanism acceptable to the Project Review Board, except for those uses listed in Section 504A.4 above. The Town of Freeport has the ability to enforce the restrictions of land in “non-common private ownership”. This requirement shall be set forth in deed covenants or other legal instrument binding upon the lot owner and running with the land. All open space held in “non-common private ownership” shall be held in the same ownership. When the non-common open land is attached to a homestead on the property being developed, the required open space land shall be in addition to the minimum permitted lot size.

Section 504B. VILLAGE OPEN SPACE RESIDENTIAL DEVELOPMENTS

504B.1 Purpose

The purpose of these provisions is to encourage flexibility in the design of village residential development, encourage creative development that preserves the gullies and streams, an undisturbed buffer along Interstate 295, and existing trails and provides links for a better connected trail system. Trails should serve a recreational use or to connect key locations and can provide an alternative form of transportation that will help mitigate the traffic congestion created by increased housing densities and tourist traffic, improve the safety of pedestrians and bicyclists, create opportunities for residents to increase physical activity and improve health, promote economic vitality, and to build a stronger sense of community by allowing people of all ages to walk and bike on common rights of way. These provisions are intended further to create good neighborhood development and to minimize the cost of constructing and maintaining utilities and streets

All residential subdivisions in the village area are required to provide open space. Secondary conservation areas are shown on the Village Open Space Map dated 08/03/05 included as Addendum 2 to this Ordinance. However, in some cases, the open space would be too small or in a location that is not considered to be secondary conservation area. In those cases, the Project Review Board may require that a fee in lieu of open space land be paid. For developments that have secondary conservation area, but not enough to meet the village open space requirement, the project Review Board may require that a combination of dedicated open space and a fee in lieu of open space.

504B.2 Applicability

1. This section 504B shall apply to:
   a. all applications for approval of subdivisions within the Freeport Village Overlay District submitted after June 22, 2005, whether or not any such application would be deemed a “pending proceeding” under 1 M.R.S.A. §302, and
   b. any application to amend a subdivision within the Freeport Village Overlay District approved before June 22, 2005, that creates two or more lots or units.,

504B.3 Design and Construction Standards

The Project Review Board shall be authorized to approve Village Open Space Subdivisions, which conform to the requirements of this Ordinance, the Subdivision Ordinance of the Town of Freeport, and all other applicable ordinances of the Town of Freeport. The Project Review Board shall be further authorized to require public access on some or all of the required open space.

504B.4 Open Space Requirements

1. Meeting the Requirement
   The open space requirement in village open space subdivisions shall be met with land only if the parcel has secondary conservation areas as shown on the Village Open Space Map 1

dated August 2, 2005, or would provide a connection or link for a trail to or between a destination shown on Open Space Map 2 dated August 2, 2005 . The Project Review Board may require public access in the open space where such access would further the purposes described in Section 504B.1 above and where, because of the location of the required open space, prohibiting public access would frustrate the purposes described in Section 504B.1.

2. Fee in lieu of land
   a. If the parcel does not include any secondary conservation area, the applicant will pay a fee in lieu of open space. The fee shall be established by order of the Town Council and may be amended from time to time by order of the Town Council. The fee shall be uniform throughout the Freeport Village Overlay District and shall be based on fair market value of back land or conservation land in Freeport. The fee shall be established on a square foot basis. For example, if an acre of non-developable land is valued at $30,000, then the open space fee would be calculated as follows: $30,000 acre/ 43,560 sf/acre = .70 per square foot of open space.

   b. The Project Review Board may approve a combination of open space land and a fee in lieu of open space when a parcel has significant open space, but not enough to meet the required open space area. For example, if a subdivision is required to provide 15,000 s.f. of open space and the Board decides that the parcel has 5,000 s.f. of secondary conservation area, the 10,000 s.f. of remaining required open space may be paid as a fee in lieu of open space. If the fee per square foot is .70, the fee shall be .70 x 10,000, or $7,000 in addition to the open space land.

   c. The fees shall be deposited in the land bank fund as described in Chapter 35-7 of the Municipal Code.

   d. The fees shall be used at the discretion of the Town Council to purchase open space or to provide village open space amenities such as trail construction, parks, landscaping, benches, and stream crossings in the Freeport Village Overlay District.

504B.5. Uses Permitted on Required Open Space Lands

1. Non-commercial recreation which does not require permanent structures

2. Up to 40% of the land may be used for non-commercial recreation which requires permanent structures

3. Trails for pedestrians and bicyclists

4. Neighborhood open spaces such as village greens, commons, picnic areas and other similar passive recreation uses

5. Access to sewer or water lines, or other public utility purposes, but excluding wireless telecommunications facilities

6. Water supply and sewage disposal systems for subdivision lots provided the appropriate easements are in place

7. Easements for drainage

504B.6. Ownership Options for Open Space

Open space shall meet the ownership options outlined in Section 504A.5

Section 504 C. RURAL FLEXIBLE LOT DEVELOPMENT *{Amended, Effective 12/15/15}*

a. <u>Purpose</u>

The purpose of this section is to provide landowners in Rural Districts an alternative approach to lot development. This section allows for the same lot density as traditional lot development while providing for the creation of open space and the protection of environmentally sensitive areas such as wetlands, vernal pools and steep slopes. It allows flexibility in the size and shape of lot development. This section applies only where the development of the lots does not constitute a subdivision as defined in 30-A M.R.S.A. section 4401.

b. <u>Applicability</u>

Rural Flexible Lot Developments may be created in the Rural Residential 1, 1A, and 2 Districts and the Resource Protection 2 District on a parcel that is greater than 7.5 acres. A "Flexible Lot" shall mean a new designated piece of land created under the space standards of Sec. 504C.c. The "Open Space Lot" shall mean the remaining land of the "Lot of Record at the time of the survey submission that has at least 2.5 acres with 200 feet of road frontage plus the required open space and any remaining land of the Lot of Record. Flexible Lots in a Rural Flexible Lot Development are limited to the permitted use of a single family dwelling.

c. <u>Flexible Lot Space Standards</u>

Minimum lot size:	20,000 square feet
Maximum lot size:	1 acre
Minimum road frontage requirement:	100 feet
Maximum building height:	35 feet
Minimum setback: front	50 feet
Side	25 feet
Rear	50 feet
Minimum setback from the perimeter of the Lot of Record 50 feet	
Minimum shore frontage	150 feet
Minimum lot width	100 feet

d. <u>Flexible lot limitation and Calculating density</u>

Regardless of the size of a parcel, no Rural Flexible Lot Development shall have more than 4 Flexible Lots as defined by Sec. 504C.b above. To calculate the number of Flexible Lots,

divide the total acreage by 2.5 acres for any lot that would have 200' of road frontage available. For Lots that wouldn't have 200' of road frontage available on an existing public or private road, divide the acreage by 2.75 acres. Land area used for a right-of-way that is created to meet road frontage requirement for the Flexible Lot may not be included in the land area of the Flexible Lot. Any houses that exist on the property must use one of the allowable lots.

Example: A 10 acre lot with 400' of road frontage would yield 3 lots; two Flexible Lots and one Open Space Lot. Two of the lots have 200 feet of road frontage and would have a minimum lot size of 2.5 acres or a total of 5 acres. Because there isn't 200' of road frontage for the third lot, the remaining 5 acres uses a minimum lot size of 2.75 acres; therefore only one more Flexible Lot is allowed.

e. <u>Calculating open space and lot size</u>

The required open space is the difference between the minimum lot size of 2.5 acres and the size of the Flexible Lot created, regardless of the minimum lot size used for calculating the density. The Open Space Lot is the sum of all of the required open space areas plus the required rural lot size of 2.5 acres with at least 200 feet of road frontage plus any remaining land of the Lot of Record, except as allowed below in Sec. 504.C.f.. Environmentally sensitive areas such as wetlands, vernal pools and steep slopes should not be included in a Flexible Lot to the extent possible. The Open Space Lot must include a deed restriction explaining the land area of the required open space and that it may not be further subdivided or developed in perpetuity.

For example: Using the same example as above; the 2 Flexible Lots are 20,000, and 30,000 square feet each (2.5 acres = 108,900 square feet).
***Flexible Lot 1** – (20,000 sf) open space = 108,900sf – 20,000sf = 88,900sf*
***Flexible Lot 2** – (30,000 s.f)open space = 108,900sf – 30,000sf = 78,900sf*
OPEN SPACE requirement = 167,800 sf (3.9 acres)
***Open Space Lot** = 2.5 acres minimum lot size + 2.5 acres remaining land of Lot of Record + 3.9 acres required open space = 8.9 acres*

f. <u>Use of Open Space Lot</u>

The Open Space Lot may have one single family dwelling with any of the following accessory uses: agriculture, agritourism activity and timber harvesting and forest management, non-commercial recreation that doesn't require permanent structures, water and sewage disposal systems for the open space lot and flexible lots in the development provided the appropriate easements are provided, utility and/or drainage easements.

The area of the open space may be transferred to a government entity or a non-profit organization that has a mission of holding land for conservation purposes. If the open space is transferred, it must have a deed restriction that protects the land from future development in perpetuity. The remaining land must have at least 2.5 acres and 200 feet of road frontage.

g. <u>Application Submission Requirements</u>

All Rural Flexible Lot Developments require the review and approval of the Town Planner and the Codes Enforcement Officer. An application for review and approval must include the following information:

1. Two plot plans based on the deed for the property prepared by a licensed surveyor, including:
    a. The approximate location of all of the proposed lots including dimensions and lot sizes.
    b. The approximate location of any easements on the property.
    c. A calculation that shows how the density was calculated, and a list of each Flexible Lot with their size and the required open space.
    d. The calculation and the size of the Open Space Lot and a list of the deed restrictions that will be placed on that lot.
    e. A signature line for the Codes Enforcement Officer.
    f. A section of conditions of approval which shall include at least the following:
        i. The lot that will receive the open space and will be subject to a deed restriction that protects the land from future development in perpetuity. This deed restriction must be created before the first Flexible Lot is offered for sale.
        ii. The shape and location of the lot may change; however the size of the lot being created must be as shown on this plan.
        iii. This approval runs with the land and does not expire unless the owner of the land submits documentation to the town that the approval has been invalidated as allowed by Sec. 504C.i.b below.
        iv. The lots shown on this plan are illustrative of the number, size and overall density of lots that may be developed under Section 504.C of this Ordinance, "Rural Flexible Lot Development." This plan does not constitute approval of a subdivision under 30-A M.R.S.A. section 4403. Lots may be conveyed only in a manner which does not create a subdivision as defined in 30-A M.R.S.A. section 4401.

h. <u>Approval Criteria</u>

The Codes Enforcement Officer r shall approve the plan provided all of the standards of this section have been met. By signing the Plan, the Codes Enforcement Officer, or their equivalent at the time, shall be considered an approval. No Flexible Lots may be sold until the approved plot plan is recorded in the Cumberland County Registry of Deeds. The approved Plan must be recorded in the Registry of Deeds within 90 days of the signature of the plan. The Plan Book and Page number of the recorded Plan shall be added to the second plot plan that shall be kept in a file in the Town Office. A note shall be added to the Tax Assessing data to acknowledge that the lot is being developed as a Rural Flexible Lot Development.

If the Codes Enforcement Officer determines that a Plan is not complete or that a standard is not met, the applicant shall be notified in writing the exact nature of the omission or how the Plan doesn't comply with the standards of this section.

i. <u>Conveyance of Lots</u>

Lots that have been approved as part of a Rural Flexible lot Development may only be sold in a manner that do not create a subdivision as defined by 30-A M.R.S.A. §4401.

j. <u>Plan Amendments or Invalidation</u>

a. Amendments – a landowner may amend the plan if the lot sizes are going to change or if a Zoning Ordinance amendment is adopted that the landowner has decided would be beneficial to the development. To amend a Flexible Lot Development Plan, the landowner shall submit a revised plan to the Town Planner and Codes Enforcement Officer. A note shall be included on the Plan stating what revisions have been made to the Plan. The Town Planner and Codes Enforcement Officer shall sign the Plan if all of the standards of this section have been met.

b. Invalidation - -A landowner may decide at any point that the flexible lot development scheme that was proposed and approved is no longer a good option. To invalidate a Flexible Lot Development Plan, the landowner shall submit a revised plan to the Town Planner and Codes Enforcement Officer. A note shall be included on the Plan stating what revisions have been made to the Plan along with the new lot calculation and open space requirement calculations. The Town Planner and Codes Enforcement Officer shall sign the Plan if all of the standards of this section have been met. The signed Plan must be recorded in the Cumberland County Registry of Deeds within 90 days of the signing of the Plan.

Section 505. Campgrounds

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

A. Recreational Vehicle and Tenting Areas shall meet the following criteria:

1. Each recreational vehicle, tent, or shelter site shall contain a minimum of 5,000 square feet, not including roads and driveways, wetlands and land below the normal high water line of a water body;

2. A minimum of 200 square feet of off-street parking plus maneuvering space shall be provided for each recreational vehicle, tent, or shelter site.

B. The area intended for placement of the recreational vehicle, tent or shelter and utility and service buildings shall meet the required setbacks for the District in which the campground is located.

C. Screening shall be required when necessary to shield the ground from non-compatible abutting areas.

D. Water supply and electrical utilities shall be installed underground.

Section 506. Buffer Zones

No building or structure shall be erected or any use permitted in the following districts (RR-IA, C-I, C-II, C-III, C-IV, MD, LB, VC-I, VC-II, VC-III, I-I, I-II, MW) which abut the following districts (RR-I, RR-II, RP-I, RP-II, MDR-I, MDR-II, V-I, and V-II) unless the following requirements are satisfied.

A. The side and rear yards abutting residential districts shall maintain the district boundary in its natural state to provide a buffer of at least the setback distance. Where larger buffers are required by specific District provisions, the larger size shall prevail.

B. When natural features such as slope, gullies, stands of trees, shrubbery or rock outcrops do not exist or are insufficient to provide a buffer, the developer shall landscape, or where not feasible, provide fencing or screening.

C. Natural features, landscaping, or, if necessary, fencing or screening, should not be expected to hide the proposed development from abutting properties, but only to soften the impact so that it is no more adverse than the Permitted Uses, as stipulated in the (B) subsections of Article IV in the Residential Districts.

D. Fencing and screening, when necessary, shall be properly maintained and located or constructed in such a manner that it can be maintained from the developer's property.

E. The buffer zone shall be located in the non-residential district.

F. Notwithstanding subsections (A) and (E) above, when a lot is transected by a zoning district boundary, the buffer required by this Section may be maintained from the lot line rather than from the district boundary line.

Section 507. Shoreland Zone Regulations *{Amended, Effective 07/01/09}*

A. Purposes:

It is the intent of this Section to provide for the regulation of activities and uses in the Shoreland Zones in order to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and

historic resources; to protect freshwater and coastal wetlands; to control building sites and placement of structures; to conserve shore cover and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

B. Authority:
This Section has been prepared in accordance with the provisions of Title 38 Sections 438-A(1) of the Maine Revised Statutes Annotated (M.R.S.A.).

C. Applicability:
The regulations of this Section 507 shall be in addition to and shall apply concurrently with the zoning district in which the parcel is located. Where a conflict exists, the more restrictive requirements shall apply. The Shoreland Zones include Resource Protection 1, Shoreland Area, Stream Protection, and Marine Waterfront as defined in Section 507.F below.

D. Effective date
The effective date of these ordinance amendments shall be on the date approved by the Commissioner of the Department of Environmental Protection herineafter "the Commissioner", or if the Commissioner fails to act on the Ordinance amendments within 45 days of his/her receipt of the Ordinance amendments, it shall be automatically approved.

An application for a permit submitted to the municipality within the forty-five day period shall be governed by the terms of this Ordinance amendment if the Ordinance amendment is approved by the Commissioner.

E. Districts and Zoning Map. The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map which is part of this Ordinance

1. Resource Protection 1
2. Shoreland Area
3. Maritime Waterfront
4. Stream Protection

F. Establishment of Districts

1. Resource Protection – The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, or biological ecosystems. The space and bulk standards of the adjacent district apply in this District. This district includes the following areas:
   a. Areas within 250 feet, horizontal distance of the upland edge of salt water marshes and salt meadows which are rated "high" or "moderate" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife as of January 1, 1973, and areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer

maintained by either MDIF&W or the Department of Environmental Protection as of May 1, 2006

b. Floodplains as defined as 100-year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps adjacent to tidal waters.

c. Areas of two or more contiguous acres with sustained slop of 20% or greater.

d. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which is not surficially connected to a water body during the period of normal high water.

2. Shoreland Area – The Shoreland Area is an overlay district and is an area that is suitable for the uses permitted in the underlying district. It includes areas within 250' of the high water line of a tidal area other than those in Resource Protection 1 or Stream Protection. Any uses allowed in the underlying district are allowed in the shoreland area provided all of the standards of Section 507 are met. Space and bulk standards in this area are the same as the underlying District.

3. Stream Protection – The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high water line of a stream as defined in this Ordinance, exclusive of those areas within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and another shoreland zone intersect, that land area shall be regulated under the terms of the other shoreland zone.

4. Marine Waterfront – The Marine Waterfront District includes areas where the existing predominant pattern of development is functionally water dependent uses. The intent of this district is to recognize and preserve the marine heritage of Freeport and to permit services essential to fishing and boating. There is no minimum lot size, lot frontage, or shore setback requirements in this area, the setback requirements from the front, side, and rear property lines shall be fifteen (15) feet.

G. Permitted Uses:

TABLE 1. LAND USES IN THE SHORELAND ZONE

LAND USES	***DISTRICT***		
	SP	**RP**	**MW**
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	CEO	yes
2. Forest management activities and timber harvesting	yes	CEO	yes
3. Clearing or removal of vegetation for activities other than timber harvesting	CEO	CEO	yes
4. Fire prevention activities	yes	yes	yes
5. Wildlife management practices	yes	yes	yes
6. Soil and water conservation practices	yes	yes	yes
7. Emergency operations	yes	yes	yes

8. Agriculture	CEO	CEO	yes
9. Aquaculture	CWC	CWC	CWC
10. One and two family and multi-family residential, including driveways	no	no	no
11. Conversions of seasonal residences to year-round residences	no	no	no
12. Home occupations	yes	yes	yes
13. Essential services	CEO	CEO	CEO
14. Public and private recreational areas involving minimal structural development	CEO	CEO	PRB
15. Individual, private campsites	CEO	CEO	CEO
16. Campgrounds	no	no	no
17. Parking facilities associated with permitted uses	no	no	PRB
18. Marina, boat yard, ship chandlery, commercial fishery, municipal wharf	no	no	PRB
19. Excavation, filling and earth moving of <15 cubic yards	no	yes	yes
20. Filling and earth moving of >15 cubic yards	no	CEO	CEO

PRB – Project Review Board **SP – Stream Protection**
CEO – Codes Enforcement Officer **RP – Resource Protection 1**
CWC – Coastal waters Commission **MW – Marine Waterfront**
LPI – Local Plumbing Inspector

H. Principal and Accessory Structures

1. All new principal and accessory structures shall be setback at least seventy-five (75) feet, horizontal distance, from the normal high-water line of a waterbody, tributary stream or the upland edge of a wetland. In the Resource Protection District, the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.. This setback does not apply to piers, docks, and retaining walls necessary for the control of shoreline erosion, nor to other functionally dependent uses.

2. For areas identified as a “coastal bluff area” (designated with a red line) on the Official Zoning map, all new principal and accessory structures shall be setback at least 75’ from the top of the bank. The top of the bank shall be determined by the Codes Enforcement Officer.

3. The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zones shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zones, including land previously developed, except in the Marine Waterfront District where the lot coverage shall not exceed seventy (70) percent.

4. Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection 1, Stream Protection, and Shoreland Area, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission lines, windmills, antennas, and similar structures having no floor area.

5. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Codes Enforcement Officer, to provide shoreline access in

areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the high water line of a water body or the upland edge of a wetland, , (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A., section 480-C); and the applicant demonstrates that no other reasonable access alternative exists on the property.

6. The setback requirements from all other property lines are as outlined in Sec. 507.F above.

I. Space Standards:

1. Minimum Shore Frontage, and lot sizes:

	Minimum shore frontage	Minimum lot area
a. Residential per dwelling unit;		
(1) Adjacent to tidal areas -	150 feet	30,000 s.f.
(2) Adjacent to non-tidal areas -	200 feet	40,000 s.f.
b. All non-residential uses subject to review by the Project Review Board or the Codes Enforcement Officer;		
(1) Adjacent to tidal areas -	200 feet	40,000 s.f.
(2) Adjacent to non-tidal areas -	300 feet	60,000 s.f.

c. Land below the normal high water line of a water body or upland edge of a wetland and land beneath roads serving two (2) lots shall not be included toward calculating minimum lot area.
d. Lots located on opposite sides of a public road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.
e. The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
f. Setback requirements from property lines other than from the resource being protected shall be those required in the underlying district unless otherwise listed in Section 507.F. above.
g. If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

J. Parking Areas:

1. Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, except that in the MW District, parking areas shall be set back at least twenty-five (25) feet horizontal distance from the shoreline or tributary stream. The setback requirement for parking areas serving public boat launching facilities in other Districts may be reduced to no less than fifty (50) feet

from the normal high-water line or upland edge of a wetland if the Codes Enforcement Officer finds that no other reasonable alternative exists.

2. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body,tributary stream or wetland and where feasible, to retain all runoff on-site.
3. In determining the appropriate size of proposed parking facilites, the following shall apply:
   a. Typical parking space: 9 feet wide by 18 ½ feet long, for boat trailors add an additional 20 feet.
   b. Internal travel aisles: 20 feet

K. Roads and driveways

New public roads shall meet the requirements of the "Street Acceptance and Standards Ordinance of the Town of Freeport, Maine." Where the standards described below are more stringent, they shall be required. The following standards shall apply to the construction of roads and drainage systems, culverts and other related features.

1. Roads shall be set back at least seventy-five (75) feet horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists, as determined by the Codes Enforcement Officer, or the Project Review Board if a road or driveway is also subject to Subdivision and/or Zoning Ordinance review. If no reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet horizontal distance upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream or wetland.

   On slopes greater than 20 percent the road and/or driveway shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in slope above twenty (20) percent.

   This section does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of this Section except for that portion of the road or driveway necessary for direct access to the structure.

2. Existing public roads may be expanded within the legal road right-of-way regardless of their setback from a water body, tributary stream or wetland.

3. New roads and driveways are prohibited in the Resource Protection I District except that the Codes Enforcement Officer may grant a permit to construct a road or driveway to provide access to a permitted use in the district upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in the Resource Protection 1 District 1 the road shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.

4. Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in subsection Q below.

5. Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.

6. In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto a vegetated buffer strip at least (50) feet, plus two times a number equal to the percentage of the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

7 Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto a vegetated buffer strip before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

a. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road, or driveway at intervals no greater than indicated in the following table:

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

b. Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.

c. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

d. On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.

8. Ditches, culverts, bridges, dips water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

L. Storm Water Runoff

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

2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

M. Septic Waste Disposal

1. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following: a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

N. Public Utilities

1. Where feasible, the installation of public utility service shall be limited to existing public and private ways and existing service corridors.

2. Where allowed , such structures shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts as determined by the Codes Enforcement Officer.

3. Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

O. Agriculture

1. All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on Novemebr 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209)..

2. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified seventy-five (75) feet horizontal distance, of water bodies, tributary streams, or wetlands within the Shoreland Zone. All manure storage areas within the Shoreland Zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water. .

3. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the Shoreland Zone shall require a Conservation Plan to be filed with the Codes Enforcement Officer and approved by the Town Engineer using the Department of Environmental Protection's Best Management Practices, except that manure may be spread on any home garden less than 10,000 square feet outside of the 75 foot shore setback area. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

4. There shall be no new tilling of soil within seventy-five (75) feet, horizontal distance of water bodies, and coastal wetlands nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands within the Shoreland Zone. Operations in existence on July 2, l992, and not in conformance with this provision may be maintained.

5. After July 2, l992, newly established livestock grazing areas shall not be permitted within seventy-five (75) feet, horizontal distance of all water bodies, nor within twenty-five (25) feet, horizontal distance, of tributary streams and wetlands within the Shoreland Zone. Livestock grazing associated with presently existing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

P. Timber Harvesting

The Freeport regulation of timber harvesting is repealed on the statutory date established under 38 M.R.S.A. section 438-B(5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the shoreland zone. On the date established under 38 M.R.S.A. section 438-B(5) the following provisions of this Ordinance are repealed:

a. Table 1 – Land Uses in the Shoreland Zone – references to forest management and timber harvesting
b Section P in its entirety, except that the following shall remain "Where permitted in the underlying zoning district, timber harvesting in a Shoreland Zone shall be administered and enforced by the Director of the Bureau of Forestry in accordance with Chapter 21 of the Statewide Standards for Timber Harvesting

and Related Activities in Shoreland Areas, dated June 15, 2005, established by the Maine Forest Service."

c. Section 101 – Definitions, the definition of 'Forest management activities."

1. Timber Harvesting shall conform with the following provisions:

   a. Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 ½ feet above ground level on any lot in any ten (10) year period is permitted. The Codes Enforcement Officer may permit timber harvesting in excess of the 40 percent limitation if a forest management plan, signed by a Maine licensed professional forester, concludes that such exemption is necessary for good forest management and is carried out in accordance with the purposes of this Shoreland Zone.

      In addition:

      (1) Within seventy-five (75) feet, horizontal distance of the normal high-water line of all water bodies, tributary streams, or the upland edge of a wetland there shall be no clear cut openings and a well-distributed stand of trees and other vegetation, as defined in Section N.1.b.2., including existing ground cover, shall be maintained.

      (2) At distances greater than seventy-five (75) feet, horizontal distance of the normal high-water line of all water bodies, tributary streams or the upland edge of a wetland, harvesting operations shall not create single clear cut openings greater than ten-thousand (10,000) square feet in the forest canopy.

      Where such openings exceed five-thousand (5000) square feet they shall be at least one hundred (100) feet apart. Such clear cut openings shall be included in the calculation of total volume removal.

      For the purpose of these standards, volume may be considered to be equivalent to basal area.

   b. No accumulation of slash shall be left within fifty (50) feet of the normal high-water line of a water body. In all other areas, slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body shall be removed.

   c. Timber harvesting equipment shall not use stream channels as travel routes except when:

      (1) Surface waters are frozen; and
      (2) The activity will not result in any ground disturbance.

d. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.

e. Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.

f. Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that a strip of vegetation of at least seventy-five (75) feet in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the vegetated strip shall be increased by twenty (20) feet. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty-five (25) feet from the normal high-water line of a water body or upland edge of a wetland.

Q. Clearing of Vegetation for Development

1. In a Resource Protection 1 District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.
2. Within the strip of land extending 75', horizontal distance, inland from the normal high water line,

b. In all other Districts, a buffer strip of vegetation shall be preserved. All vegetation removal shall be subject to the following provisions:

(1) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown; however, a footpath or other recreational trail not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.

(2) Selective cutting of trees within the buffer strip is allowed provided that a well distributed stand of trees and other natural vegetation is maintained. For the purposes of this section a "well-distributed stand of trees" adjacent to water bodies, tributary streams, and wetlands, is defined as maintaining a minimum rating score of 8 points as hereinafter defined per 25-foot square area. (625 sq. ft.) as determined on plans prepared by a licensed forester.

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2 - 4 in.	1
>4 - 12 in.	2
>12 in.	4

For the purposes of this section, "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least three (3) saplings less than two (2) inches in diameter at four and one-half (4 ½) feet above ground level for each 25-foot square area. If three (3) saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 3 saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 ½ feet above ground level may be removed in any ten (10) year period.

(3) Pruning of tree branches on the bottom 1/3 of the tree is permitted.

(4) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut covered, or removed, except to provide for a footpath or other permitted use as described in Section N.1.b above.

(5) When the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

Section N.1.b. above does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

3. Outside of the 75' shore setback:

   a. At distances greater than seventy-five (75) feet, horizontal distance, from the normal high-water line of all water bodies, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 ½ feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision shall not apply to the Marine Waterfront District.

4. Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.

5. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

R. Erosion and Sedimentation Control

1. Notification of the Codes Enforcement Officer shall be required for filling, earthmoving and excavation activities described in Section 507.D.2. above. If the CEO determines that unstable soil conditions may result from the activity, he/she shall require that erosion and sedimentation control measures be instituted and shall include, where applicable, the measures described below:

2. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the Codes Enforcement Officer for approval and shall include, where applicable, provisions for:

   a. Mulching and revegetation of disturbed soil.
   b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
   c. Permanent stabilization structures such as retaining walls or riprap.

3. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

4. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

5. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases, permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:

a. Where mulch is used, it shall be applied to a depth of six (6) inches and shall be maintained until a catch of vegetation is established.
b. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
c. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

6. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater, and shall be stabilized with vegetation or lined with rip-rap.

S. Soils

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. In addition, if an on-site investigation for a septic system is needed, a Maine Licensed Site Evaluator shall submit a required report. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed design to counteract soil limitations where they exist.

T. Archaeological Sites

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

U. Administration

1. Permits Required

After July 2, l992, no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the Shoreland Zone in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

A. A permit is not required for the replacement of an existing road culvert as long as:
   a. Not more than 25% longer than the culvert being replaced; and
   b. Not longer than 75 feet and
   c. Provided that adequate erosion control measures are taken to prevent sedimentation of the water, and that the crossing does not block fish passage in the water course.

B. A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

C. Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

2. Permit Application

a. Every applicant for a permit, approval or determination required by the provisions of this Ordinance governing the Shoreland Zone shall submit a written application, including a scaled site plan, on a form provided by the Town and any reasonable and relevant information which shall enable the Coastal Waters Commission or CEO to make the determinations required in Subsection 3 below. Applications shall be submitted to the Codes Enforcement Officer. The Coastal Waters Commission or the Codes Enforcement Officer shall process applications for permits, approvals or determinations required by the provisions of this Ordinance governing the Shoreland Zone according to the procedures described in Section 602(c)(1) of this Ordinance, but may modify those procedures as it deems appropriate to process the particular permit, approval or determination which is sought. All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a

permit hereunder, certifying that the information in the application is complete and correct.

3. The Project Review Board, the Coastal Waters Commission, the Board of Appeals or the Codes Enforcement Officer shall approve an application for a permit, only upon finding that the use, activity or structure complies with all requirements of this Ordinance and that it meets the criteria listed in Section 602.F.1.L. (1) - (7) below.

   No approval shall be granted if the use or structure will violate any other local Ordinance or regulation or any State law which the municipality is responsible for enforcing.

4. Special Exceptions.
   In addition to the criteria specified in Sec.602.F.1.L.(1) –(7) below, excepting structure setback requirements, the Board of Appeals may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that the following conditions are met:
   a. There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
   b. The lot on which the structure is proposed is undeveloped and was established and recorded in the Cumberland County Registry of Deeds before the adoption of the Resource Protection District.
   c. All proposed buildings, sewage disposal systems and other improvements are:
      i. located on natural ground slopes of less than 20%, and
      ii. located outside the floodway of the 100 year floodplain based on the elevation shown on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps.
      iii. The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limited shall not be altered by a variance.
      iv. All structures, except functionally water dependent structures, are setback from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Board of Appeals shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the floodplain, and its proximity to moderate-value and high-value wetlands.

5. Expiration of Permit.
   Permits shall expire one year from the date of issuance if substantial start is not made in construction or in the use of the property during that period. If substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

6. Enforcement.
   The Codes Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record must be submitted by March 1 to the Director of the Bureau of Land Quality Control within the Department of Environmental Protection.

7. Installation of Public Utility Service.
   No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in the Shoreland Zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance, has been issued by the Codes Enforcement Officer. Following installation of service, the company or district shall forward the written authorization to the Codes Enforcement Officer, indicating that installation has been completed.

8. Fines
   Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A, Maine Revised Statutes Annotated, Subsection 4452 as subsequently amended.

Section 508. Sanitary Standards

A. All subsurface sewage disposal systems shall be located in areas of suitable soil and comply with the minimum standards set forth in the State Plumbing Code.

B. No materials of any kind shall be permanently or temporarily placed or deposited directly into or in the flood plains of any river or stream, lake, ponds or tidal waters or on the ice thereof where such material may fall or otherwise find its way into said water courses or tidal waters, nor shall such material be placed or deposited directly in pits, wells or on ground surface except in conformity with municipally approved sites and procedures.

C. A marina shall provide, for use by its customers, shower and toilet facilities and shall also provide an environmentally safe means of removing accumulated waste matter from boats which have self-contained sanitary waste disposal units.

Section 509. Extraction

A. Purpose:

   The purpose of this section is to regulate both new and existing excavations and their accessory uses. Excavations are unique uses because they must be located where the desired natural

resources exist and because they generally must expand if the use is to continue. Existing and proposed excavations, therefore, are and may be adjacent to or within residential districts and may have adverse impacts on surrounding uses due to their potential for producing noise, dust, vibration, traffic and groundwater contamination. These regulations are intended to protect the quality and quantity of ground and surface waters, prevent erosion and sedimentation, provide for the reclamation and rehabilitation of new and existing excavations, minimize any adverse impact of such excavations on adjacent and nearby properties, and insure minimum standards of safety during and after active operations.

It is the intent of this Section to permit existing excavations to continue to operate and to expand. It is also the intent of this section to require rehabilitation of expanded and newly excavated areas. Excavations existing as of January 16, 1990 may continue to exist and expand without rezoning only if they meet the requirements of this Section. New excavations, except for Short Term Excavations, require the creation by the Town Council of a Mining and Extraction Overlay District before the use is permitted; new excavations are subject to the requirements of this Section. Minor expansions, defined under "Existing Excavations", require less extensive review by the Project Review Board. Larger expansions of existing excavations, Short Term Excavations and new excavations require more extensive review because of their potential for creating a greater impact on surrounding properties and the environment and the review is undertaken by the Project Review Board as an extension of the Site Plan Review process.

B. Definitions:

1. Abandoned Excavation: an excavation which does not qualify as an Existing Excavation. In order to operate, it must meet the requirements for New Excavation.

2. Excavated area: any area of land on which excavation, as defined in Section 104 of this Ordinance, is occurring or has occurred.

3. Existing Excavations: an operation where extraction in excess of two hundred (200) cubic yards of earth materials or fifty (50) cubic yards of topsoil or loam has taken place lawfully during each of at least three (3) of the previous five (5) calendar years preceding January 16, 1990.

   An existing excavation may expand and still retain its status as an existing excavation provided that the following limits are not exceeded:

   a. The annual rate of extraction shall not increase by more than (10%) of the average rate per year of the highest three of the previous five (5) calendar years preceding March 7, 1991.

   b. Expansion of the excavated area is limited to a maximum of one acre or 50% more than the size of the existing excavated area as measured around the edge of the excavated area as of January 16, 1990, whichever is less, and any such expansion must remain within the boundaries of the parcel on which the excavation was occurring on March 7, 1991.

c. The number of processing operations shall not increase and there shall be no change in processing activities unless the Codes Enforcement Officer determines that the change will result in a reduced impact on the environment.

Any other increases or changes shall cause reclassification to "Expansion of Existing Excavation," as defined below.

Any excavation which has been determined by written decision of the Codes Enforcement Officer issued prior to January 16, 1990 to have expanded, enlarged or changed unlawfully may qualify for existing excavation status, but limited to the rate of extraction, excavated area and number and types of processing operations, if any, which the Codes Enforcement Officer has determined to be allowed as a lawful nonconforming use, and cannot operate beyond such limitations unless reviewed and approved as an "Expansion of Existing Excavation" under Section 509 (F).

4. Expansion of Existing Excavation: An expansion of the excavated area, annual rate of extraction, or number or types of processing operations exceeding those permitted for "Existing Excavations" as defined above.

5. New Excavation: An excavation which did not exist before January 16, 1990 or does not qualify as an existing excavation. Creation of a Mining and Extraction Overlay District is required for all new excavations except for ponds and Short Term Excavations.

6. Processing Operations: Operations which include, but are not limited to, washing, cleaning, sifting, crushing, blasting, sawing, grinding and polishing of raw materials, and the creation of products such as concrete and asphalt.

7. Short Term Excavation: A New Excavation which is permitted in all districts, is limited to a total lifetime extraction limit of 20,000 cubic yards of earth material, and is limited to a total, consecutive time of two (2) years from date of initial extraction to completion of reclamation. a Short Term Excavation shall be subject to the same requirements as a New Excavation, except that a Short Term Excavation does not require the creation of a Mining and Extraction Overlay District by the Town Council. Processing shall not be permitted.

C. Permit Required

There shall be no excavation not otherwise exempt under Subsection D below unless a permit has been issued under this Section, except that Existing Excavations may continue to operate for 240 days after March 7, 1991 without a permit if a complete application has been filed within 180 days with the Project Review Board as required below. The Project Review Board may grant a time extension of up to two months for each deadline if it determines that the extension is needed to obtain relevant information or if Project Review Board schedules require a time extension.

D. Exemptions: The following activities are exempt from the provisions of this section of the Ordinance:

1. Excavation, the sole purpose of which is to determine the nature or extent of mineral resources, which is accomplished by hand-sampling, text boring or other methods which create minimal disturbance. Test holes shall be filled in immediately after use.

2. Excavation necessarily incidental to construction, alteration, or grading for which a building permit or other construction permit has been issued by the Codes Enforcement Officer, plantings which are accessory to permitted and existing uses, excavations and fill incidental to construction, filling of the earth for gardens and landscaping associated with permitted and existing uses, and normal excavation and fill whose sole purpose is routine maintenance of existing facilities and grades.

3. The removal of less than two hundred (200) cubic yards of earth material and less than fifty (50) cubic yards of topsoil or loam in any one (1) year from any single lot of land, provided such removal does not disturb more than one (1) acre of land.

   The removal of any amount of topsoil or loam from a site is an exempt activity if it is undertaken as part of an approved construction project, is part of normal farm operations or the topsoil or loam is being moved to a contiguous site having the same ownership. In the case of multiple successive excavations on the same property, all such excavations shall be deemed part of a single excavation for all purposes under this ordinance.

E. Existing Excavation Registration Regulations

Within two hundred forty (240) days of March 7, 1991 or a later date if the Planning Board grants a time extension, no Existing Excavations shall continue to operate unless they have been approved by the Planning Board.

If an excavation is not registered or fails to qualify under this Section, it shall be deemed an abandoned excavation and may not resume operations except according to the requirements for New Excavations.

1. Procedures:

   The application shall be reviewed by the Project Review Board. If the application meets the requirements of this Section, the Board shall issue a permit effective for three (3) years. The Project Review Board may hold a public hearing if it deems it necessary to elicit the required information. The Project Review Board may attach such condition(s) as it finds necessary to ensure compliance with the purposes and requirements of this Section.

2. Submission Requirements.

   The following shall be submitted:

a. Fee.

b. Completed application form which shall include the following information:
   (1) Name and address of owner and/or operator.
   (2) Copy of deed of original parcel, map and lot number, lease, if applicable.
   (3) Evidence that this is an existing excavation and that it will continue to operate within the limits of Section 509(B)(3). Evidence of existing excavation status may include receipts, affidavits, photographs or other information.
   (4) Drawing containing the following information: approximate size of parcel, location of excavation, name of road frontage, location of access road, location and size of buffer, existing slope of excavation.
   (5) Information on depth to groundwater.
   (6) Location of surface water, e.g., streams, ponds, brooks, etc.
   (7) Description of reclamation plan for newly excavated areas.
   (8) If the operation will include blasting, a blasting plan prepared by a qualified professional which includes, but is not limited to, an assessment of the potential impact on surrounding areas.
   (9) Location of exposed groundwater.
   (10) Location and description of all processing operations.

3. Additional Information. The Project Review Board may require other pertinent information necessary to determine if the use meets the provisions of this Ordinance.

4. Waivers. The Project Review Board may grant waivers from the required submissions if it determines that the information is not necessary to evaluate the extent of the impact on surrounding properties and the environment.

5. Operating Requirements.

   (a) No further excavation which would increase the amount of standing groundwater shall occur and a plan shall be developed to protect existing exposed groundwater from contamination.
   (b) The excavation, including processing operations, shall meet the standards listed in Subsection G below.
   (c) Topsoil shall be stockpiled and used to revegetate newly exposed areas which shall be reclaimed to a minimum 2:1 slope.
   (d) The operation shall comply with all required State and Federal regulations.

6. Permit Renewal. The applicant shall apply for permit renewal before the expiration date unless the excavation is no longer classified as an “Existing Excavation”. Renewals shall be reviewed by the Staff Review Board according to the requirements of this Section 509.E. The purpose of the renewal shall be to determine compliance with the previously granted permit, status of the reclamation plan and review of future plans.

F. Expansion of Existing Excavations and New Excavations.

No expansion of an existing excavation or creation of a new excavation shall commence unless the Project Review Board grants a permit under this Subsection. Review of a New Excavation shall not commence until a Mining and Extraction Overlay District has been created by Town Council action. The Project Review Board shall review applications according to the procedures and requirements of Sec. 602 (Site Plan Review) of this Ordinance as well as the additional requirements described below.

1. Submissions.

   In addition to applicable Site Plan Review submissions, the following submissions shall be made. The Project Review Board may waive any of these requirements if it determines that the scale of the project is of such size as to make the information unnecessary. The Project Review Board may require other pertinent information necessary to determine if the planned use meets the provisions of this Ordinance.

   (a) Fee,

   (b) Names and addresses of current owner(s) of the property and the current operator; a copy of the deed, and the lease agreement if the operator is not the owner; map and lot number; zoning district; size of parcel,

   (c) A site plan, drawn to a scale no smaller than one inch to one hundred feet, showing the location and boundaries of the property; the boundaries of existing and proposed excavation areas; a boundary survey for any existing and proposed excavation in excess of five (5) acres; the present use of the entire property including any existing excavated areas; present uses of adjacent property; the location of all proposed access roads, parking areas and temporary and permanent structures; the type and location of all existing surface and ground water, including location of existing wells and streams, drainage ways, and depth to groundwater at the site of the proposed excavation as determined by test borings and/or other geotechnical or other methods if acceptable to the Board; location of existing and proposed utility service; signs; lighting; the contours of the land within and extending beyond the boundaries of the parcel for two hundred (200) feet at five (5) foot contour intervals, or at intervals acceptable to the Board; the location and design of all proposed hazardous material storage areas;

   (d) A plan for controlling access to the site.

   (e) An operations statement, which shall include the approximate date of commencement and duration of excavation, proposed phasing of the operation, proposed hours and days of operation, the estimated volume of the excavation, the method(s) of extracting and processing, including the disposition of topsoil, loam, brush and boulders, the equipment proposed to be used in the operations, and the

operating practices proposed to be used to prevent surface and groundwater pollution and minimize noise, dust, air contamination and vibration;

(f) An erosion and sedimentation control plan designed to the standards of the Cumberland County Soil and Water Conservation District; CCSWCD approval shall be required;

(g) A final reclamation plan.

(h) A statement explaining specifically how the applicable performance standards shall be met.

(i) A description of the proposed Performance Guarantee for the reclamation plan.

(j) A hydrogeological study which shows the depth of groundwater throughout the site and establishes that the excavation will not cause any pollution to groundwater and/or surface water.

(k) A traffic study which includes the anticipated maximum estimated volume of traffic into and out of the excavation, the kinds of trucks and equipment which will be going into and out of the excavation, any existing or potential traffic hazards on roads servicing the site and applicant's plans to address them, and the ability of such roads physically to withstand the additional traffic generated by the site. The study shall consider the actual, existing traffic conditions in the vicinity of the excavation.

(l) Names and addresses of property owners within 500' of the property.

(m) If the operation is to include blasting, a blasting plan, prepared by a qualified professional, which includes, but is not limited to, an assessment of the potential impact on surrounding areas.

G. Standards for Operation of Existing Excavations, Expansion of Existing Excavations and New Excavations.

All excavations shall meet the following requirements:

1. A buffer strip of one hundred fifty (150) feet from all public rights-of-way and one hundred fifty (150) feet from all other boundaries of the property is required. The buffer strip is measured from the property boundary to the top edge of the excavation. No excavation shall be permitted within the buffer strip and natural vegetation shall be retained. Topsoil may be stockpiled in the buffer if it is stabilized to prevent erosion and sedimentation. To the extent necessary to protect neighboring uses from dust, noise and unsightly appearance, the Project Review Board may require the applicant to provide additional screening where there is inadequate natural buffer. In those situations, provisions shall be made to provide trees for a visual and acoustical buffer between the

project and adjacent properties and along the road frontage. The number, location, size and type of the trees shall be approved by the board. Alternative plans, such as vegetated berms, may be approved by the Project Review Board if they will provide the required buffer.

No use, other than the access road where it intersects with the entrance to the parcel, shall be permitted within the buffer. No excavation or use shall occur in these buffer strips and no existing excavation or use lawfully located within such buffer areas shall be permitted to expand horizontally within these buffer strips; however, vertical excavation within this already excavated area in the buffer may continue. An applicant may, as part of the application, apply for a waiver of the 150 foot buffer strip in the three instances described below, and the Board shall grant such waiver in the case of (1) two abutting, working excavations, and (2) where the excavation abuts unbuildable land of a public utility provided the excavation remains at least one hundred fifty (150) feet from the public utility's property line furthest from the excavation measured perpendicular to that property line and (3) where any abutting property owner agrees in writing recorded in the Cumberland County Registry of Deeds to reduce or eliminate the buffer strip where the excavation adjoins that abutter's property.

No processing operations shall be located within 300' of a dwelling other than a residence permitted on the same lot under Section 424(B)(2). Existing processing operations located within 300 feet of a dwelling shall be permitted to continue but may not expand in the direction of a dwelling, unless such dwelling is a residence permitted on the same lot under Section 424(B)(2).

2. Excavation shall not extend below an elevation of five (5) feet above the seasonal high ground water table as established by competent, technical data. If the applicant proposes less than a 5 foot separation, all information required by DEP, under its Site Location Authority, 38 MRSA Section 481-490, to review groundwater quality and quantity shall be submitted. If standing water exists in an existing excavated area, no further excavation which could increase the amount of standing water shall occur. The Project Review Board may grant a waiver if it determines that the proposal will not impact groundwater quality and quantity.

3. For existing excavations, the average slope of any cut bank measured from the top of the slope to the toe of the slope shall not be steeper than a horizontal to vertical ratio of 2:1. Any excavation in lawful operation at the effective date of this ordinance whose slopes are steeper than this requirement may maintain, but not increase, such non-conforming slopes. In an expanded or new excavation, the slope for such areas shall not be steeper than 3:1. Quarrying operations may be granted waivers from these requirements if the proposed slopes are stabilized and compatible with the approved reclamation plan.

4. Excavation shall be limited to 6:00 a.m. to 6:00 p.m., Monday through Friday, and 8:00 a.m. to 2:00 p.m. Saturday. The Project Review Board may approve extended hours of operation if it determines that such extended hours will not unreasonably interfere with neighboring residential uses existing at the time of the request.

In the case of emergency need for excavated material, the hours of extraction may exceed those approved by the Project Review Board on no more than two days in any calendar year. Any excavation operations to exceed the approved hours for more than two days require a Temporary Activity Permit pursuant to Section 501 of this Ordinance.

5. Access to the site shall be approved by the Project Review Board and may be limited according to the particular circumstances of the proposed operation; at a minimum, a gate with a lock shall be located at each entrance.

   All access roads which are outside the excavation and within the buffer area, and which connect to public roads or adjoining property, shall be paved and/or otherwise regularly treated with water or calcium chloride spray to minimize dust conditions, as determined by the Project Review Board.

6. Rock and stone crushing, or other processing activities, which may be permitted by the Project Review Board as an accessory use to excavation operations, shall be limited to the hours of 7:00 a.m. to 5:00 p.m. Monday through Friday, and may be prohibited or further restricted by the Project Review Board if it will unreasonably interfere with existing and/or future residential uses. On an annual basis, no more than thirty-three percent (33%) of all aggregate crushed or otherwise processed on the property of such excavation operation may be brought in from a location outside the property.

7. Erosion and sedimentation on site shall be adequately controlled, based on guidelines of the Cumberland County Soil and Water Conservation District; CCSWCD approval shall be required;

8. Sufficient topsoil shall be retained and stockpiled on the site to comply with the approved reclamation plan. Topsoil shall not be removed from the site unless it is not needed after the site has been completely reclaimed or if the Project Review Board determines that an alternative reclamation plan is acceptable.

9. Signs and lighting shall be designed and located to prevent public nuisance conditions or undesirable excess lighting of the neighborhood and the sky. One sign of a maximum size of 24 square feet shall be permitted at the entrance access road. If the excavation is in a residential district, the maximum size of the sign face shall be 12 square feet. The sign shall be wood with minimal down-lighting or no lighting.

10. All potentially hazardous materials (petroleum products, salt, rubbish, etc.) shall be stored on impervious surfaces in watertight containers.

11. Noise. No operation shall exceed the noise levels required by Sec. 515.

12. Odorous and Toxic Matter. The requirements of Sec. 516 shall be met.

13. Electromagnetic Interference. The requirements of Sec. 517 shall be met.

14. Smoke and Particulate Matter. The requirements of Sec. 518 shall be met. In addition, all potential sources of fugitive particulate emissions shall be controlled with water or calcium chloride or other acceptable means so that visible emissions at the source do not exceed 5% capacity. Potential sources include: all unpaved roads and parking areas, all uncovered trucks, all sand and aggregate stockpiles and all crushers and associated equipment. Dust shall not be permitted to drift offsite if it creates a nuisance condition.

15. Vibrations. The requirements of Sec. 519 shall be met. Any blasting shall require Project Review Board review under Sec. 509.F. A plan shall be submitted showing locations and a monitoring plan. Certificates of liability insurance covering the blasting activity in an amount approved by the Town Manager as sufficient to cover any damage reasonably likely to occur shall be submitted.

16. Fire and Explosive Hazards. The requirements of Sec. 520 shall be met.

17. Lighting. The requirements of Sec. 521 shall be met.

18. Water Quality Protection. The requirements of Sec. 522 shall be met.

19. Groundwater. The requirements of Sec. 523 shall be met. In addition, no ditches, trenches, pumping or other methods shall be used to lower the water table to permit more extraction than could occur under natural conditions unless the applicant can prove that there will be no harmful impact on groundwater supplies.

    If excavation has occurred in the groundwater, a plan shall be developed to remedy the situation and the Project Review Board shall review and approve a final plan. If such excavation has occurred in the RP-II District, the property owner shall employ a Certified Maine Geologist who specializes in Hydrogeology to develop a plan to remedy the situation and the Project Review Board shall review and approve a final plan.

    A fine of $500 shall be levied for each day groundwater exposure occurs in new excavations prior to being remedied.

20. Reclamation plans shall meet the requirements of Sec. 509.H. Unless authorized, pursuant to the Natural Resources Protection Act, Title 38, M.R.S.A., Section 480-C as subsequently amended, no part of any extraction operation, including drainage and runoff control features, shall be permitted within seventy-five (75) feet of the normal high-water line of any water body, tributary stream or the upland edge of a wetland in the Shoreland Zone.

H. Reclamation.

The following provisions shall apply to all existing excavations, expansions of existing excavations, and new excavations. A reclamation plan shall be submitted to the Project Review

Board, and the site shall be reclaimed in accordance with the requirements of this Section. The reclamation plan shall include a description of the proposed use of the site after reclamation and the plan shall be designed to be suitable for that proposed use. Any project which will operate for more than five years shall be designed to operate and be reclaimed in phases, if possible. The reclamation work shall be completed within one year of the closing of a site (or a portion of a site with regard to phased reclamation plans).

Reclamation of continuing operations shall be conducted in phases, if possible, so that there is never open more area than is needed to efficiently operate the excavation. Any excavation which is proposed to operate for a period of time in excess of five years shall be designed to be reclaimed in phases. At the time of review, the Project Review Board shall determine the maximum boundary line which may be exposed by excavation before reclamation is begun. Failure to remove more than four hundred (400) cubic yards of material from an excavation within any 24 month period shall trigger the obligation of the excavation operator to commence reclamation. The following requirements shall be met unless the Project Review Board finds that an alternative plan will achieve the soil stabilization, groundwater and surface water protection, buffering and aesthetic effects intended by these regulations.

1. Where an embankment remains after the completion of operations, it shall be at a slope no steeper than (2:1) 2 feet horizontal to one foot vertical for excavated area existing as of March 7, l991 and 3:1 for expanded and new excavation. Quarrying operations may be granted waivers from these requirements if the proposed slopes are stabilized.

2. Exposed slopes shall be stabilized so that no erosion will occur. Loaming, seeding and planting, if required, shall be based on guidelines of the Cumberland County Soil and Water Conservation District. Sufficient topsoil shall be retained on site to complete the site reclamation.

3. Overburdened soil shall be redistributed over the excavation area, or removed from the parcel if not needed for the reclamation plan. All stumps and grubbings shall be removed from the site or disposed of legally. The areas of the excavation with solid or broken ledge rock shall be trimmed of loose rock, and the bottom of the excavation graded to be compatible with the surroundings.

4. Grading and restoration shall be completed in such a manner that it will avoid adverse drainage impacts on adjacent parcels, prevent standing water unless a wetland is created, minimize erosion and sedimentation on the parcel and adjacent parcels, and be compatible with the planned final use of the reclaimed site. The excavation shall be contoured so that sediment is not directed into streams or drainage ways.

5. A performance guarantee in the form of a bond, letter of credit, or other financial instrument satisfactory to the Town Manager covering the cost of the reclamation plan shall be delivered to the Town Manager at the time of Project Review Board approval of the excavation. The amount of the performance guarantee shall be determined by the Project Review Board according to the time schedule for the excavation and rehabilitation, and shall include adjustments for reasonable inflation estimates; the

amount shall include a breakdown of costs of the various stages of reclamation. The performance guarantee shall remain in force until the Codes Enforcement Officer certifies that the site has been rehabilitated according to the approved rehabilitation plan.

Failure to complete the reclamation plan approved by the Project Review Board shall constitute a violation of this Ordinance, subject to enforcement and legal action as provided in Section 601. In addition, if there is a default of any obligation to reclaim an excavation under this Section 509, the Town may call upon the performance guarantee and cause the reclamation plan to be implemented pursuant to the terms of that guarantee.

6. Reclaimed areas shall be guaranteed for a period of eighteen (18) months following the substantial completion of reclamation, during which time the performance guarantee shall remain in full force and effect. A reclamation plan shall state specific time requirements for commencement and substantial completion, and the times may be staggered for phased extraction work.

I. Inspection.

It shall be a condition of any Project Review Board approval pursuant to this Section 509 that the Codes Enforcement Officer and his/her agents and assistants may, at reasonable times and after reasonable notice to the operator of the excavation, enter the property and inspect for compliance with the requirements of this Section 509, with any conditions of approval and with the reclamation plan.

Section 510. Design Review

Buildings and structures located in the Design Review District are subject to the regulations of the Freeport Design Review Ordinance.

Section 511. Signs

All signs shall comply with the Sign Ordinance of the Town of Freeport.

Section 512. Access to Property

A. Each property shall be provided with vehicular access to the property by abutting public or private ways. Private rights-of-ways shall be protected by permanent easements.

B. Where the proliferation of access points from subdivisions, commercial and industrial developments to public ways tends to cause traffic hazards, congestion and other manifestations of strip development, the Project Review Board may require that a developer dedicate a fifty (50) foot strip adjacent to and running the length of the public way to the use of controlled public access and landscaping. Such strip shall not be considered as part of the required setback. If

required, such an access roadway shall be constructed in accordance with minimum Town standards and shall connect in a proper fashion with the roadways of adjoining development.

1. The developer shall file with the Town a performance guarantee in an amount sufficient to defray the cost of improving the 50-foot strip for marginal landscaping or vehicle access. The conditions and amount of such performance bond shall be determined by the Town Manager with the advice of the various municipal departments and agencies concerned.

2. The Town reserves the right to select areas within the 50-foot marginal access for the grouping or placement of signs and traffic directions;

3. The Town reserves the right to designate all ingress and egress points to the public or private way from the 50-foot marginal access as may be needed to meet current and future traffic control needs.

C. Single and two-family dwellings:

Driveways, roads, rights-of-ways, or other means of access from single and two-family dwellings to public or private ways shall not have an average slope in excess of eight percent (8%) within fifty (50) feet of the point of intersection. The angle of intersection between the access road and the way shall not be less than sixty degrees (60), nor to exceed one hundred twenty degrees (120).

D. The following criteria shall be followed for driveways to any use other than single and two family dwellings:

1. No access drive or driveway or other means of ingress and egress shall be located in any residential zone to provide access to uses other than those permitted in such residential zone;

2. All entrance and exit driveways shall be located and designed in profile and grading to afford safety to traffic, provide for safe and convenient ingress and egress to and from the site and to minimize conflict with the flow of traffic and shall not have an average slope in excess of 8% within 50’ of the point of intersection.

3. The dimensions of driveways shall be designed to adequately accommodate the volume and character of vehicles anticipated to be attracted daily onto the land development for which a site plan is prepared.

4. Provision shall be made for convenient and safe emergency vehicle access to all buildings and structures at all times.

5. Any exit driveway or driveway lane shall be so designed in profile and grading and so located as to provide the following minimum sight distance measured in each direction.

The measurements shall be from the driver's seat of a vehicle standing on that portion of the exit driveway with the front of the vehicle a minimum of ten (10) feet behind the curb line or edge of shoulder, with the height of the eye three and five one hundredths (3.5) feet to the top of an object four and twenty-five hundredths (4.25) feet above the pavement.

Allowable Speed (Miles Per Hour)	Required Sight Distance (Feet)
25	160
40	275
45	325
50	350
55	425

6. Where a site occupies a corner of two (2) intersecting roads, no driveway entrance or exit shall be located within fifty (50) feet of the point of tangency of the existing or proposed curb radius of that site.

7. No part of any driveway shall be located within a minimum of ten (10) feet of a side property line. If there is an existing use or structure, the Project Review Board may waive the 10 foot requirement provided the criteria and standards of Section 602, Site Plan Review, are satisfied. However, the Project Review Board may permit a driveway serving two (2) or more adjacent sites to be located on or within ten (10) feet of a side property line between the adjacent sites.

8. Where two (2) or more two-way driveways connect a single site to any one (1) road, a minimum clear distance of one hundred (100) feet measured along the right-of-way line shall separate the closest edges of any two (2) such driveways. If one driveway is two-way and one is a one-way driveway, the minimum distance shall be seventy-five (75) feet.

9. Angles
   (a) Two-way operation. Driveways used for two-way operation shall intersect the road at an angle of as near ninety degrees (90) as site conditions will permit and in no case less than sixty degrees (60) or more than 120 degrees

   (b) One-way operation. Driveways used by vehicles in one (1) direction of travel (right turn only) shall not form an angle smaller than forty-five degrees (45) with a road.

10. Dimensions - The dimensions of driveways shall be designed to accommodate adequately the volume and character of vehicle anticipated to be attracted daily onto the land development for which a site plan is prepared. The required minimum dimensions for driveways are indicated below. Driveways serving large vehicles or large volumes of daily Traffic may be required to have wider driveways.

	One-Way Operation Driveways* Width (feet)	Two-Way Operation Driveways* Width (feet)
3 to 9 dwelling units	10	18
10 dwelling units or over	15	22
Non-residential uses	15	26

*The transition from the edge of the driveway pavement to the street pavement shall be made with a radius of the appropriate dimension to accommodate the tracking of entering or exiting vehicles without encroachment into opposing traffic lanes.

11. Grades - Driveways shall not have a grade in excess of fifteen percent (15%) over the entire length. On arterials the grade shall not be more than five percent (5%) for the first twenty-five (25) feet from the road unless otherwise approved by the Project Review Board. Driveways shall not be located where visibility is limited because of curves or topography.

12. Acceleration Lanes - Where a driveway serves right-turning traffic from a parking area providing two hundred (200) or more parking spaces and the road has an A.D.T. volume exceeding seven thousand five hundred (7,500) vehicles, an acceleration lane shall be provided which is at least two hundred (200) feet long and at least ten (10) feet wide measured from the road curb line. A minimum thirty-five foot curb return radius shall be used from the driveway to the acceleration lane.

13. Deceleration Lanes - Where the same conditions exist as in previous paragraph and a driveway serves as an entrance to a land development, a deceleration lane shall be provided for traffic turning right into the driveway from the road. The deceleration lane shall be at least two hundred (200) feet long and at least ten (10) feet wide measured from the road curb line. A minimum thirty-five foot curb return radius shall be used from the deceleration lane into the driveway.

14. Stacking or Queuing Space Standards for Drive-through Businesses:

    Banks or other commercial uses: Minimum of eight spaces for the first drive-in window and two spaces for each additional window.
    Drive-up Restaurant: Eleven spaces for the drive-up window, with a minimum of five of these spaces designated for the ordering station.

    Stacking or queuing spaces shall be located on-site and shall not be located within the required setbacks. Stacking or queuing spaces shall not interfere with the stall and aisle space requirements as described in Section 514.

Section 513. Corner Clearances

For purposes of traffic safety in all districts, no building, structure or visual obstruction may be erected and no vegetation may be maintained between three (3) to ten (10) feet above the plane through the curb grades of intersecting streets within a triangle, two sides or which are the edges of the public ways for twenty (20) feet measured from their point of intersection or in the case of rounded street corners, the point of intersection of their tangents.

Section 514. Off-Street Parking and Loading

A. Purpose

The purpose of this section is to allow flexibility in addressing vehicle parking, present a menu of strategies to solve parking issues, maintain and enhance a safe and efficient transportation system that minimizes the amount of land converted to impervious surface for parking purposes, and to ensure that off-street parking demands associated with new development or re-development will be met without adversely affecting other nearby land uses and surrounding neighborhoods.

B. Off-Street Parking

1. Off-street parking shall be considered as an accessory use when required or provided to serve conforming uses located in any district. Except as otherwise provided in Section 514.B.10.f, no existing off-street parking and loading spaces shall be eliminated if the result will be to make the use more nonconforming in terms of the number of off-street parking and loading spaces required in the existing Ordinance.

2. Where several uses occupy a single structure or lot, the total required parking shall be the sum of the requirements of the individual uses, except in the Village Mixed Use Districts (VMU-1 VMU-2 and VMU-3) where the requirement shall be ninety percent (90%) of the sum of the requirements of the individual uses if the parking is restricted, for shared parking the requirement shall be seventy-five percent (75%) and may be reduced to 70% if parking lots on adjacent properties are connected. In any district, except the VC-1 District, the Project Review Board may reduce the required parking if the applicant can demonstrate that the variety of uses have different peak parking demands.

3. In the event a particular building or use does not fit exactly into any of the categories listed in the Section, the Codes Enforcement Officer shall apply the requirements of the category which he deems to be most closely analogous.

4. Required parking spaces shall be available for the parking of vehicles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of vehicles used in conducting the business or use (unless required in the provisions below), and shall not be used for sale, repair or servicing of any vehicle.

5. Off-street parking in compliance with the following minimum requirements shall be provided and maintained for new construction, expansion of existing uses or structures, and changes of use in all districts- except the Commercial Districts I, III, and IV as allowed in Sec. 514.6 listed below. In all Districts except the VC-I District, the Project Review Board may allow a reduction in the number of spaces constructed provided the required number of spaces can be constructed on the property while meeting all other space requirements of that District. The applicant must demonstrate that the additional spaces are not necessary, and the Project Review Board shall attach a condition of approval stating that the town may require that the spaces be constructed if additional parking is needed to correct a parking problem on the site.

   For the purposes of this section, the change of an existing building in the VC-I District from retail trade to a restaurant or from a restaurant to retail trade shall not be considered a change in use provided the building is located on a lot which does not abut a lot in residential use. In case of expansion of an existing use or structure which is already lawfully non-conforming as to parking, additional parking must be provided for the expansion only and shall be in addition to the existing parking spaces which shall be retained. If a structure is demolished and a new structure with a different use is constructed, or a use ceases for a period of eighteen months, the property shall meet the current parking requirements of this Ordinance. All major fractions of parking area shall require additional parking spaces.

6. In the Commercial Districts I, III, and IV,
   a. where construction of new buildings or additions to existing buildings or a change of use is proposed, the Project Review Board shall establish the parking requirement for such structures or uses. The parking requirement shall be based upon a parking analysis submitted by the applicant. In making a decision, the Project Review Board may require a peer review of the parking analysis.

   b. the parking requirement may be met on the site, or within 300 feet of the property provided evidence of legal use of the parking spaces for the duration of the use is submitted and that the sharing of the spaces will not create a shortage of parking spaces for any uses. In considering a shared parking arrangement, the Board may consider the typical hours of operation of the uses, seasonal fluctuations, the amount of parking needed for customers versus employees, and so on.

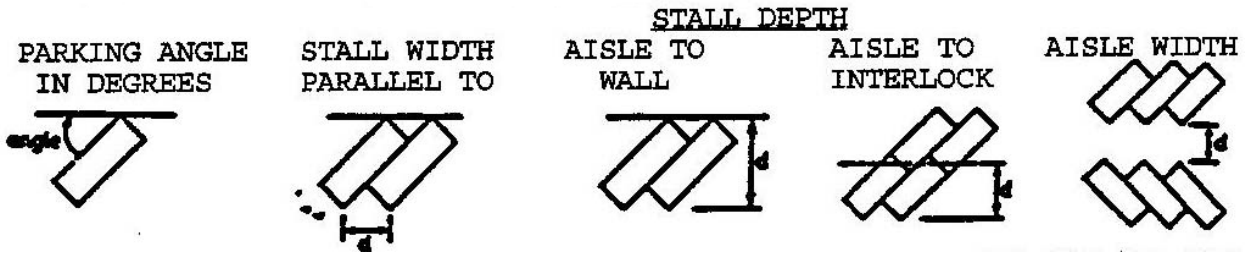
Dwellings:	In the V-1, VC-2, VC-3, VC-4, and MDR-2 Districts the following shall apply: Single family – 2 spaces, two-family and multi-family: 1 bedroom unit – 1.25 spaces per unit or major fraction thereof, 2 bedroom unit -1.75 spaces per unit or major fraction thereof, 3 bedroom unit- 2 spaces for the first three bedrooms with .5 spaces per bedroom beyond 3 bedrooms; units restricted to senior housing – 1 space per unit, multi-family units shall provide 1 space per 5 units for guest parking.

	In the VC-1 District, multi-family: 1 bedroom unit – 1 parking space, 2 bedroom unit – 1.75 parking spaces, 3 bedroom unit – 2 spaces for the first three bedroom and .5 spaces per bedroom beyond 3 bedrooms, units restricted to senior housing – 1 space per unit, multi-family units shall provide 1 space per 5 units for guest parking. All other districts: 2 parking spaces per dwelling unit. In all cases, a garage may be counted as a parking space. *{Amended, Effective 09/17/13}*
Parking structures	1 space per 250 square feet of gross floor area or major fraction thereof, for uses meeting the parking requirement in a parking structure regardless of the standards listed in this Section 514, except that this requirement is waived for "indoor and outdoor arts centers". *{Amended, Effective 04/07/09}*
Motels, Tourist Homes, Rooming Houses, Hotels, Bed and Breakfast Inns, Inns:	1 parking space for each guest room; plus1 parking space for each overnight employee based on the expected average overnight employee occupancy and, in addition, adequate parking based on the standards supplied in this section, shall be provided for restaurant, meeting rooms, auditoriums and other activities which are accessory to the principal use.
Schools:	
Nursery School & Day Care Home & Center:	1 parking space for each teacher & aide;
Elementary Schools:	1 parking space for each adult employee plus 10 parking spaces;
Junior High Schools:	1 parking space for each adult employee plus 6 parking spaces;
Senior High Schools:	1 parking space for each adult employee plus 25 parking spaces for each 100 students or major fraction there of total enrollment.
Commercial Schools:	1 parking space for each .75 students at maximum enrollment plus one space for each instructor
Hospitals, Nursing Homes:	1 parking space per 3 beds and 1 for each employee based on the expected average employee occupancy.
Public Assembly-Indoor, Private Assembly, Commercial Recreation-Indoor, Outdoor Recreation School:	1 parking space for each 3 seats or for each 100 square feet or major fraction thereof of assemblage space if no fixed seats;
Marina	Minimum of 30 parking spaces *{Corrected, Dec 2008}*
Community Centers and Services	In designated growth areas, 1 parking space for each 235 square feet of building excluding area designated for storage when bicycle racks are provided; on-street parking spaces created for this use within 700' of the parcel can be counted toward meeting this standard, provided at least one third of the total required parking spaces are provided on the site. Outside of designated growth areas, 1 space per 300 square feet of building

Retail Trade, Ship Chandlery, Local Business Sales and Service, Commercial Fishery:	1 parking space for each 150 square feet, except in Commercial Districts I, II and IV and the Local Business District the requirement shall be 1parking space for each 200 square feet or major fraction thereof, of gross floor area, plus 1 parking space for each employee, based on the highest expected average employment. For retail trade and commercial sales and service, the number of employees shall be calculated using the formula of minimum of one employee per 1,000 square feet or major fraction thereof of gross floor area of building. For uses with less than 1,000 square feet of gross floor area of buildings, a minimum of one employee parking space is required.
Furniture/Large Appliance Showroom:	1 parking space for each 500 square feet or major fraction thereof of gross floor area.
Bowling Alley:	4 parking spaces for each bowling lane.
Restaurants, Snack Bars, Eating and Drinking Establishments:	In the Village Commercial I District (VC-I), 1 customer parking space for each 150 square feet or major fraction thereof of gross floor area plus the greater of 1 employee parking space for each employee based on the highest expected average employment or 1 employee parking space for each 1,000 square feet or major fraction thereof of gross floor area. In all other zoning districts, 1 parking space for every 2 seats or stools (indoor & outdoor), and 1 space for each 50 square feet of dining or drinking area where there are no fixed seats with a minimum of 10 spaces.
Offices, Professional & Public Buildings, Banks:	1 parking space for each 300 square feet, or major fraction hereof, of gross floor area. In no case shall there be less than 1 parking space for every 1 ½ employees.
Public Utilities, Manufacturing/Processing, Boat Yard, Warehouse & Storage Facilities, Construction Services, Truck Facility:	1 parking space for each 1.2 employees based on the highest expected average occupancy or 1 space for each 1,000 sq. ft. of gross floor area, whichever is greater, plus one space for each vehicle used in conduct of the enterprise.
Commercial Recreation-Outdoor:	Spaces equal in number to one-third of the maximum design capacity in persons.
Golf Courses:	8 per hole and 1 for each 35 sq. ft. of gross floor area in assembly buildings connected with the course plus 1 for each 200 sq. ft. of gross floor area for adjoining commercial uses.
Golf Driving Ranges:	1.5 parking spaces for each tee.
Outdoor Game & Athletic Courts:	2 parking spaces for each court.
Miniature Golf Courses:	3 parking spaces per hole, or 2 for each hole plus the requirements for all accessory uses, whichever is greater.
Religious Institutions:	Spaces equal in number to one-third of the capacity in persons of the main sanctuary or auditorium except in the VC-I District there is no parking requirement.

Auto Service Station and Auto Repair Service Garage:	2 parking spaces for each enclosed bay and 1 space for each day shift employee.
Medical or Dental Clinic:	3 parking spaces per examination or treatment room.
Neighborhood Shopping Center:	1 parking space for each 250 square feet of gross floor area.
Convenience Store:	1 space per 200 sq. ft. of gross floor area for the first 1,000 sq. ft. and 3 spaces per each additional 500 sq. ft. of gross floor area.
Handicapped-Accessible Spaces:	Any establishment which caters to and/or offers its goods, facilities or services to the general public shall maintain at least one of its required parking spaces as an accessible space for handicapped persons.
Open Space *{Amended, Effective 12/02/14}*	The number of spaces for any open space shall be based on a recommendation by the owner of the open space. The Project Review Board may make a recommendation on the number of spaces needed for a project under their review that includes open space. These parking spaces are subject to the dimensional standards of Section 514.6.b of this Ordinance.

7. PARKING DIMENSIONS



				one way (a.)	two way (a.)
30 Degree 9’ Stall	18.0	17.0	13.2	12.0	N/A
45 Degree 9’ Stall	12.7	19.4	16.3	12.0	N/A
60 Degree 9’ Stall	10.4	20.5	18.3	16.0	N/A
90 Degree 9’ Stall	9.0	18.5	18.5	24.0	24.0

NOTE: d= Dimensions in feet Stall Dimensions Standard 9.0’x18.5’

a. Aisle and stall dimensions shall be measured as shown in 514.B.6; except that the Project Review Board may approve an aisle width of 22’ for 90 degree parking stalls in parking

lots in the Village Mixed Use Districts 1, 2 & 3. Dimensions specified for one-way aisles apply only when diagonal parking is provided from each side of the aisle and all such aisles are designated as "One Way" with adequate signage and marking to direct the traffic movement.

b. Parking areas for open spaces are exempt from the parking space dimensional standards of this section. Instead, the design of all parking areas must be reviewed and approved by the Freeport Town Engineer. In the case of parking areas that are owned by the Town of Freeport, the Town Engineer may also design the parking area. In addition, if parking spaces are proposed in a public right-of-way, the Freeport Traffic and Parking Committee must review and endorse the proposed parking plan. *{Amended, Effective 12/02/14}*

c. Angle, interlock parking shall only be used when a sufficient physical barrier is provided to prevent vehicular contact across the interlock.

d. Off-street parking required to serve residential uses shall be located on the same lot as the residential use served except that the Project Review Board may allow residential off-street parking to be located on another lot within three hundred (300) feet of the residential uses served as measured along lines of public access. Such parking areas shall be held under the same ownership as the residential uses served, and evidence of such ownership shall be required.

e. (1) Accessible spaces shall be located on the shortest accessible route of travel from adjacent parking to an accessible building entrance. Curb ramps to the accessible route shall be provided at the end of all access aisles.

(2) Accessible spaces shall contain the minimum required dimensions plus a five (5) foot wide striped access aisle. Two accessible spaces may share a common access aisle. A van-accessible space shall be a minimum of sixteen (16) feet wide and provide 98 inches of vertical clearance.

(3) Four (4%) percent of the total required parking spaces shall be accessible. At least one of these spaces shall be van-accessible. Each space shall be marked with the International Symbol of Accessibility. In addition, "Van-Accessible" signs shall be located at van spaces. All signs shall be located so they cannot be obscured by a vehicle parked in the space.

(4) Instead of the designs specified in Subsections (3) above, the "Universal" Parking Space Design may be substituted for all required accessible parking spaces. The Universal Parking Space design shall have a minimum length of 18 ½' and a minimum width of eleven (11) feet with a common five (5) foot access aisle. Each space shall be marked with only the International Symbol of Accessibility.

f. Certificate of Legal Non-conformance

(1) The purpose of this section is to specify the conditions which will permit existing facilities, according to the requirements of this Ordinance, to achieve legal non-conformance with the parking requirements of this Ordinance in order to conform to the parking requirements for handicapped accessibility of federal, state and local laws.

(2) If an existing facility decreases its existing parking spaces by a single parking space or up to 4% of its existing required total number of parking spaces by either re-striping and/or resigning only, the modification shall not be subject to site plan review, and, upon application to the Codes Enforcement Officer, the owner of the facility shall be issued a Certificate of Legal Non-conformance with respect to the requirements for number of parking spaces contained in Section 514.B.5 of this Ordinance.

(3) If an existing facility decreases its existing parking spaces by a single parking space or up to 4% of its existing required number of parking spaces by modifications, other than restriping and/or resigning, that require and receive site plan approval, upon application to the Codes Enforcement Officer, the owner of the facility shall be issued a Certificate of Legal Non-conformance with respect to the requirements for number of parking spaces contained in Sec. 514.B.5. of this Ordinance.

8. Except as otherwise provided in Section 514.B.10.f., off-street parking required to serve non-residential uses shall be located on the same lot as the non-residential use served, or within three hundred (300) feet measured along lines of public access. Such parking areas shall be held under the same ownership as the non-residential use, and evidence of such ownership shall be required. The municipality may provide parking subject to availability and lease it to individual businesses which cannot comply with parking requirements. Parking for A & B buildings as defined in the Freeport Design Review Ordinance in the VC-II District may be provided according to the requirements of Section 413.E.2.

9. Where off-street parking for more than six (6) vehicles is required or provided, the following construction requirements shall apply:

   a. Appropriate driveways from streets or alleys, as well as maneuvering areas, shall be provided. Location and width of approaches over public sidewalks shall be approved by The Codes Enforcement Officer. When access to parking areas is available from more than one street, the location of points of ingress and egress shall have the approval of the Project Review Board;

   b. The surface of driveways, maneuvering areas and parking areas shall be uniformly graded with a sub-grade consisting of gravel or equivalent materials at least six (6) inches in depth, well-compacted and with a wearing surface equivalent in qualities of compaction and Durability to fine gravel;

   c. A system of surface drainage shall be provided in such a way that the water runoff shall not run over or across any public sidewalk or street;

d. Where artificial lighting is provided, it shall be shaded or screened so that no light source or unreasonable glare shall be directly visible from outside the area and its access driveways;

e. The developer shall provide forty (40) square feet for each patron parking space planned. This 40 feet shall be used to provide curbed and paved divider strips between parking aisles in order to provide safe pedestrian access between rows of parking vehicles, proper traffic flow and lighting and landscaping. Where feasible, such divider strips shall be oriented at right angles to the main entrance of the principal building or used in order to provide for maximum pedestrian convenience and safety.

10. Except in the Village Commercial I District, parking areas with provision for five (5) or more vehicles and serving any non-retail commercial and industrial use shall be located, when possible, in areas not visible from any public way.

11. Except as provided in Section 514.B.10.f, but otherwise notwithstanding anything to the contrary contained in the Ordinance, in the Village Commercial I District, the off-street parking requirements for non-residential uses in the VC-I District shall be located in the VC-I District and shall be subject to the following conditions:

    a. If shared parking is used, employee parking must be located off site, and the employer shall maintain and enforce a parking policy which requires employees to use the designated, off-site parking area(s);

    b. Customer parking within the VC-I District may be leased from the municipality;* as per the Freeport Traffic and Parking Ordinance, Chapter 48, Article V Leased Parking Standards.*

    c. All such parking areas shall be held under the same ownership or leased from the municipality;

    d. All parking spaces shall be paved, striped, plowed and well maintained so that the spaces are useable;

    e. If any of these conditions are not met or if they lapse, the Occupancy Permit shall be automatically revoked and it shall be the responsibility of the Codes Enforcement Officer to invoke the requirements of Section 601.

    f. Where the Freeport Town Council has approved specific recommendations for improving traffic circulation or parking patterns and a property owner, upon the request of the Town Council, in order to implement those recommendations, makes improvements or alterations which result in the loss of parking spaces located in the VC-I District which would otherwise be available to satisfy the off street parking requirements of this Ordinance, the Project Review Board, applying the criteria of Section 602.F.1. of this

Ordinance, may approve the use of off-site parking spaces to satisfy the off-street parking requirements of this Ordinance, provided that:

(1) Such parking spaces are shared parking and are located in a municipal facility;
(2) Such municipal facility is located on a parcel zoned Village I and is contiguous to the Village Commercial I District; and
(3) Such parking spaces are not being utilized to satisfy off-street parking requirements for some other property.

* Leased parking requirements are regulated under Chapter 48, Traffic and Parking Ordinance, Article V, Leased Parking Standards. See insert at end of Zoning Ordinance.

B. Off-Street Loading Standards

1. The following minimum off-street loading bays, berths or spaces shall be provided and maintained in the case of new construction, alteration and changes of use for non-residential uses requiring the receipt or distribution of material or merchandise. In case of expansion of an existing use or structure which is already lawfully non-conforming as to these off-street loading standards, additional bays, berths or spaces must be provided for the expansion only and shall be in addition to the existing bays, berths or spaces which shall be retained.

   Business and Professional Buildings over 30,000-100,000 sq. ft.: *1 bay*
   Other non-residential uses over 5,000 sq. ft. of gross floor area: 5,001-40,000 sq. ft.: *1 bay*
   Each additional 60,000 sq. ft. or major fraction thereof: *1 bay*

2. Each loading bay shall have minimum dimensions of seventy (70) feet in length by fourteen (14) feet in width and shall have a minimum height clearance of 14 feet and may be located either within a building or outside and adjoining an opening in the building. In cases where multiple, contiguous loading bays are proposed, the dimensions of the first and last loading bay shall be 14’ by 70’. Loading bays between the first and last loading bays may be reduced to 12’x70’ and shall maintain a minimum height clearance of 14’. Every part of all loading bays shall be located completely off the street. In case of trucks, trailers, or other motor vehicles larger than the dimensions of the minimum loading bay habitually serving the building in question, additional space shall be provided so that such vehicles shall park or stand completely off the street.

3. Off-street loading areas shall be logically and conveniently located for bulk pick-ups and deliveries, and accessible to expected vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.

4. The provision of this Section for off-street loading shall not be construed as prohibiting incidental curbside business deliveries, dispatches or services provided that they are in compliance with all applicable State and local traffic regulations.

Section 515. Noise Regulation

A. Noise is required to be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness. The average dba count resulting from any activity shall not exceed at any point on or beyond the lot line the maximum levels as set forth in the following table:

District	Average dba (day-night)
1. Resource Protection I and II, Island, Rural Residential I & II	55 - 45
2. Medium Density Residential I & II	60 - 50
3. Medium Density	65 - 55
4. Village I and Village II	70 - 55
5. Village Commercial I, II and III, Commercial I, II and III, Marine Waterfront and Local Business	75 - 55
6. Industrial I, II	85 - 60

The average dba count for any activity shall be computed based on samples taken during hours of operation at intervals over a 24-hour period. Daytime hours extend from 6:00 a.m. to 8:00 p.m.

B. During the peak activity of 60 minutes in a 24-hour period, a noise may not exceed these average dba counts by more than 15 dba in any zone.

C. If a lot abuts a district requiring a lower noise level, the maximum permitted level for that lot shall be reduced by 5 dba; however, the volume of sound shall not exceed 60 dba or whichever is lower at lot boundaries adjacent to residential districts.

D. For activities of a temporary nature unable to meet these requirements, a special permit must be obtained from the Codes Enforcement Officer. The noise standards shall not apply to the temporary use of such machinery as chain saws, lawn mowers and snowmobiles.

Section 516. Odorous and Toxic Matter

The emission of odorous or toxic matter in such quantities as to be readily detectable at any point along lot lines so as to produce a public nuisance or hazard is prohibited. Such activities shall comply with applicable minimum Federal, State and local requirements and detailed plans shall be submitted to the Codes Enforcement Officer for approval before a permit is granted. Violations of this standard shall be considered as public nuisances.

Section 517. Electromagnetic Interference

No use, activity, or process shall be conducted which produces electromagnetic interference in the transmission or reception of electrical impulses beyond the lot lines, including radio and television. In all cases Federal, State and local requirements shall be met. Violations of this standard shall be considered as public nuisances.

Section 518. Smoke and Particulate Matter

In all cases, air pollution control and abatement shall comply with applicable minimum Federal, State and local requirements, including receipt of all required permits, and detailed plans shall be submitted to the Codes Enforcement Officer for approval before the permit is granted. The maximum permitted density of smoke, dust and other particulate emissions during normal operations of any activity shall not exceed the maximum allowable under the regulations of the Maine Department of Environmental Protection. In case of doubt, the Codes Enforcement Officer may employ such independent, recognized consultant necessary, at the expense of the applicant, to assure compliance with performance standards and all other requirements of this Ordinance related to the public health, safety and welfare and the abatement of nuisances. Violations of this standard shall be considered as public nuisances.

Section 519. Vibrations

No activity shall, as a result of normal operations, cause or create a vibration on a lot line or a boundary line which is in excess of that indicated in the table below:

	Vibration	Displacement (in.)
Frequency(cps.)	Steady State	Impact
Under 10	.0005	.0010
10 - 19	.0004	.0008
20 - 29	.0003	.0006
30 - 39	.0002	.0004
40 and over	.0001	.0002

Buildings shall not be subject to a velocity from blasting in excess of two inches per second at the building. Violations of this standard shall be considered as public nuisances.

Section 520. Fire and Explosive Hazards

A. The Fire Chief shall determine if a building or structure shall have a sprinkler system or a fire suppression system meeting requirements of the BOCA Code and the National Fire Protection Act adopted by the Town of Freeport. The fire alarm system shall comply with the Freeport Alarm Ordinance with a tie-in to the Freeport Fire Dispatch Center. When access to or within a structure or an area is unduly difficult because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the key box will be installed in an accessible location designated by the Fire Chief. The key box shall be a type approved by the Fire Chief and shall contain keys to gain necessary access as required by the Fire Chief. The key box will be connected to a local fire alarm that will summon the Fire Department when the box is opened or tampered with. The alarm will be transmitted to the Fire Department Dispatch Center.

B. Storage, utilization, or manufacture of solid materials or products including free burning and intense burning is permitted provided that said materials or products shall be stored, utilized, or manufactured within completely enclosed buildings having incombustible walls and protected throughout by an automatic fire extinguishing system.

C. The storage, utilization, or manufacture of flammable liquids, or materials which produce flammable or explosive vapors or gases shall be permitted in accordance with the following table, exclusive of storage of finished products in original sealed containers, which shall be unrestricted. When flammable gases are stored, utilized or manufactured, and measured in cubic feet, the quantity in cubic feet (S.T.P.) permitted shall not exceed 300 times in the quantities listed below where the factor 300 is the volume in cubic feet occupied by one gallon of the liquids.

D. Tanks or other underground storage facilities abandoned or not in use for a period exceeding one year shall be removed or otherwise assure safe conditions are present. In all cases, applicable Federal, State, and local regulations shall prevail as to the most appropriate method available to provide the best safeguards.

TOTAL CAPACITY OF FLAMMABLE MATERIALS PERMITTED (in gallons)

Industries Engaged in Storage Only	Above Ground	Under Ground
Material with closed cup flash point of:		
Over 187 degrees F	Prohibited	100,000
105 - 187 degrees F	Prohibited	40,000
Under 105 degrees F	Prohibited	20,000
Industries Engaged in Utilization & Manufacture of Flammable Materials		
Material with closed cup flash point of:		

Over 187 degrees F	50,000	100,000
105 - 187 degrees F	20,000	40,000
Under 105 degrees	5,000	10,000

Section 521. Lighting

A. No lights shall be placed in view of any public roadway or street so that its beams or rays are directed at any portion of the roadway when the light is of such brilliance and so positioned as to impair the vision of the driver of any motor vehicle upon said roadway.

B. No rotating or flashing lights or signals, except safety signaling devices as required by law, are permitted.

C. Adequate buffers using either the natural landscape or artificial screening are required to prevent unnecessary or undesirable light from being directed beyond lot lines onto adjacent properties.

D. When site plan review is required, the applicant shall submit plans for all proposed exterior lighting, drawn at a scale of at least one inch equals twenty feet. These plans shall include the location, type of lighting equipment, manufacturer's specification sheets and point-by-point calculated illuminance values noted on a ten (10) foot grid (maximum).

   The following design standards shall be followed unless waived by the Project Review Board if it finds that, due to special circumstances of a particular plan, they are not necessary to provide for the public health, safety and general welfare.

   1. The style of the light and light standard shall be consistent with the architectural style of the principal building.
   2. The maximum height of freestanding lights shall be the same as the principal building, but shall not exceed twenty (20) feet.
   3. All lights shall have shielding to provide a beam cut-off at no more than 75 degrees above nadir.
   4. Where lights along property lines will be visible to adjacent residences, the lights shall be appropriately shielded.
   5. Freestanding lights shall be so located and protected as to avoid being easily damaged by vehicles.
   6. Lighting shall be located along streets, parking areas, at intersections and crosswalks and where various types of circulation systems merge, intersect or split. Lighting shall be consistent with the guidelines and recommendations published by the Illuminating Engineering Society of North America for the given area.
   7. Pathways, sidewalks and trails shall be lighted with low or mushroom-type standards.
   8. Stairways and sloping or rising paths, building entrances and exits require illumination.
   9. Lighting shall be provided where buildings are set back or offset from the street.
   10. The following lighting criteria shall not be exceeded

a. Parking Lots: an average of one and five-tenths (1.5) footcandles throughout, a maximum of six (6) footcandles, and a maximum-to-minimum uniformity ratio of twenty to one (20:1) footcandles.
b. Intersections: an average of three (3) footcandles, a maximum of six (6) footcandles, and a maximum-to-minimum uniformity ratio of twenty to one (20:1) footcandles.
c. Maximum at property lines: one-tenth (0.1) footcandle.
d. The maximum illuminance level at grade along the property line shall be 0.1 footcandles.

11. When the activity is not in use, lighting shall be turned down to security level or turned off.

Section 522. Water Quality Protection

No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that runoff, seep, percolate, or wash into surface or ground waters so as to contaminate, pollute or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant or aquatic life.

Section 523. Groundwater Protection

No development or use of land shall result in an unreasonable impact on ground water quality or quantity.

A. Impact on ground water quality

No development or use of land shall result in the existing ground water quality becoming inferior to the physical, biological, chemical, and/or radiological levels for raw and untreated drinking water supply sources specified in the Maine State Drinking Water Regulations, pursuant to 22 MRSA 601. If the existing ground water quality is inferior to the State Drinking Water Regulations, the developer or land owner will not degrade the water quality any further.

B. Impact on ground water quantity

1. No development or use of land shall lower the groundwater table beyond the limits of the proposed development more than 10 feet below the level in the undeveloped state, cause salt water intrusion, cause undesirable change in ground water flow patterns, or cause ground subsidence of more than 1 inch on any abutting property.

2. Measures to minimize loss of recharge and to enhance recharge shall be undertaken to the extent possible. Developers of sites having over 10' depth of sand and gravel shall be required to explore ways of enhancing soil recharge as part of the development scheme.

C. The Project Review Board may waive the requirements of Section 523(B)(1) to allow the development of a well or wells by a water utility, as defined in 35A M.R.S.A. ' 102(22), provided that:

1. The utility demonstrates to the Project Review Board that in the event a water well, existing at the time of the request for a waiver and located on any property not owned by the utility, should become adversely affected by the utility's well or wells, the utility will provide service to the affected property owner and will install the service connection at the utility's expense or, alternatively, will develop an alternate supply of well water for the affected property owner at the utility's expense, and

2. As a condition of site plan approval, the utility conducts a survey of potentially affected water wells and provides written assurances to the owners of such potentially affected water wells that it will perform its obligations under subparagraph (1) above. The Project Review Board may also require the utility to provide a financial guarantee in a form and amount satisfactory to the Project Review Board to ensure performance of the utility's obligations under subparagraph (1) above, if the Project Review Board determines that circumstances warrant a financial guarantee.

Section 524. Mobile Home Parks

A. Compliance with Laws and Ordinances

Except as otherwise provided in this section, new mobile home parks and expansions of existing mobile home parks shall comply with all State laws and ordinances of the Town of Freeport.

B. Lot Size, Width, and Density

Mobile home park lots shall meet the following lot size, width, and density requirements:

1. Lots served by public sewer:
   Minimum lot area - 6,500 sq. ft.
   Minimum lot width - 55 ft.

2. Lots served by individual subsurface sewage disposal system:
   Minimum lot area - 20,000 sq. ft.
   Minimum lot width - 100 ft.

3. Lots served by a central subsurface wastewater disposal system:
   Minimum lot area - 12,000 sq. ft.

Overall density of the park - No less than 20,000 sq. ft. per mobile home
Minimum lot width - 75 ft.

4. Where lots front on a curved right-of-way or are served by a driveway, the lot width shall be measured in a straight line perpendicular to the front of the manufactured home.

5. Lots within a shoreland zoning district shall meet the lot area, lot width, setback, and shore frontage requirements for that district.

6. The overall area of the mobile home park shall equal at least the sum of;

    a. The combined area of all mobile home lots including the density requirements for lots served by a central subsurface wastewater disposal system;
    b. The area required for road rights-of-way;
    c. The area required for buffer strips;
    d. For parks served by public sewer, an open space area for storage and recreation equal to 10% of the combined area of the individual lots, if required by the Project Review Board as provided by Section 25-904.1. of the Freeport Subdivision Ordinance; and
    e. The area within the shoreland setback.

C. Lot Setbacks

1. The following lot setbacks shall apply to all manufactured homes and accessory buildings:

Front setback:	20 feet
Side setback:	20 feet
Rear setback:	10 feet

If these requirements conflict with the requirements of the shoreland zone, the stricter standards shall apply. If a lot is on a public road, the setback shall conform with the residential setback requirements applicable to residential dwelling units in the district.

2. So as to avoid monotony and sameness, the Project Review Board may allow the front setback on a private road within a mobile park to be varied provided that no home may be closer than 10 feet from the right-of-way and the average distance is at least 20 ft. for all units.

3. Carports of non-combustible materials are not subject to side setback requirements.

4. The Project Review Board may reduce lot side yard setbacks to 5 ft. (or less) provided a distance of 25 ft. is maintained between units.

5. Distance between Homes

A minimum 20 foot separation shall be maintained between all manufactured homes in all directions.

D. Mobile Home Park Lots; Ownership and Use

The mobile home park lots shall be shown on the site plan and the subdivision plan for the mobile home park. All the land in the mobile home park shall be owned by the same person or persons and the mobile home park lots may not be sold or leased individually, except as approved by the Project Review Board pursuant to subsection (q) of this Section 524. No individual interests in the mobile home park lots may be created or conveyed, except that individual mobile home pads may be leased to the owners or occupants of the homes placed thereon. Mobile home park lots are allowed only in mobile home parks approved by the Project Review Board in compliance with this Section 524, and shall not be considered lots for any other purpose under this Zoning Ordinance.

E. Road Standards

1. Roads within mobile home parks which are to be offered for acceptance to the community shall meet the minimum road standards of the Street Acceptance and Standards Ordinance of the Town of Freeport.

2. Privately owned roads within the mobile home park shall be designed by a Professional Engineer, registered in the State of Maine, and shall be built according to the requirements described below. Where the road standards duly promulgated by the State Manufactured Housing Board conflict with the standards described below, the Manufactured Housing Board's standards shall apply.

3. The street system of a mobile home park shall intersect with a public street.

4. Mobile home park roads which intersect with a public street shall meet the intersection requirements of the Freeport Zoning Ordinance and the Street Acceptance and Standards Ordinance of the Town of Freeport.

5. Mobile home lots shall have vehicular access only to an interior road created for the mobile home park.

6. Right-of-way and Pavement Width

    a. Privately owned roads within the park shall have a minimum right-of-way of 23 feet and the Project Review Board may require a minimum paved surface of 20 feet. The minimum paved width of one-way road shall be 14 feet. On-street parking shall be prohibited along 14-foot, one-way streets and 20-foot two-way streets.

    a. Parking lanes shall be a minimum of 8 feet in width, if provided.

c. Cul-de-sac turnarounds shall have a minimum radius of 50 feet at the outer edge of the pavement, exclusive of any parking areas.

F. Open Space

1. For mobile home parks served by a public sewer, an area amounting to no more than 10% of the total area devoted to individual lots shall be set aside for open space and/or recreation, if required by the Project Review Board. Such space shall be accessible to and useable by all residents of the park. Parking spaces, driveways and streets and buffer areas are not considered useable open space, but community recreation buildings, common storage facilities, pools and outdoor recreational facilities are considered as open space.

2. To the maximum extent possible, undeveloped open space shall be left in its natural state. Improvements to make trails for walking and jogging or to make picnic areas are permitted.

3. The developer shall submit, as part of the application, a copy of that portion of the proposed park rules and a plan which specify how the open space is to be used and maintained and what conditions are to apply to its use. The plan shall specify the areas to be dedicated to open space, recreation, and storage.
1. Open space shall be maintained and used for its stated purpose.

G. Buffer Strips

1. A 50 ft. wide buffer strip shall be provided along all property boundaries that:

   a. Abut developed residential land which has a gross density (dwelling units per acre) of less than half of that proposed in the park, or

   b. Abut undeveloped residential land that is zoned at a net residential density of less than half of that proposed in the park.

   Further, no structures, streets or utilities shall be placed in the buffer strip except that utilities may cross a buffer strip to provide services to the park.

2. With the first 25’ of the buffer, measured from the exterior boundary of the park, visual screening and/or landscaping shall be provided according to the requirements of Sec. 506.

3. The setbacks of the individual mobile home park lots may be incorporated into the buffer to achieve the required 50 feet.

H. Parking Requirements

For each mobile home lot there shall be provided and maintained at least 2 off-street parking spaces. Each parking space shall contain minimum dimensions of 9 feet by 18 ½ feet.

In addition to occupant parking, off-street guest and service parking shall be provided within the boundaries of the park at a ratio of 1 space for each 4 mobile home lots. Such parking spaces shall be reserved for that sole use. This requirement may be waived by the Project Review Board if a parking lane is provided and will accommodate all required spaces.

I. Utility Requirements

All mobile home parks shall provide permanent electrical, water and sewage disposal connections to each mobile home in accordance with applicable state and local rules and regulations.

Electrical utilities and telephone lines may be located above ground.

J. Sidewalks/Walkways

The mobile home park shall contain pedestrian walkways between all units and all service and recreational facilities. Such walkways shall be adequately surfaced and lit. A portion of the road surface may be reserved for walkways provided the roadway width is widened accordingly. Walkways shall be a minimum width of 3 feet.

K. Lighting

Outdoor lighting shall be provided to adequately illuminate internal streets and pedestrian walkways.

L. Signs

The following signs shall be permitted and shall meet all requirements of the Freeport Sign Ordinance:

1. One 24 sq. ft. maximum identification sign at the entrance road;
2. Directional signs within the park;
3. Mobile/manufactured home “For Sale” signs, provided that such signs that face a public road shall be no more than 10 square feet and shall be limited to two signs per mobile home park

M. Storage

At least 300 cubic feet of enclosed tenant storage facilities shall be conveniently provided near or on each mobile home lot for the storage of materials and equipment.

N. Groundwater

For mobile home parks not served by a public sewer, the application shall include an assessment of the impacts of park development on groundwater quality. The person developing or

expanding a mobile home park has the burden of proving that the development will not pollute a public water supply or aquifer. The assessment shall be prepared by a Certified Geologist or Registered Professional Engineer, shall demonstrate that the proposed mobile home park shall meet the standards of Sec. 523 and shall include the following:

1. A map showing the basic soil types;
2. The depth to the water table at representative points throughout the mobile home park;
3. Drainage conditions throughout the mobile home park;
4. Data on the existing groundwater quality, either from test wells in the mobile home park or from existing wells on neighboring properties;
5. An analysis and evaluation of the effect of the mobile home park on groundwater resources. The evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the mobile home park, at the mobile home park boundaries and at a distance of 1,000 feet from potential contamination sources, whichever is a shorter distance. For mobile home parks within the watershed of a lake, projections of the development's impact on groundwater phosphate concentrations shall also be provided;
6. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the mobile home park and within 200 feet of the mobile home park boundaries.

O. Permitted Accessory Uses

When approved by the Project Review Board, the following uses are permitted as accessory uses:

1. Park management office;
2. Community or recreation buildings or structures within the park provided for use by park residents;
3. Laundry building provided for use by park residents only;
4. Service equipment building for storage of park maintenance equipment only;
5. Storage facilities for use by park residents only.

P. Park Administration

The owner and operator of a mobile home park shall be responsible for ensuring the maintenance of all structures and their sites. Park management shall conform to state laws

Compliance with this ordinance shall not exempt the park owner, developer, or manager from complying with other applicable local, state and federal codes and regulations.

Q. Conversion of Park

No mobile home park lot may be sold, leased or conveyed without the prior approval of the Project Review Board. Any such lot sold, leased or conveyed shall meet all the space standards

of the district in which it is located at the time of the sale, lease or conveyance as stated in the applicable Section C of Article IV of this Ordinance.

Section 525. Filling of Lands and Creation of Ponds.

No materials in excess of 200 cubic yards during a calendar year may be used for filling of lands and no materials in excess of a total of 400 cubic yards over the project lifetime may be removed to create a pond unless a special permit for such operation has been approved by the Staff Review Board or the Project Review Board and subsequently issued by the Codes Enforcement Officer. The Staff Review Board and the Project Review Board shall review applications according to the procedures and requirements of Sec. 602 (Site Plan Review) as well as the additional requirements described below.

A. Exemptions.

No permit under this Section 525 shall be required for:

1. The depositing or dumping of two hundred (200) cubic yards or less of material onto or in the ground.
2. Filling necessarily incidental to construction, alteration or grading for which a building permit or other construction permit has been issued by the Codes Enforcement Officer.
3. The removal of a total of four hundred (400) cubic yards over the project lifetime or less of material over the project lifetime to create or enlarge a pond, except that ponds requiring DEP approval are not exempt.
4. Excavation to maintain an existing pond at its originally created size.
5. Activities described in Section 509.D.2.

B. The following filling of lands or excavations require a Staff Review Permit

1. On parcels where the primary use is residential, the depositing or dumping of more than 200 cubic yards of material onto or in the ground over the project lifetime, or the removal of more than 400 cubic yards over the project lifetime to create or enlarge a pond.
2. On parcels where the primary use is commercial, the depositing or dumping of more than 200 cubic yards or less than 600 cubic yards of material onto or in the ground over the project lifetime, or the removal of a total of more than 400 cubic yards or less than 600 cubic yards over the lifetime of the project to create or enlarge a pond.

C. The following filling of lands or excavations require a Project Review permit

1. On parcels where the primary use is commercial, the depositing or dumping of more than 600 cubic yards of material onto or in the ground.
2. On a parcel where the primary use is commercial, the removal of a total of 600 cubic yards or more over the lifetime of the project to create or enlarge a pond.

D. Submissions.

In addition to applicable Site Plan Review submissions, the following submissions shall be made. The Staff Review Board or the Project Review Board may waive any of these requirements if it determines that the scale of the project is of such size, as to make the information unnecessary. The Staff Review Board or the Project Review Board may require other pertinent information necessary to determine if the planned use meets the provisions of this Ordinance.

1. Fee.

2. Name and address of owner and/or operator of property and operation, copy of deed, map and lot number, zoning district, size of parcel and other information required on the application.

3. A site plan drawn at a scale no smaller than one inch to one hundred feet for that portion of the parcel proposed for the fill or pond activity. The plan shall show the entire parcel; describe the type of fill or excavation for a pond and its proposed location; slope existing and proposed; locate any water bodies and drainage ways; describe any dams proposed for creation of a pond.

4. Plans and/or other written materials showing how the applicant will comply with the standards of Subsection C below.

E. Standards for Filling of Lands and Creation of Ponds.

1. For fill operations, excessive slopes and standing water shall be avoided. Where an embankment shall be left upon the completion of operations, it shall be at a slope not steeper than three (3) feet horizontal to one (1) foot vertical.

2. The plan shall not alter drainage ways unless adequate provisions are made so that drainage flows off-site will not increase. If drainage patterns are altered, the Staff Review Board or the Project Review Board shall require submission of a stormwater study conducted by a Registered Professional Engineer. If a dam is proposed for creation of a pond, stream flows shall not be significantly decreased and fishery assets shall not be harmed.

3. Groundwater quality and quantity shall not be lowered.

4. Erosion and sedimentation shall be adequately controlled. The standards of the Cumberland County Soil and Water Conservation District for erosion and sedimentation measures shall be met. Review and approval by the CCSWCD shall be required. Erosion and sedimentation plans shall be based on the following principles, when applicable:

(a) Stripping of vegetation, regrading or other development shall be conducted in such a way as to minimize erosion;

(b) Development shall preserve salient natural features, keep cut-fill operations to a minimum and ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and velocity of surface water runoff;

(c) Whenever feasible, natural vegetation shall be retained, protected and supplemented;

(d) The disturbed area and the duration of exposure shall be kept to a practical minimum;

(e) Disturbed soils shall be stabilized, by appropriate means, as quickly as practical, in any event, no later than 2 weeks after the soil has been disturbed.

(f) Temporary vegetation or mulching shall be used to protect exposed critical areas during development;

(g) The permanent (final) vegetation and mechanical erosion control measures shall be installed as soon as practical on the site. A time schedule shall be submitted. Ground cover planting shall be used, if appropriate;

(h) Until the disturbed area is stabilized, sediment in the run-off water shall be trapped by the use of debris basins, sediment basins, silt traps or other acceptable methods;

(i) Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility, including financial responsibility, of the developer causing such sedimentation to remove it from all adjoining surfaces, drainage systems, and watercourses and to repair any damage as quickly as possible.

5. No hazardous materials or materials which may contaminate the ground or surface water, land or air, as determined by the Staff Review Board or Project Review Board, shall be permitted to be used as fill.

6. Methods and time period of the activity including, but not limited to, weight and load limits of trucks hauling fill or excavating materials, protection against spillage off-site and potential damage to off-site roadways, shall be approved by the Staff Review Board or the Project Review Board.

7. The Staff Review Board or the Project Review Board may impose limitations on the amount, type and location of the filling operation or excavation for ponds because of potential environmental degradation;

8. The Staff Review Board or the Project Review Board may require adequate buffering or fencing for public health, safety and welfare considerations;

9. The Staff Review Board or the Project Review Board may require a surety bond, or equivalent, made payable to the Town and issued by a commercial surety company authorized to do business within the State of Maine, in an amount sufficient to guarantee conformity with the provisions of this section, approved as to form and amount by the Town Manager.

Section 526. Peddlers on Private Property

A. Findings and Purpose

It is found and declared that:

The current ordinances regulate peddlers on the public street and place under Chapter 43 of the Town of Freeport Codified Ordinance, but peddlers on private property are not permitted uses;

The location of any peddler on private property who held a permit issued by the Codes Enforcement Officer as of May 6, 1998 is grandfathered.

Reasonable regulation of peddlers on private property is necessary to protect the public health, safety and welfare of citizens and visitors to the Town;
Peddlers operate mainly on a seasonal basis out of mobile temporary carts and their potential impact is greatest during times of increased commercial activity;

Peddlers on private property, individually and cumulatively, have an impact similar to small, permanent structures and other uses regulated by zoning and other ordinances and need to be regulated to achieve conformity with the objectives and purposes of the Comprehensive Plan, Zoning Ordinance and Design Review Ordinance;

In order to permit the Town to monitor peddler number, density, location, safety and general conformity with overall Town planning goals and to enact future amendments as necessary, no peddler granted a permit under this Section will acquire any future rights to a permit renewal beyond the date of expiration of that permit.

B. Exemptions

The following activities are exempt from the provisions of this section of the Ordinance.

1. Peddlers regulated by Chapter 43 “Peddlers’ Ordinance” of the Town of Freeport Codes;

2. Peddler activities conducted by organizations sponsored by the 4th of July Committee or its successor.

C. Administration

1. Permits Required

   After May 6, l993, no peddler on private property shall engage in this activity without first obtaining a permit from the Codes Enforcement Officer. If the peddler cart will be located on a parcel containing a use subject to site plan review or on a parcel which has an approved site plan, site plan approval from the Project Review Board shall be obtained before application for a permit is made to the Codes Enforcement Officer. Peddler carts in the Design Review District are exempt from review by the Project Review Board.

2. Permit Application

   a. The applicant for CEO approval shall be the owner of the property on which the peddler cart will be located;

   b. Every applicant shall pay the fee set by the Town Council and submit to the CEO a written application on a form provided by the Town substantiating that the activity meets the requirements of this Section. The property owner and the peddler shall sign the application.

3. The CEO shall approve the permit application if a determination is made that the activity will be in conformance with the requirements of this Section.

4. Any change in the operation as approved by the CEO shall require re-approval by the CEO and by the Freeport Project Review Board if the peddler operation requires site plan approval under Section 526.C.1 above.

5. Application Information

   a. Name, home and business address and telephone number of the property owner (applicant) and name, home and business address and telephone number of the peddler cart owner or cart operator, if different from the applicant;

   b. A description of the types of food and/or beverages to be sold;

   c. A sketch, drawn to scale, showing the proposed operations location and its measurements, the location of the cart and all appurtenances, all off-cart items, and the relationship of all of the above features to all site features of the entire parcel including, but not limited to, sidewalks, driveways, buildings, landscaping, paths, signs and utilities, to show compliance with the performance standards of this Section;

   d. Length of time, to maximum of one year, that the activity will take place;

e. A sketch, drawn to scale, and, if available, a photograph of the cart to be used in the operation of the business, labeling all aspects including, but not limited to, materials, measurements, appurtenances, signs, awnings, umbrellas, fuel, refrigeration, off-cart items, water supply, colors, to indicate compliance with the performance standards. Specific measurements, designs and locations of all appurtenance, including all off-cart items, shall be submitted;

f. Identification of the zoning district and location of the buffer zone, if any, on the property;

g. Fee as set by the Town Council.

D. Performance Standards

1. Sale of non-food items is prohibited. Sale of food items shall be primarily intended to be consumed at the time of purchase. Any distribution of free product samples shall be limited to samples of food for sale at that cart.

2. Location

a. A maximum operations area of one hundred twenty-eight (128) square feet shall be assigned to the cart and its operation. This shall include the cart, customer waiting area, trash receptacle locations, coolers and any other related cart activities. The cart shall be located a minimum of 3' from all outside edges of the operations area. In this clear area, only the area to the rear and sides of the cart may be used for off-cart items. The front must be vacant and used only as customer waiting area. Minor overhang of the hitch, umbrella or awning into the clear area is permitted; *{Amended, Effective 07/15/08}*

b. The operations area shall not be located in a way that would restrict or interfere with ingress to and egress from any building or use within the parcel or on abutting parcels, or obstruct adequate access by fire, police or sanitation vehicles or interfere with pedestrian flow on the public sidewalk.

c. The operations area shall not include the public way and shall not interfere with pedestrian and vehicle flow on the parcel and pedestrian and vehicle access to the parcel or adjoining parcels. The cart shall not obstruct corner clearance as regulated in Section 513 above;

d. The operations area shall not be located in a parking space(s) unless a substitute parking space(s) is provided and meets the parking requirements of this Ordinance;

e. The front face of the cart shall be at least 3' back from any public sidewalk;

f. Peddler carts shall not be located in buffer zones as described in Section 506.

3. Parking

One additional parking space, as calculated according to the employee parking requirement for Retail Trade in Sec 514.B.5, per cart shall be provided either on the site or leased according to the requirements of this Ordinance. Each space shall be provided for each month of operation.

4. All utility connections shall be secured and safe.

5. The operations area shall be kept clean and free of litter. At least one trash receptacle shall be provided. Public trash receptacles on the street shall not be used by the operation. All trash shall be disposed of in conformance with Town regulations.

6. Only one cart shall be located on a lot.

7. Cart design shall conform to the following requirements except that permitted non-conforming carts existing before January 1, l993 shall be permitted to operate for a period of three years from January 1, l993 to December 31, l995. After December 31, l995, all carts shall conform to these requirements.

   a. Materials: Carts may be commercial construction or individually constructed. All carts shall be made of solid, durable materials.

   b. Color: Neon and fluorescent colors are prohibited. Permitted colors shall be shades of the following: red, white, gray, black, yellow, maroon, green, blue, brown, beige and stainless steel.

   c. Shape: "Theme" carts, such as ones in the shape of hot dogs, are prohibited.

   d. Size: Maximum dimensions of a peddler's cart or unit shall be no greater than 38 inches in width and 8 feet in length. Maximum height of the cart shall be six (6) feet from the top of the cart body, excluding umbrella or awning, to the bottom of the cart where it (or the wheels) touches the ground. Maximum height from the bottom of the cart (or the wheels) to the uppermost top of any umbrella or awning attached to the cart shall be eight (8) feet. The bottom of the canopy of the umbrella or awning shall be at least 80" off the ground.

   e. Awnings and umbrellas shall be constructed of a non-rigid fabric such as, but not limited to, canvas, ripstop nylon or soft plastic.

   f. The hitch shall be visually identified for safety purposes with a wrapper, bicycle type flag or other similar unobtrusive identifying device which does not obstruct the clear area and which meets the requirements of the federal Americans with Disabilities Act.

g. Carts shall not be motorized.

8. In addition to signs allowed for the principal use of the property, peddler carts are allowed the following signs subject to the following requirements:

   a. No more than two (2) signs, excluding lettering on an umbrella or awning, are permitted on each cart. Lettering on an umbrella or awning is permitted in addition to the two signs. In addition, one menu board is permitted and shall be no larger than six (6) square feet. A menu board is not considered a sign.

   b. Each sign shall be secured to the cart at a maximum height no higher than the bottom edge of the umbrella or awning material.

   c. The maximum size of each sign shall be four (4) square feet.

   d. Each sign face shall be counted as one sign.

   e. Free standing signs are prohibited.

   f. Sign design shall meet the following requirements:

      (1) One or both signs may be preprinted, movable letter signs or chalk boards.

      (2) Any other type of sign shall be included as part of the CEO approval process.

9. Cart lighting shall conform to the following requirements:

   a. Lighting shall not increase the light level at the perimeter of the operations area by more than 5 foot candles above the ambient light level. However, total maximum lighting at the perimeter of the operations area shall not exceed fifteen (15) foot candles.

   b. Light sources shall be aimed or shielded so that the light projects downward and in no case shall the angle be less than 20 degrees below horizontal.

10. Generators are prohibited.

11. Cart operators shall dress in a neat and clean manner.

12. The cart operation or location shall not modify an approved site plan without Project Review Board approval.

13. Off-cart items, except for ones located on or under the cart, are limited to the following items: one trash receptacle, one recycling receptacle, two coolers, one

chair, and other equipment required to meet state and/or local health standards. *{Amended, Effective 07/15/08}*

14. No animals shall be attached to the cart except for guide animals.

15. Amplified sound shall not exceed 75 decibels during the day and 55 decibels at night.

16. All applicable local, state and federal requirements shall be met.

17. A flame resistive shield surrounding the cooking elements shall be installed to protect the customer from open flame and hot surfaces. The cooking elements shall be approved/listed (i.e., U.L., Factory Mutual, etc.), permanently attached to the cart and not in or on separate facilities. An ABC extinguisher shall be mounted to the cart. The peddler cart shall meet all local, state and national fire codes. Before a permit is issued, the peddler cart containing cooking elements shall be inspected by the Fire Department. An inspection fee in the amount set by the Town Council shall be paid to the Fire Department by the owner of the cart prior to its use.

18. A permit shall be issued by the CEO before a victualers license is obtained from the Town of Freeport. The peddler cart may operate only while such license is in effect.

19. A license issued by the State of Maine Department of Human Services for food service shall be obtained before a permit is issued by the Codes Enforcement Officer. The peddler cart may operate only while such license is in effect.

E. Permit Duration

The permit issued by the CEO under this Section 526.C.1 shall be issued for a specific time period up to a maximum of one year and shall expire at the end of that time period.

F. Display of Permit

Each cart shall display the valid permits in a visible location.

G. Transfer of Permits

No permit issued under this Section shall be used at any time by any person other than the peddler for whom it was issued on the property for which it was issued.

H. Enforcement

Because of the transient nature of peddler activity, the Town may, in addition to pursuing any other remedies available under this Ordinance or pursuant to 30-A M.R.S.A., Sec. 4452, enforce the provisions of this Section 526 as follows:

1. When as a result of a complaint or his own investigation the CEO determines that a peddler on private property is in violation of the Rules or Standards of this Section, he shall provide written notice of the violation to the permit holder and the private property owner.

2. The notice shall contain the following information:
   a. the specific facts or conditions which constitute the violation;
   b. an order to correct the violation by taking specified actions;
   c. the amount of the penalty to the permit holder and landowner if the violation continues;
   d. a warning that a failure to correct the violation will result in a suspension of the permit and fines for the property owner and permit holder;
   e. a statement that the permit holder and the property owner have the right to appeal the notice pursuant to Section601(G)(4)(a) of this Ordinance and that failure to appeal could preclude the permit holder and property owner challenging the Codes Enforcement Officer's determination in subsequent proceedings, but that filing an appeal does not stop the accrual of penalties.

3. Penalties - when a violation is not corrected within five (5) business days after the date of notice of violation, both the peddler and the private property owner shall be subject to the following penalties:
   a. Suspension of permit and of the ability to apply for a new permit, for up to two (2) years;
   b. Fifty dollars ($50.00) for each day of violation after the date of notice;
   c. One hundred dollars ($100.00) for each day of operation while under suspension.

4. Appeal - any peddler or property owner adversely affected by decision of the CEO may appeal in accordance with the provisions of this Ordinance.

Section 526.A Food Trucks *{Effective 12/17/14}*

Food trucks individually and cumulatively have an impact similar to small structures and to other businesses. The Town acknowledges that food trucks can be desirable in limited circumstances provided certain standards can be met. For businesses and zoning districts that specifically allow food trucks and for special events that will use food trucks as a temporary activity, the following standards shall be met:

A. For permitted uses that allow the use of a food truck as an accessory use:
   1. the food truck must be located on the same property as the permitted use or on an adjacent property if the owner of the land on which the permitted use is located has a legal agreement with the property owner and
   2. customers of the food truck must have access to restrooms on the same property that are connected to the public sewer system or a sub-surface wastewater disposal system. An agreement with the host permitted use to use the restrooms on the site must be submitted.

3. One food truck is allowed at any given time, except that the host permitted use may have up to three trucks, for no more than three days, no more than three times in any calendar year.
4. Site plan review is not required for the use of a food truck as an accessory use on a property that has already received site plan review.
5. Food trucks may be open for business during the host businesses hours of operation; however, the hours of operation cannot be earlier or later than those included in Sec. 526A.B.12 below.

B. All food trucks must:

1. be registered by the Maine Department of Motor Vehicles and licensed by the Maine Department of Health and Human Services.
2. be located on private property; except that the Project Review Board may approve food trucks in the public right-of-way if they are associated with a special event that has been approved by the Project Review Board and/or the Town Council (as an example 4th of July festivities)
3. have a valid Food Truck license issued by the Codes Enforcement Officer of the Town of Freeport.
4. have a valid Victualer's License from the Town of Freeport if they will be selling at more than 9 events and/or days in Freeport, this does not include food trucks for private catering events when the food truck is parked entirely on private property and serves the private guests of the host and all payments are made by the host, not the guests.
5. not verbally solicit business from pedestrians or persons in vehicles and no sales to persons in vehicles,
6. not have lighting except localized lighting that is used on or in the food truck for the purpose of food preparation and menu illumination,
7. not have signs except those identifying the name of the truck, this does not include menus,
8. provide at least one trash receptacle and one recycling receptacle for use by patrons and in a convenient location that does not impede pedestrian or vehicular traffic,
9. collect and dispose of all litter or debris within a 25-foot radius of the food truck,
10. contain all equipment needed for the preparation of food within the food truck, except for trash and recycling receptacles,
11. not have any furniture, umbrellas, generators, or other objects or structures outside of the food truck,
12. limit operation between 8am and 10pm Sunday through Thursday and 8am and 11pm Friday and Saturday,
13. not use any amplified customer notification system or amplified music.
14. food trucks must meet the setback requirements of the district in which they are located if an adjacent property's use is primarily residential.

Section 527. Performance Standards for Commercial Districts (C-I, C-III, C-IV)

The purpose of this section is to encourage a pattern of development along major roadways which minimizes the appearance of strip development and supports the following goals:

Create harmonious and attractive signage;
Encourage the development of architecturally well designed buildings;
Provide for a safe flow of vehicular traffic;
Encourage connectors between parcels for vehicles and pedestrians;
Encourage pedestrian activity along the corridor;
Minimize sky glow from lighting; and
Create attractive settings for developments through the use of extensive plantings in the setbacks.

The following performance standards are for the Project Review Board to use to evaluate the specific plans for a site. The standards are mainly general in nature to encourage creative solutions related to the unique characteristics of individual sites. For details on how to meet these standards refer to the Route One South Design Guidelines.

A. Signage

1. Placement, materials, shape, size, colors and style of the sign(s) should complement the building and nearby properties.
2. The amount and size of the information on the sign should be consistent with the ability of the viewer to comprehend it.
3. Framing/supports should be in proportion to, and compatible with, the size of the sign and the size of the building.
4. One free standing sign per building is preferred
5. Lighting of interior illuminated signs should not create sky glow.
6. Dark background colors and light letter colors are preferred for interior illuminated signs.
7. Free standing signs should not be located in the side setback of lots.
8. One building sign per building side is preferred.
9. For multi-tenant signage, the review process may be streamlined if, at the original time of approval, minimum and maximum sign size and placement and a design plan are established. Subsequently, each tenant may choose the lettering. When tenants change, administrative approval can be obtained unless the sign changes are more significant than the name change.
10. The establishment of integrated sign systems for multi-tenant developments is encouraged.
11. Gooseneck lights on signs are preferable to ground lights. Ground lights are discouraged. If ground lights are used they shall have year-round screening with landscaping or some other method.

B. Building Design

In addition to the criteria and standards included in Section 602.F.1.b. of the Freeport Zoning Ordinance regarding the relation of proposed buildings to the environment, the following standards apply.

1. Architectural details on the front and side edges of pitched or flat roofed buildings are required.

2. Long, monotonous façade designs including, but not limited to, those characterized by the unrelieved repetition of shape or form or by the unbroken extension of line for any building, are not permitted. Wall plane projections, recesses, windows, roof elevation variations and design features such as moldings can be used to break up the visual expanse of a building facing Route One and I-295.

3. Efforts should be made to vary the setback of the building on a parcel from the setbacks of adjacent buildings to avoid a monotonous, visual building line along Route One. In situations where this is not possible, landscaping, parking lot design and building design are some of the site features which can be utilized to minimize the uniformity of setback line.

C. Vehicular Access.

1. New access points on Route One shall not be closer than 300 feet to an existing access point to the greatest extent possible.
2. Sharing of common driveways is encouraged, especially for access to abutting lots which are nonconforming in area and/or frontage.
3. Where possible, access from a side street or driveway is preferable to access from Route One.
4. A minimum of the first 50 feet of any driveway off Route One shall be paved.
5. Driveways between parcels to connect adjacent parking lots are required where they are practical to improve vehicular travel without using U.S. Route One and where environmentally feasible.

D. Pedestrian Access

1. A pedestrian access at least 5 feet wide connecting abutting parcels shall be constructed on each parcel where development is proposed. If the adjoining parcel is developed, the access should be designed to relate to existing facilities on the abutting lot. Materials might be asphalt, stone dust or wood, as examples. If the abutting lot is not developed, the plan shall contain a statement that says that continuous and consistent access will be created when the abutting lot is developed. The Project Review Board may waive this requirement if no reasonable access is available due to, for example the presence of wetlands, and/or steep slopes.

E. Front landscaped setback

The purpose of the landscaped setback is to soften the appearance of structures and parking lots from the road and to screen vehicular headlight glare on and off site.

1. If drainage basins and swales are located in the setback, they should be landscaped with trees or shrubs and the edge of the basin should be graded, if possible, to create height variations (a berm effect). If landscaping and berming will eliminate the retention/detention function of the basin, the basin should be relocated outside of the setback or the size of the setback should be increased to accommodate the basin and the landscaped strip.
2. Preservation of existing mature trees and planting or preservation of masses of shrubs in the setback is encouraged.
3. Landscaping should include planting of new trees and shrubs if none presently exist.
4. Loaming and seeding may be a part of the landscaping plan but should not be the only element of the plan.
5. Fencing may be incorporated into the landscaping plan, at the interior edge of the front landscaped setback, especially to screen vehicular lights from the roadway.

G. Site Features

1. In general, no more than three flagpoles should be located on a parcel.
2. The height of the flagpole shall be in proportion to the height of the building. The dimensions of the flag shall be in proportion to the dimensions of the flagpole.

Section 528 Regulation of Wireless Telecommunications Facilities

A. Purpose

The purpose of this Section is to provide a uniform and comprehensive set of performance standards and requirements to be used by the Project Review Board or Staff Review Board during the site plan review process when it reviews an application for the placement and construction of wireless telecommunication facilities. These standards and requirements are intended to regulate the location and installation of such facilities in order to:

1. Protect and promote public health, safety and welfare from potential problems, examples of which are falling ice, telecommunication wave interference and attractive nuisance of towers to children;
2. Protect and preserve the aesthetic quality of Freeport as set forth in the goals, policies and objectives of the adopted Freeport Comprehensive Plan, examples of which are the protection of scenic vistas, rural character and important historical areas, and the regulations of the Freeport Zoning Ordinance, examples of which are buffering requirements, by carefully regulating siting and design of wireless telecommunication facilities;

3. Protect adjacent properties from potential damage from tower failure and falling ice through careful siting regulations and engineering requirements;
4. Facilitate and encourage the managed development of telecommunications infrastructure while at the same time not unduly restricting the development of needed telecommunications facilities, including important amateur radio installations, and
5. Encourage co-location on existing and future wireless telecommunication towers and maximize the use of existing and approved towers and other existing structures such as utility poles, water towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of new towers needed to serve the community's needs.

B. Exemptions:

The following uses are exempt from these regulations:

1. A ground, building or tower mounted antenna, operated by a federally licensed amateur radio operator as part of the Amateur Radio Service, which is no higher than thirty-five (35) feet in height, and is not licensed or used for any commercial purpose. The Codes Enforcement Officer may permit additional height up to a maximum of seventy-five (75) feet only if, after engineering documentation substantiating the need for the excess height is submitted to and is acceptable to the Codes Enforcement Officer, the CEO determines that a height in excess of thirty-five (35) feet is technically necessary to successfully engage in this activity.
2. Radio or television satellite dish antenna for the sole use of the resident occupying a residential parcel on which the satellite dish is located.
3. A single ground or building mounted receive-only radio or television antenna including any mast, for the sole use of the occupant of a residential parcel on which the radio or television antenna is located, with an antenna height not exceeding thirty-five (35) feet.
4. A ground or building mounted citizens band radio or two-way FM antenna including any mast, if the height (post, and antenna and support structure if not on the ground) does not exceed thirty-five (35) feet.
5. A municipal, public safety or public works wireless telecommunication facility up to a maximum height of 100 feet.

C. Space Requirements:

1. Maximum Height:
Tower, single user, see Article IV

Tower, co-located, see Article IV

The height of any tower must be approved by the Project Review Board as part of the site plan review process. The Project Review Board may approve a height that is up to the final, total maximum listed in Article IV, only if it determines, as part of the site plan review process, that the following conditions are met:

a. For existing towers, evidence is presented by the owner that the existing tower height is not sufficient to meet the reasonable needs of the proposed additional user(s) at this time and the additional height requested is the least height technically necessary to serve all of the proposed users. The board may require a peer review of this evidence.
b. For new towers, applicants are encouraged to design towers which will accommodate co-location even if only one user will located on the tower at the time of site plan review and approval. In this situation, the tower shall be constructed no higher than the maximum height for a single user tower. When additional users will locate on the tower, it may be constructed to the approved co-located height, subject to the requirement that it meet all requirements of the previously approved site plan. If no change is proposed, no additional review is required.
c. All requirements of co-location (see Section 528 D below).

2. Mass of Antennas Per User:

The mass of antennas, including required antenna support structures, on a tower shall not exceed five hundred (500) cubic feet per array, with no one dimension exceeding twenty-one (21) feet per user. The Project Review Board may permit an increase in the mass and dimensions if it will not significantly change the visual impact of the structure. The mass shall be determined by the appropriate volumetric calculations using the smallest regular rectilinear, cuboidal, conical, cylindrical or pyramidal geometric shapes encompassing the entire perimeters of the array and all of its parts and attachments.

3. Area:

A wireless telecommunications tower shall not be constructed on a lot that does not conform to the minimum lot area required in the zoning district even if such lot is a lawful non-conforming lot of record. If it is located on a lot which also contains a use other than a water tower, the lot shall be of sufficient area to meet the minimum lot area requirement for each use.

4. Setbacks:

a. The center of the base of any telecommunications tower must be set back a minimum of 125% of the tower height, or the required minimum setback of the District in which it is located, whichever is greater.

b. No part of the structure, including anchors, guy wires, overhead lines, masts, etc., shall be located in the required District setback or in any required buffer area both on the ground or in the air space above the ground.

c. Accessory support buildings containing electronic equipment and any other structures accessory to the telecommunications tower shall meet the required District building setback and the required buffer setback.

d. If more than one tower is proposed on a single lot or parcel, they shall be clustered as closely together as technically possible.

e. If other non-accessory uses are located on the same lot or parcel as a wireless telecommunications tower, all structures associated with such other uses shall be located a minimum distance of 125% of the tower height from the base of the tower.

f. A tower's setback may be reduced by the Project Review Board to allow the integration of a tower or antennas into an existing or proposed church steeple, light standard, power line support device, water tower, or similar structure, or to allow the location of a tower on the same lot as an existing water tower. The applicant shall provide substantiating evidence to the Project Review Board that the wireless telecommunication facilities are designed to collapse in a manner that will not cause damage to other buildings, structures or improvements.

g. Not withstanding the height limitations within a zoning district, in order to accommodate co-location , a tower, existing as of August 6, 1997, may be modified or rebuilt to a taller height, not to exceed a total maximum of one hundred ninety-nine (199) feet, including all attachments, but only if that additional height will not require any lighting or obstruction painting. The additional tower height shall not require increased lot setbacks and the tower's pre-modification height shall be utilized to calculate required setbacks.

D. Co-location Requirements:

1. On existing towers.

Applicants for site plan review for a new wireless telecommunication tower must send written notice by pre-paid first class United States mail to all other telecommunication tower owners and licensed telecommunication providers in the Town utilizing existing towers, stating their sitting needs and/or co-location capabilities in an effort to encourage tower co-location. Evidence that this notice requirement has been fulfilled shall be submitted to the Project Review Board and shall include a name and address list, copy of the notice which was sent, and a statement, under oath, that the notices were sent as required. An application for a new wireless telecommunication tower must include evidence that existing or previously approved towers cannot accommodate the telecommunications equipment (antennas, cables, etc.) planned for the proposed tower. Such evidence would be:

a. Planned, necessary equipment would exceed the structural capacity of existing and approved towers, considering the existing and planned use of those towers, and existing and approved towers cannot be reinforced to accommodate planned or equivalent equipment.
b. Planned equipment will cause electromagnetic frequency interference with other existing or planned equipment for that tower, and the interference cannot be prevented.
c. Existing or approved towers do not have space on which planned equipment can be placed so it can function effectively.
d. Other documented reasons that make it technically or financially unfeasible to place the equipment planned by the applicant on existing and approved towers.

2. Construction of new towers.

a. A proposal to construct a new co-located wireless telecommunication tower taller than the maximum height permitted for a single user must include evidence that the tower can structurally support a minimum of three (3) antenna arrays for co-location purposes.
b. The Project Review Board shall require evidence of adequate structural support to accommodate any proposed additional arrays.

E. Interest of Telecommunication Entity**:**
A proposal to construct or modify a wireless telecommunication tower must include evidence of a commitment from a duly licensed entity to utilize the tower to provide wireless telecommunication services.

F. Submissions:
In addition to all of the relevant site plan review submission requirements listed in Section 602.D, the following submissions shall be required unless waived by the Project Review Board.

1. A report from a Registered Professional Engineer in the State of Maine that describes the tower, the technical reasons for the tower design and the capacity of the tower, including the number(s), type(s) and volume (as defined in Section 528.C.2 above) of antenna(s) that it can accommodate and the basis for the calculation of capacity.

2. For building, pole mounted or tower facilities, certification by a Registered Professional Engineer in the State of Maine that the design is adequate to support, without failure, the maximum forces expected from wind, earthquakes, ice/snow loading when the pole or tower is fully loaded with antennas, transmitters, other equipment, and camouflaging, as described in the submitted plan.

3. Elevation drawings, cross-sectional area or silhouette, of the facility, drawn to scale and showing all measurements, both linear and volumetric, showing front, sides and rear of the proposed facility including all fencing, supporting system for transmission cables running between the tower and accessory structures, control panels, antennas, and existing structures and trees. Reference any design characteristics that have the effect of reducing or eliminating visual obtrusiveness.

4. Detail of the tower base or method of attachment to a structure. If the facility will be attached to an existing building or structure, provide measurements and elevations of the structure.

5. Details of all accessory structures including buildings, parking areas, utilities, gates, access roads, etc.

6. Written approval by all applicable state and federal agencies, including but not limited to the FAA and FCC, or a statement from the agency that no approval is required, including a description of any conditions or criteria for the approval or exemption from approval.

7. An inventory of all of the provider's existing and approved towers, antennas or sites within the Town of Freeport and locations in surrounding communities where wireless telecommunications are proposed to be utilized in conjunction with the facility proposed in this application. Service area maps or network maps of the applicant's existing and proposed facilities in Cumberland, Androscoggin and Sagadahoc Counties.

8. Site photos showing site vegetation, existing and adjacent structures, views of and from the proposed site. Topography and land uses on the proposed parcel and on abutting properties.
9. Landscaping plan reflecting location of proposed screening and fencing, planting areas, proposed plantings, existing plant materials to be retained and trees or shrubs to be removed.

10. Identify any other telecommunication facilities existing or proposed on the site.

11. A visual analysis, which may include photo montage, field mock up, or other techniques, shall be prepared by or on behalf of the applicant which identifies the potential visual impacts at design capacity, of the proposed facility. Consideration shall be given to views from public areas as well as from private residences and from archaeological and historic resources including historic districts, areas and structures, specifically those listed in the National Register of Historic Places or eligible for inclusion. The analysis of the impact on historical and archaeological resources shall meet the requirements of the Maine State Historic Preservation Officer in his/her review capacity for the FCC. The overall analysis shall assess the cumulative impacts of the proposed facility and other existing and foreseeable telecommunication facilities in the area, and shall identify and

include all feasible mitigation measures consistent with the technological requirements of the proposed telecommunication service.

12. A letter of intent that commits the tower owner and successors in interest to:

    a. Respond in a timely, comprehensive manner to a request for information from a potential co-location applicant.
    b. Negotiate in good faith for shared use by other parties that have received federal licenses;

13. Evidence that co-location on existing or approved towers is not possible, per Section 528.D above. If the proposed tower cannot be accommodated on an existing or approved tower site, the applicant must assess whether such tower site could be changed to accommodate the proposed tower, and generally describe the means and projected cost of shared use of the existing or approved tower site.

14. Proof of financial capacity to build, maintain, and remove the proposed tower.

G. Design Standards:

The following design standards shall be met by the applicant. The Project Review Board, as part of the site plan review process, shall determine if the applicant has complied with these standards.

All telecommunications facilities shall be designed to blend into the surrounding environment to the greatest extent feasible. To this end all of the following measures shall be implemented.

1. Towers shall be constructed of metal or other nonflammable material unless specifically waived by the Project Review Board.
2. Accessory facilities shall be adjacent to the tower base unless an alternative location will be less visually obtrusive or topographic considerations require an alternative location.

3. Accessory facilities shall be constructed out of non-reflective exterior materials and shall be placed underground, if possible.

4. New accessory facilities shall be no taller than one story in height and shall be treated to look like a building or facility typically found in the area.

5. All buildings, poles, towers, antenna supports, antennas and other components of each wireless telecommunications facility site shall be initially painted and thereafter repainted as necessary with a "flat" paint. The color(s) selected shall be one that the Project Review Board determines will minimize their visibility to the greatest extent feasible. To this end, improvements which will be primarily viewed against soils or trees shall be painted colors matching these landscapes while elements which rise above the horizon shall be painted a blue gray that

matches the typical sky color at that location unless the Board determines that an alternative proposal will minimize visibility.

6. No obstruction painting or any lighting shall be permitted on any towers.

7. The Project Review Board may require special design of the facilities where findings of particular sensitivity are made (e.g. proximity to historic or aesthetically significant structures, views and/or community features).

8. Sufficient anti-climbing measures and other security measures preventing access to the site shall be incorporated into the facility, as needed, to reduce the potential for trespass and injury.

9. Only manually operated or motion detecting security lighting is permitted.

H. Location

All telecommunication facilities shall be located so as to minimize their visibility and to minimize the total number of towers in the Town. The following measures shall guide the location.

1. Wireless telecommunications facilities shall not be sited in areas of high visibility unless a finding is made that no other location is technically feasible, and unless the facility is sited below the ridgeline or designed to minimize its profile by blending with the surrounding existing natural and man-made environment in such a manner as to be effectively unnoticeable.

2. No facility shall be located so as to create a significant threat to the health or survival of rare, threatened or endangered plant or animal species.

I. Additional Standards and Criteria:

In addition to the criteria and standards listed in Section 602.F below, these additional criteria and standards shall be utilized by the Project Review Board in reviewing applications for site plan review of proposed wireless telecommunications facilities.

1. Mitigation measures have been utilized to screen antennas and towers from view from public rights-of-way or scenic vistas, either via landscaping, fencing or other architectural screening.

2. Network interconnections from the communications site via land lines have been proposed rather than the use of microwave link dishes, in order to minimize visual impact.

3. Creative design measures have been employed to camouflage facilities by integrating them with existing buildings and among other uses.

4. Other technically feasible sites have been investigated and, if available, the proposed facility has been relocated in order to minimize the effect of the location on visually sensitive areas such as residential communities, historical areas and open space areas.

5. Co-location, where technically feasible and visually desirable, on an existing tower, has been investigated and, if technically and financially feasible, the proposed facility is co-located.

6. Use of an existing community facility site, such as on or adjacent to water tanks or utility poles, has been investigated as a potential site for a tower, antennas and other equipment and, if available and technically feasible and visually desirable, is proposed as the site for the facility.

7. Adequate bonding for removal of the wireless telecommunication tower, as required in Section 528.K below, has been submitted.

J. Amendments:

Any change to existing, previously approved and proposed towers requires site plan approval. This includes, but is not limited to, modifications to approved height and to approved attachments such as antennas and dishes as well as requests for additional attachments. Notwithstanding the foregoing, any change, up to five (5) cubic feet or less per array, to the mass, dimensions or arrangement of an antenna, shall not require site plan review, unless such change exceeds the design criteria and additional standards and criteria previously approved in the original site plan approval.

K. Removal of Wireless Telecommunications Facilities:

1. If the tower ceases to be used or if the use of the tower is abandoned for any reason, it shall be the responsibility of the owner of the facility to notify the Codes Enforcement Officer of the date of abandonment or cessation of use. If the owner shall fail to give the required notice, the CEO shall make a determination of such date, which determination shall be conclusive as to such date.

2. In the case of a tower which is abandoned or the use of which ceases, it shall be removed within one (1) year of its abandonment or cessation of use. All above ground structures, equipment, foundations, guy anchors, utilities and access roads or driveways specifically constructed to service the tower, structures, equipment or utilities shall be removed, and the land returned to a condition as near to the original pre-construction condition as possible.

3. At the time of approval, the applicant for a new tower shall submit to the Town a bond or other financial surety, to be approved by the Town Manager, in the amount of 150% of the estimated demolition cost of the tower and the removal of all accessory facilities as described in Section 528.K.2 above, such cost to be determined by an independent

Registered Professional Engineer in the State of Maine and the amount shall be acceptable to the Town Manager. The bond or other financial surety shall be in effect for as long as the tower is in place.

4. The bond shall be used by the Town to demolish a tower which is abandoned or the use of which has ceased, accessory facilities and associated abandoned structures only if the owner has not done so within the required one (1) year period.

5. The owner may apply to the Town Manager for release of the bond at such time that the owner or assigns removes the tower, accessory facilities and associated abandoned structures as described above, and such completed removal is found to be satisfactory by the Town Engineer. The cost of inspection by the Town Engineer shall be borne by the owner.

L. Inspections:

The following procedure shall be undertaken by the owner of the tower:

1. Inspection of towers by an independent tower inspection firm shall be performed to insure structural integrity. Such inspections shall be performed as follows:

    a. Monopole towers B at least once every seven years following completion of construction. The inspection shall take place between the sixth and seventh year of the repeat sequence.

    b. Self-supporting towers B at least once every five years following completion of construction. The inspection shall take place between the fourth and fifth year of the repeat sequence.

    c. Guyed towers B at least once every three years following completion of construction. The inspection shall take place between the second and third year of the repeat sequence.

2. The inspection report shall be submitted to the Town Engineer within thirty (30) days of its receipt by the tower owner. Based upon the results of the inspection, the CEO, upon recommendation by the Town Engineer, may require repair or demolition of the tower

3. The cost of such inspections, reports, repairs or demolition required under this Section 528.L of the Ordinance shall be borne entirely by the tower owner. Required repairs shall be completed within ninety (90) days or less as required by the CEO and agreement by the Town Engineer for safety reasons.

4. Failure to provide required inspection reports in the required time schedule shall be deemed primae facie evidence of abandonment.

Section 529. Stormwater Management

Adequate provisions shall be made to manage any stormwater flows generated by a development. All developments subject to Site Plan and/or Subdivision Review shall meet the following standards for stormwater management:

1. Stormwater shall be detained on the site using the natural features of the site to the greatest extent possible.

2. The rate of stormwater flows from the site after development shall not exceed the predevelopment rate of stormwater flow from the site unless the discharge is directly into the ocean or into the Cousins, Royal or Harraseeket Rivers or if the applicant can demonstrate through engineering studies that no negative impact on downgradient drainage facilities due to increased stormwater runoff rates from a site will result.

3. The quality of the stormwater flows offsite shall be addressed. Retention of the first one-half inch of runoff from a storm event for 24 hours or other stormwater quality improvement measures may be necessary to minimize or eliminate sediments and other contaminants from the stormwater leaving the site.

4. In addition to any other applicable requirements of this Ordinance and the Freeport Subdivision Ordinance, any development which would require a stormwater management permit from the Maine Department of Environmental Protection under 38 M.R.S.A. 420-D shall comply with the rules adopted by the Department of Environmental Protection under 38 M.R.S.A. 420-D(1), as the same may be amended from time to time, and the applicant shall document such compliance to the Freeport Project Review Board. Where the standards or other provisions of such stormwater rules conflict with municipal ordinances, the stricter (more protective) standard shall apply.

Section 530. Location of Adult Business

1. DEFINITIONS:

   a. "Adult business" means any business in any use category, a substantial or significant portion of which consists of selling, renting, leasing, exhibiting, displaying, or otherwise dealing in materials or devices of any kind which appeal to prurient interest and which depict or describe specified sexual activities.

   b. "Specified sexual activities" means:
      1. Human genitals in a state of sexual stimulation or arousal;
      2. Acts of human masturbation, sexual intercourse or sodomy;
      3. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

c. "Public Building" means a building owned, operated or funded in whole or in part by the Town of Freeport which members of the general public have occasion to visit, either regularly or occasionally, such as, but not limited to, the Town Hall, the Public Library, the Police Station and Fire Stations.

2. LOCATION OF ADULT BUSINESS RESTRICTED

No adult business shall be located:

a. In any location where the customer entrance to the adult business would be closer than 1,000 feet, measured in a straight line without regard to intervening structure or objects, to the nearest point on the boundary of any property which is:
   i. Occupied by a residence, school, park, playground, religious institution or public building.
   ii. Located in the following residential zones: RR-I, RR-II, RR-IA, MDR-I, MDR-II, MD-A, MD-B, V-I, V-II, RP-I, RP-II, ID
   iii. Occupied by another adult business.

3. OUTSIDE DISPLAYS PROHIBITED

No materials or devises displaying or exhibiting specified sexual activities shall be visible from the exterior of the building in which the adult business is located.

Section 531. Retirement Community Overlay District

A. Purpose

The Retirement Community Overlay District is intended to provide flexibility and creativity in the design and development of retirement communities that provide a continuum of care and a range of living environments for older residents in locations that are appropriate for this type of development. The overlay district is designed to foster high quality communities that are an asset to the Town while assuring that these developments are good neighbors.

B. Effect of Designation as an Overlay District

The Retirement Community Overlay District is intended to function as an overlay district. As such, the requirements of the underlying zoning district will remain in force and will apply to all use of land and buildings within the Overlay District except as specifically modified by the provisions of this Section 531. The designation of an Overlay District is intended to recognize that a planned retirement community has special considerations that do not apply to other uses and to allow for additional flexibility in the permitting of these uses in return for an increased level of community oversight.

C. Definitions Applicable in the Retirement Community Overlay District

1. Care bed. A resident's bed located within an elderly housing room and designed to be occupied by only one person.

2. Elderly housing dwelling unit. A room or group of rooms within a retirement community designed and equipped as living quarters for one elderly household, including living, sanitary, sleeping and kitchen facilities, and not located within a multi-unit building which also contains central dining facilities in which meals are made available to residents as part of a supportive services program.

3. Elderly housing unit. A room or group of rooms within a retirement community designed and equipped for occupancy by one elderly household, including living, sanitary and sleeping facilities, but not including kitchen facilities, except that kitchen facilities may be provided if the room or group of rooms is located within a multi-unit building which also contains central dining facilities in which meals are made available to residents as part of a supportive services program.

4. Elderly housing room. A room within a retirement community that is not part of an elderly housing dwelling unit or an elderly housing unit, which contains sleeping facilities and may contain sanitary facilities, but does not contain kitchen facilities or living facilities.

5. Elderly person. A person age 55 or older.

6. Elderly household. A household which includes at least one elderly person and no occupant less than 55 years of age unless any such occupant less than 55 years of age is a full-time caregiver to the elderly person, or the spouse or companion of the elderly person.

7. Kitchen. A room or portion of a room equipped for the preparation of full meals, including, at minimum, a range (or built-in cooking top and oven), a sink and a refrigerator.

8. Nursing home. As defined in Section 104, including those facilities categorized under state and federal law as "assisted living facilities." A nursing home may include non-elderly persons with disabilities as residents.

9. Retirement community. A planned community which provides housing for elderly households in a variety of housing types, at least some of which are elderly housing dwelling units or elderly housing units; which may include a nursing home; which can accommodate at least 150 residents; which provides a variety of levels of care and a range of services to elderly households; and which is designed to provide a sense of unified development with a common design character.

10. Senior center. A building or portion of a building located within a retirement community and used for recreational, social, educational or cultural activities designed primarily for elderly persons.

D. Designation of a Retirement Community Overlay District

The Town Council may designate any area of 30 acres or more, which will be served by public water and sewer, as a retirement community overlay district, utilizing the procedures for amending this ordinance under Section 203 and in accordance with the requirements of state law for zoning amendments.

E. Submission Requirements

If the request for the designation of a Retirement Community Overlay District is initiated by the owners of the property within the proposed overlay district, the request shall be accompanied by the following submissions, which shall be in addition to the submissions required by Section 203:

a. A narrative description of the range of care and service options to be offered and a discussion of how these are consistent with the definition of a retirement community.

b. A conceptual master plan drawn to scale and showing, in general terms, the proposed location and size of buildings, roads and drives, parking areas, recreational facilities, and other development features. The conceptual master plan shall be prepared by a registered landscape architect, registered architect, or registered professional engineer. The scaled plan shall show in a conceptual nature the primary drainage features and patterns of the proposed district, environmentally sensitive areas, prime development areas, potential points of vehicular access, and other significant manmade and natural features of the proposed district.

F. Amendments or Expansions

The Town Council may modify or expand the boundaries of a Retirement Community Overlay District at any time, following the same procedures and standards as used in the creation of the district.

G. Repeal

The Town Council may repeal a Retirement Community Overlay District created at the request of the property owners within the district and terminate all rights in the overlay provisions if:

1. Necessary Subdivision and/or Site Plan approvals have not been obtained for the retirement community within two (2) years of the Town Council's vote to create the overlay district, and/or

2. Substantial construction has not begun on the improvements shown on the approved Subdivision and/or Site Plan within three (3) years of the Town Council's vote to create the district.

3. The use of the property no longer qualifies as a Retirement Community as defined in section C above.

H. Subdivision and/or Site Plan Approval

All retirement communities, as defined in this Ordinance, are subject to Subdivision and Site Plan Review.

Once a Retirement Community Overlay District has been designated, all applications for Subdivision and/or Site Plan approval shall be generally consistent with the conceptual master plan if such a plan was submitted as part of the designation process. A plan for Subdivision and/or Site Plan approval shall be deemed generally consistent with the conceptual plan provided there are no changes to items such as increased density, additional buildings, reduction in buffers, or significant changes in parking areas and/or road layouts

An applicant for an approval that is subject to a conceptual master plan may request a change to the master plan by filing a revised plan with the Town Council. A change may include, but is not limited to, items such as increased density, additional buildings, reductions in buffers, or significant changes parking areas and/or road layouts. The Council shall consider the submission as an amendment to the district designation and shall use the same procedures and approval standards as for the initial designation of a district.

I. Permitted Uses

In addition to the uses allowed in the underlying zoning district, the following uses shall be permitted uses in any Retirement Community Overlay District:

1. Elderly housing dwelling units

2. Elderly housing units

3. Nursing homes

4. Supportive facilities as part of a retirement community including, but not limited to, administrative facilities, dining facilities, care facilities, common areas, recreational spaces and facilities, maintenance facilities, and similar facilities necessary for the operation of the retirement community or the provision of services to the residents or that provide services or activities for residents of the retirement community and other elderly people and/or people with disabilities, such as healthcare, physical therapy, speech therapy, occupational therapy, rehabilitation services, financial services, personal care services, and other convenience services that meet the day-to-day needs of the residents of the community

5. Day care centers for children

6. Day care centers for adults

7. Senior centers

J. Space and Bulk Standards

Notwithstanding the requirements of the underlying zoning district, a retirement community and all uses, buildings and structures associated with it shall be governed by the following provisions:

1. Minimum site and lot size – a retirement community shall include a minimum of thirty (30) acres.

2. Maximum net residential density for elderly housing dwelling units – one elderly housing dwelling unit per six thousand (6,000) square feet of net residential acreage within the retirement community.

3. Maximum net residential density for elderly housing units – one elderly housing unit per three thousand (3,000) square feet of net residential acreage within the retirement community.

4. Maximum net residential density for care beds – one care bed per two thousand (2,000) square feet of net residential acreage within the retirement community.

5. Maximum lot coverage – the maximum lot coverage of the entire parcel shall be not more than 25%.

6. Minimum building separation – no detached building or structure shall be located closer than 10 feet to any other building or structure within the retirement community.

7. Setback requirements from adjacent properties – buildings and structures of the following heights must maintain the following minimum setbacks from the external perimeter boundary of the retirement community:

Height	**Minimum Setback**
Less than thirty (30) feet	fifty (50) feet
Between thirty (30) feet and thirty-five (35) feet	ninety (90) feet

K. Parking requirements

A retirement community shall provide off-street parking in compliance with the requirements of Section 514 of this Ordinance in the following numbers:

1. One parking space for each employee based on the expected average number of employees per largest shift; and

2. One parking space (which may include garage spaces and single width driveways) for each elderly housing dwelling unit; and

3. One parking space for every two elderly housing units; and

4. One parking space for every three care beds.

The Project Review Board may modify the parking requirements if the applicant for the retirement community demonstrates that a reduction in the number of spaces is appropriate due to the particular circumstances of the proposed development.

L. Development Along Adjacent Roads

When the development proposal provides for the construction or expansion of a building within seventy-five (75) feet of an existing road on the perimeter of the retirement community site, special consideration shall be paid to the design of the building and site to be compatible with other development along the road. In general, buildings shall be designed so that they front on the road, or as an alternative, do not turn their backs to the road. No service or storage area shall be located between the building and the road. Vehicular access shall be from internal streets or combined entrances where practical. Parking lots shall be located on the retirement community side of these buildings where practical rather than between the buildings and the existing road. If a sidewalk or pedestrian way exists along the existing road, provisions shall be made to extend this past the site and to link it with the planned buildings.

M. Design Elements

The design of the retirement community shall reflect an overall sense that the entire community is part of a single development with a pedestrian friendly, neighborhood scale. As such, the buildings shall convey a common character but need not be similar in either design or scale. Common elements such as signs, lighting, and site furniture and improvements should be used where practical to establish a sense of community. Where appropriate, provisions for pedestrian and cart linkages should be made to bring the elements of the retirement community together. In general, high intensity/high traffic uses and core facilities should be sited in central locations within the community where feasible, with lower intensity uses on the perimeter.

Section 532. Accessory Apartments

An accessory apartment is a small dwelling unit that is accessory and subordinate to the principal use of a property as a single family dwelling. These standards are intended to allow the addition of one accessory apartment to a single family dwelling only if such addition will preserve the single family residential character of the property. The following standards shall be met to create and maintain an accessory apartment:

1. An accessory apartment may be created in one of the following ways:
   a) by using space within an existing dwelling;
   b) by building an addition onto an existing dwelling such that the addition is made part of the principal dwelling;
   c) by using space within an existing or proposed accessory structure that is within 50 feet of the single family dwelling;
   d) buildings existing prior to February 7, 2012 that are greater than 50 feet from the single family dwelling may be used for an accessory apartment provided no additions are added to the existing structure; *{Amended, Effective 02/07/12}*
   e) new construction

2. Accessory apartments located in the Shoreland Zone must be connected to the public water and sewer system.

3. For the purposes of this section, the accessory apartment shall not be considered to be a second dwelling unit for determining the required minimum lot area, or net residential density.

4. If the accessory apartment will be located in a building that doesn't conform to the setback requirements, the apartment must be constructed so that the building is not made more non-conforming. If the single family dwelling is non-conforming with regard to use, the creation of an accessory dwelling will not make the single family more non-conforming,

5. If the lot is served by public sewerage, both the single family dwelling and the accessory apartment must be connected to the sewer system. If the lot is served by subsurface sewage disposal, the owner must demonstrate that the use conforms to the State of Maine Minimum Lot Size law and that the sewage disposal system(s) for both the single family dwelling and the accessory apartment complies with the Maine Subsurface Wastewater Disposal rules.

6. In all cases, the accessory apartment shall be no larger than 40% of finished and heated portion of the single family home and have no more than one bedroom, nor no less than 320 square feet. *{Amended, Effective 02/07/12}*

7. Either the single family dwelling or the accessory apartment must be occupied by the owner of the property. At least one of the units shall be occupied as a primary residence.

8. Any exterior alteration of the single family dwelling or accessory buildings or construction of an accessory building shall preserve the single family appearance, architectural style, and character of the original structure and shall be in harmony with the general appearance of the neighborhood. Any alteration shall preserve the front entrance of the original structure to preserve the single family character. A separate entrance for the accessory apartment may be created but shall be clearly secondary to the main entrance, such as but not limited to an entrance that is setback further from the road than the primary entrance.

9. At least three off street parking spaces shall be provided on the property. At least one space shall be available for the occupant(s) of the accessory apartment. A garage bay may be counted as one space for meeting the parking requirement. The parking shall be located and designed to minimize the impact on adjacent properties and shall be buffered by landscaping and/or fencing from abutting residential uses if it is located in the side or rear yard. Where possible, a turn around shall be provided to avoid the need to back out of the driveway.

Section 533 – SMALL WIND ENERGY SYSTEMS *{Amended, Effective 02/07/12}*

Small wind energy systems (SWES) erected after (insert date of adoption) are considered accessory uses and structures in the Rural Residential 1 & 2 Districts, Industrial 2, Commercial 1, and MD-A & B. SWES are prohibited in the Resources Protection District. The Code Enforcement Officer may issue any necessary permits for the installation and operation of a SWES provided the following performance standards are met. A SWES which complies with the performance standards of this section is not subject to the space and bulk regulations of the zoning district in which it is located.

1. Space and Bulk –

a. Number of SWES – With the exception of SWES allowed per subsection N.(12) below, the number of SWES shall be limited as follows: on *lots less than one (1) acre in size a maximum of one (1)* SWES is permitted *per lot*; on *lots one (1) acre to five (5) acres* in size a maximum of *two (2) SWES* is permitted per lot; on *lots greater that five (5) acres in size, there is no maximum number* of SWES per lot. SWES, and the number of systems, shall be designed, sized and installed to generate energy only for the building(s) located on the same lot. This standard is not intended to prohibit the transfer of excess energy to the power grid.
b. Height – The height of a SWES shall be limited to eighty (80) feet. SWES height shall be measured from the average elevation of the finished grade at the base of the tower to highest point of the SWES.

c. Setbacks – The SWRS shall be setback a minimum of 75% of the systems height, as measured in subsection b above, from all property lines or shall comply with the minimum front, side, or rear yard setback requirement of the zoning district in which it is located whichever is greater. The Codes Enforcement Officer may relax the 75% of the SWES height setback standard if the applicant secures a restrictive easement(s) from the abutting property owner(s) that allows for a lesser setback. The restrictive easement shall restrict the uses and structures within the easement area so as to allow the SWES to be located closer to the property line than the 75% requirement above. A restrictive easement from an abutting property shall not however enable a SWES to be sited closer to the abutting property line than the minimum front, side and rear yard setback requirements of the zoning district.

2. SWES Energy Generation –
SWES shall be limited to a power generation capacity of 5 kilowatts in residential districts and 50 kilowatts in commercial and industrial districts.

3. Design and Aesthetics –
   a. Tower – The new installation of a tower for a SWES designed to generate electricity shall be a monopole-style tower. The new installation of a lattice tower shall be allowed for SWES designed to pump water. Electricity generating SWES affixed to lattice towers existing (not aware of any) as of (insert date of adoption), that otherwise comply with this subsection shall be permitted.
   b. Color – SWES shall be a non-reflective, neutral color (light gray, white, brushed aluminum etc.)
   c. Signage – SWES shall not display signage or other forms of advertising, except warning, direction and manufacturing labels, none of which shall exceed six (6) square feet in area.
   d. Appendages – Appendages to a SWES tower may be permitted, but are limited to appendages that will not affect the normal operation, safety or stability of the SWES.

4. Safety
   a. Access – Any climbing apparatus on a SWES tower shall be a minimum of fifteen (15) feet from the ground.
   b. Blade Clearance – The SWES' s blades shall not rotate to within twenty five (25) feet of the ground at their lowest point.

5. Lighting
Exterior lighting on a SWES may be permitted but the lightings placement on the SWES shall comply with the maximum building height limit (35')of the zoning district in which the SWES is sited, except for lighting that may be required by the Federal Aviation Administration.

6. Electrical Service
Electrical wiring and connections from the wind energy system to the building(s) they serve shall be underground, unless an applicant demonstrates to the Code Enforcement Office that

the subsurface conditions of a particular site makes the installation of an underground electrical service impracticable. All SWES shall be UL listed.

7. Noise
    a. Over-Speed Control - The SWES shall be equipped with either a manual or automatic brake, governing, furling or feathering mechanism that controls and moderates the rotation of the system's blade and prevents over-speed. Conformance with this requirement shall be confirmed and documented by the wind energy system's manufacturer.
    b. Db(A) Level – The SWES shall be designed and operated to not exceed 20 db(A) above the ambient noise level at the closest property line. After approval and installation of the SWES, the Code Enforcement Officer may require the applicant to perform sound measurements to determine conformance with this standards.

8. Foundation
   The foundation design for a SWES shall comply with the SWES manufacturer's minimum standards regarding the specific wind energy system and the soils type at which the installation is proposed.

9. Submission Requirements For Permitting
   A plot plan; specifications and an illustration of the SWES provided by the manufacturer; a detailed description of how the SWES, and the lot on which it is proposed, complies with the performance standards of this subsection N; structural drawings of the wind tower, base and foundation prepared by the manufacturer or a professional engineer; and electrical and building permit applications shall be submitted prior to Code Enforcement review and approval.

10. Removal Requirements
    a. Unsafe SWES – A SWES that is found to be unsafe by Code Enforcement shall either be repaired to correct the safety issue or shall be removed by the property owner.
    b. Abandonment – A SWES that is not working or is not being used for a consecutive twelve (12) month period shall be removed by the property owner.

12. SWES within Common Open Space
    To the extent permitted by applicable state and/or federal law, SWES may be allowed by the Project Review Board within the common open space of a residential subdivision reviewed under Section 504A of the Zoning Ordinance, subject the following requirements:
    a. The open space shall be of sufficient size and dimensions to accommodate the SWES(s) and the 75% setback requirement of subsection.N.1.c. above, within the boundaries of the open space.
    b. The installation of a SWES, and necessary associated improvements, shall not impact wetlands or otherwise compromise the intent of a conservation subdivision to protect wetlands or other natural resources.
    c. The SWES shall comply with all the performance standards other than subsection N.1. Number of SWES, and shall require Planning Board approval of the location of the SWES within the subdivision prior to application to Code Enforcement. The number

of SWES shall be determined by the Planning Board and shall be based on the forecasted energy consumption of the dwellings and uses with the subdivision as well as the sites ability to comply with subsection 12.a. and 12.b. a. above.

ARTICLE VI

ADMINISTRATIVE PROVISIONS

Section 601. Enforcement

A. Enforcement Officer: It shall be the duty of the Codes Enforcement Officer of the Town of Freeport to enforce the provisions of this Ordinance. If the Codes Enforcement Officer shall find that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, building, or structures, removal of illegal building or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions. The Codes Enforcement Officer may employ an independent, recognized consultant, if necessary, at the expense of the applicant, to assure compliance with performance standards of this Ordinance and abatement of nuisances.

B. Legal Action and Violation: When any violation of any provision of this Ordinance shall be found to exist, including failure to comply with any subdivision or site plan approved by the Planning Board or the Project Review Board, or condition imposed by the Planning Board or the Project Review Board or Board of Appeals, the Codes Enforcement Officer shall notify the Town Manager who shall then initiate any and all actions to be brought in the name of the Town. The Town Manager shall notify the Town Council before any formal action begins.

C. Fines: Any person, firm or corporation being the owner of or having control or use of any building or premises who violates any of the provisions hereof commits a civil violation and is subject to such fines as the Town Council shall have established for violations of this Ordinance. Each day such a violation is permitted to exist after notification thereof shall constitute a separate offense. All fines collected hereunder shall inure to the Town of Freeport.

D. Building Permit: A Building Permit issued by the Codes Enforcement Officer shall be required for the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, change of use, location, relocation, maintenance, removal and demolition of any building or other structure, as defined in the most current Maine Uniform Building and Energy Code. No building permit shall be issued except in conformity with the provisions of this Ordinance and all other applicable ordinances of the Town of Freeport and any conditions imposed pursuant to said ordinances. A building permit secured under the provisions of this Ordinance shall expire if the work or change is not commenced within one (1) year of the date on which the permit is granted, and if the work or change is not completed within two (2) years of the date on which the permit is granted. All building permits heretofore issued shall be subject to the provisions of this Paragraph. *{Amended, Effective 06/19/12}*

E. Application for Building Permit: All applications for building permits for the erection

or enlargement of any new or existing building shall be accompanied by plans drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the sizes and locations on the lot of buildings already existing, if any, the location and dimensions of the proposed building or alteration, and the proposed sewage disposal system as required by the Maine State Plumbing Code. The application shall include such other information as may be required by the Codes Enforcement Officer to determine conformance with and to provide for the enforcement of this Ordinance. Applications shall be accompanied by a fee which shall be established by the Town Council. The Codes Enforcement Officer shall maintain a public record of all building permits which are issued.

If any part of the structure is proposed to be located closer than 5 feet to the minimum front, side, rear or shore setbacks required by the applicable zoning district regulations; or if the Codes Enforcement Officer determines that special conditions such as complex curves in the property lines, or other unusual features of lot shape or topography, the Codes Enforcement Officer may require that the foundation be set and pinned by a professional land surveyor.

F. Certificate of Occupancy

1. It shall be unlawful to use or occupy or permit the use or occupancy of any land, building, structure or part thereof in which the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, change of use, location, relocation, maintenance, removal and demolition of the use of any land, building, or structure as defined in the most current Maine Uniform Building and Energy Code until a Certificate of Occupancy is issued therefore by the Codes Enforcement Officer and endorsed to the effect that the proposed use of the land, building or structure conforms with the requirements of this Ordinance. *{Amended, Effective 06/19/12}*

2. An applicant for a building permit shall also make application for a Certificate of Occupancy, which application must be received before a building permit may be issued. Upon completion of the work permitted by the building permit, the Codes Enforcement Officer shall issue the Certificate of Occupancy upon finding that the building, structure or land and the use or occupancy thereof comply with the provisions of this Ordinance, with all provisions of any site plans or subdivision plans approved by the Planning Board or the Project Review Board and with any conditions imposed by the Planning Board or the Project Review Board or Board of Appeals. The Codes enforcement Officer shall maintain a public record of all Certificates of Occupancy which are issued. Failure to obtain a Certificate of Occupancy shall be a violation of this ordinance.

G. Board of Appeals:

1. Appointment and Composition: There shall be a Board of Appeals consisting of seven (7) voting members who are appointed by the Town Council for three (3) year terms. Members shall annually elect a Chairman, who shall preside at all Board meetings, and a Secretary, who shall provide for the keeping of the proceedings of the Board. A quorum shall consist of four members qualified to vote on an appeal. A

decision shall require a majority vote of those present and voting. A tie vote shall constitute denial of an appeal.

2. Powers and Duties: Appeals shall lie from the decision of the Codes Enforcement Officer to the Board of Appeals and from the Board of Appeals to the Superior Court according to the provisions of Maine Revised Statutes. The Board of Appeals shall have the following powers and duties:

    a. Administrative Appeals. To hear and decide where it is alleged there is an error in any order, decision, interpretation, or ruling of the Codes Enforcement Officer in the enforcement of this Ordinance. Action of the Codes Enforcement Officer may be overturned only by a majority vote of those members present and voting.

    b. Variance Appeals. To hear and decide appeals requesting such variance from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in undue hardship. A variance may be granted only by majority vote of those members present and voting, and may include such conditions and safeguards as are appropriate under this Ordinance. The words "undue hardship" as used in this subsection mean:

        (1) That the land in question cannot yield a reasonable return unless a variance is granted;
        (2) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
        (3) That the granting of a variance will not alter the essential character of the locality; and
        (4) That the hardship is not the result of action taken by the applicant or a prior owner.

        No variance from the 75 foot setback from a stream in the Shoreland Zone shall be granted unless the Zoning Board of Appeals finds that the criteria under Section 602.F.1.L. are satisfied.

        The applicant shall submit specific information to substantiate that the land in question cannot yield a reasonable return.

        Except where specifically limited or prohibited, variances may be authorized only for minimum setback, maximum building/lot ratio, parking requirements for housing for the elderly, minimum frontage, minimum area, 15% expansion of non-conforming uses and buildings, and destroyed or demolished non-conforming buildings. Only the minimum variance which will alleviate the hardship shall be granted.

    c. Miscellaneous Appeals. To hear and decide only the following miscellaneous appeals. Such appeals may be granted only by a majority vote of those

members present and voting.

(1) Where uncertainty exists, to determine the precise location of any Zoning District Boundary line as specified in Section 303.3.

d. Limited setback reduction. To hear and decide requests for a limited setback reduction for a lot in residential use.

1) The following provisions apply for limited setback reductions for buildings and structures other than ground mounted solar panels. Such limited setback reductions may be granted in order to permit (i) the expansion or enlargement of an existing building or structure, (ii) the construction of a new building or structure which will be accessory to an existing building or structure, (iii) the construction of a new building or structure on a vacant non-conforming lot of record which can be built upon pursuant to Section 202(D) of the Ordinance; (iv) the dividing off of a new conforming lot from an existing lot of record that contains an existing building or structure; or (v) the creation of a new right of way within the required setback.

"Limited setback reduction" means the reduction of a front, side or rear setback (but not a shore setback) by no more than 50% of the requirement of the applicable zoning district regulations except for the RR-1, RR-2 and RP-2 Districts where the reduction can be no more than 75% of the applicable zoning district regulations. A "lot in residential use" means a lot on which a dwelling has existed for at least three years prior to the date the limited setback reduction is requested or a vacant non-conforming lot of record on which a dwelling is proposed. A limited setback reduction may be granted only by a majority vote of those members present and voting and may include such conditions and safeguards as are appropriate under this Ordinance.

(i) the existing buildings or structures on the lot were erected at least three years prior to the date the limited setback reduction is requested, or the lot is a vacant non-conforming lot of record which can be built upon pursuant to Section 202(D) of this Ordinance;

(ii) the limited setback reduction is reasonably necessary to permit the owner or occupant of the property to use and enjoy the property in essentially the same manner as other similar properties are utilized in the zoning district;

(iii) due to the physical features of the lot and/or the location of existing structures on the lot, it would not be practical to construct the proposed expansion, enlargement, the new

structure, new lot, or new right of way in conformance with the currently applicable setback requirements;

(iv) the impacts and effects of the enlargement, expansion, new building or structure, new lot, or new right of way on existing uses in the neighborhood will not be substantially different from or greater than the impacts and effects of a building or structure which conforms to the setback requirements. In determining whether the applicant has met this standard, the Board of Appeals may consider the presence or absence of neighborhood support for or opposition to the request; and

(v) the applicant has not commenced construction of the enlargement, expansion, building or structure, new lot, or new right of way for which the limited setback reduction is requested, so that the Board of Appeals is not considering an after-the-fact application.

(2) The following requirements apply for applications for limited setback reduction for ground mounted solar panels. Notwithstanding the above requirements, if the applicant's property is benefitted by a solar easement meeting the requirements of 33 M.R.S.A. § 1401 and the setback reduction is necessary to allow the location of the ground mounted solar panels on the portion of the applicant's property that is protected by that easement, an applicant may request a reduction greater than the allowances listed above. The applicant for a limited setback reduction for ground mounted solar panels must demonstrate the following:

(i) the limited setback reduction is reasonably necessary for obtaining the best possible orientation to the sun.

(ii) due to the physical features of the lot, the location of mature trees and other buildings it is not practical to locate the ground mounted solar panels in conformance with the applicable setback requirements,

(iii) the impacts and effects of the ground mounted solar panels on existing uses in the neighborhood will not be substantially different from the impacts and effects of the ground mounted solar panels if they conformed to the setback requirements. In determining whether the applicant has met this standard, the Board of Appeals may consider neighborhood support or opposition to the project.

(3) Whenever the Board grants a limited setback reduction, the Board shall prepare a certificate indicating the name of the current property owner,

identifying the property by reference to the last recorded deed in its chain of title, indicating that a limited setback reduction has been granted and setting forth the date it was granted. The applicant shall cause the certificate to be recorded in the Cumberland County Registry of Deeds within 90 days of approval of the limited setback reduction, or the approval shall be invalid.

(4) The granting of a limited setback reduction pursuant to this subsection 601(G)(2)(d) shall not require or be construed as the granting of a variance to relieve hardship. Notwithstanding Section 601(g)(4)(f), the denial of a variance request shall not preclude a subsequent application for a limited setback reduction under this subsection and the denial of a request under this subsection shall not preclude a subsequent application for a variance. If an application for a variance is pending, the Town shall not accept an application for a limited reduction of the same setback dimension on the same property; if an application for a limited setback reduction is pending, the Town shall not accept an application for a variance from the same setback dimension on the same property.

{Amended, Effective 08/05/14}

e. Mislocated building appeal. To hear and decide, only by majority vote of those members present and voting, setback reduction appeals in specific cases where existing buildings are found to be in violation of the setback requirements and where the Board concludes it would not serve the public interest to require the building to be relocated or removed and that allowing the building to remain in its existing location would not be contrary to the public health, safety or welfare. Before granting an appeal under this subsection, the Board must find that the setback violation is not the result of a willful, premeditated act or of gross negligence on the part of the applicant, a predecessor in title to the applicant or an agent of either of them. An appeal under this subsection shall permit the existing building or structure to remain, but shall not authorize any expansion, enlargement or relocation of the structure.

3. Conditions attached to Variances

The Board of Appeals may attach such condition(s), in addition to those required by other provisions of this Ordinance, as it finds necessary to insure compliance with all standards and all other applicable requirements of this Ordinance. Violation of any of those conditions shall be a violation of this Ordinance. Such conditions may include, but are not limited to, specifications for: type of vegetation; increased setbacks and yards; specified sewage disposal and water supply facilities; landscaping and planting screens; hours of operation; operation controls; professional inspection and maintenance; sureties; location of piers and docks; parking and signs; and types of construction.

4. Appeals Procedure

a. When the owner of property or authorized agent is informed by the Codes Enforcement Officer that an appeal is required, an application for the permit shall be filed with the Board of Appeals on forms provided for this purpose. The application shall be accompanied by a filing fee which shall be established by the Town Council, all information which is required for application for a building permit, and other information required by this section of the Ordinance. The applicant may submit any additional information relevant to the appeal.

   An administrative appeal shall be commenced within 30 days of the order, decision, interpretation or ruling of the Codes Enforcement Officer. A variance appeal or miscellaneous appeal which does not allege an error in any order, decision, interpretation, or ruling of the Codes Enforcement Officer may be commenced at any time.

b. Variance requests within a shoreland zone. A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least 20 days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

c. The applicant for a variance or a limited setback reduction must present plans drawn to scale showing all lot lines of the property, the location of each existing building or structure and the location of each proposed expansion, enlargement or new building or structure. Upon review of the application, the Codes Enforcement Officer may require the applicant to provide a standard boundary survey showing the foregoing information if the Codes Enforcement Officer determines that the locations of the lot lines relevant to the request for a variance or a limited setback reduction cannot be determined accurately without a survey. In addition, the Board of Appeals, upon review of the application, may require a standard boundary survey and additional information such as, but not limited to, copies of recorded deeds and such other materials as the Board deems necessary to render its decision. The applicant is ultimately responsible for providing documentation and verification of the facts asserted by the applicant, and any decision of the Board based on incorrect or inaccurate information provided by or on behalf of the applicant may be declared invalid by the Board and neither the Board nor the Town shall be stopped from applying and enforcing the provisions of this Zoning Ordinance based on correct and accurate information subsequently discovered.

d. Before making a decision on any appeal or application, the Board of Appeals shall hold a public hearing within 60 days of receipt of an application. Notice of the nature of the appeal and the time and place shall be published at least seven days

in advance of the date of the public hearing in a newspaper of general circulation in the area. Owners of property within 200' from the property which is the subject of the public hearing, the Project Review Board and the Town Manager shall be mailed copies of the notice of hearing at least 10 days in advance of the hearing date. For the purposes of this subsection, the persons against whom municipal property taxes are assessed shall be considered owners of property. Failure of any property owner to receive notice by mail under this subsection shall not invalidate this action by the Board of Appeals.

e. The Codes Enforcement Officer or designated assistant shall attend all public hearings and may present to the Board all plans, photographs, or other material he deems appropriate to a proper understanding of the appeal or application. Persons wishing to be heard by the Board may appear in person or through an agent or attorney. The Board of Appeals may adopt additional rules of procedure governing the conduct of meetings. The hearing shall not be continued to other times except to obtain additional evidence which cannot be produced at the scheduled hearing and only after a vote of the majority of the members present and voting to continue the hearing. If within 60 days of the public hearing the Board has not reached a decision, the application shall be deemed to have been denied, unless the board and the applicant agree to an extension of the 60 day period. A decision of the Board of Appeals becomes final when it is rendered and may not be reconsidered except in accordance with the provisions of subsection (I)(4)(d) of this Section 601.

f. If the Board of Appeals shall deny an appeal or application, a second appeal or application of a similar nature for the same property may not be brought before the Board within one year of the date of denial of the first appeal or application, unless, in the opinion of the majority of the Board, substantial new evidence can be brought before the Board, or unless the Board finds, in its sole and exclusive judgment, that an error or mistake of law or misunderstanding of fact has been made.

g. A permit secured under the provisions of this Ordinance by vote of the Board of Appeals shall expire if the work or change involved is not commenced within one (1) year of the date on which the permit was issued. Upon application, before expiration of the original permit, to the Codes Enforcement Officer, the officer may grant a one (1) year extension, without change, of the permit. The permit shall expire if the work or change is not completed within two (2) years of the issuance of the original permit.

h. When a building or structure is erected pursuant to a variance or a limited setback reduction approved by the Board of Appeals, the Board may require the location of the foundation to be set and pinned by a professional land surveyor.

i. Shoreland Zoning Variances: A copy of all variances granted by the Board of Appeals to all land areas within the Shoreland Zone shall be submitted to the

Department of Environmental Protection within fourteen (14) days of the decision.

Section 602. Site Plan Review *{Amended, Effective 01/22/13}*

A. Purpose

The purpose and objectives of the Site Plan Review requirements are to conserve the Town's natural beauty and visual character and to provide for public safety and environmental stewardship of the immediate neighborhood including light and noise and by insuring that structures, signs and other improvements are properly related to their sites and to surrounding sites and structures, especially in regard to the natural terrain and landscaping, and that the exterior appearance of structures, signs and other improvements harmoniously relates to their environment.

B. Applicability

1. **Site Plan Review** is required for all development proposals as outlined in Article IV of this Ordinance. In addition, , in accordance with the provisions of this Ordinance. In addition Site Plan Review is required for the following activities:

    a. A change of use when the new use is subject to Site Plan Review, except that a change of use of an existing building in the VC-I District from a restaurant to retail trade or from retail trade to a restaurant may be approved by the Town Planner as allowed in Section 602 (C)(c) (1), provided the building is located on a lot which does not abut a lot in residential use and no change occurs to the existing elements and features of the site except for necessary changes to the content of signage.

    b. A reduction in the number of or a reconfiguration of parking spaces serving a restaurant in the VC-I District, where such reduction or reconfiguration is allowed under Section 514(A)(5) of this Ordinance as amended on April 3, 2001; such reduction may be approved by the Town Planner as allowed in Section 602(C)(c) (1).

2. **Build according to plan.** Construction, site development and landscaping shall be carried out in accord with the plans, drawings, sketches, and other documents approved by the Project Review Board, unless altered with Board approval. Nothing in this subsection shall be construed to prevent ordinary repair, maintenance and improvement of existing structures and facilities.

3. **Multiple Reviews.** When a development is subject to multiple reviews such as Site Plan Review, Design Review, and/or Subdivision Review, the Project Review Board shall conduct a concurrent review; the project is required to meet the criteria and standards of all ordinance under review. If Subdivision Review is required, the procedures of

Subdivision Ordinance shall be used. If the development requires action by the Board of Appeals, Project Review Board review shall not commence until the Board of Appeals has made a decision.

C. Administration

1. The following procedures and requirements shall apply to all applications for site plan review:

a. **Pre-Application Conference**. Prior to submitting a formal application for a project requiring Site Plan Review, the owner of the property or agent, as designated in writing by the owner, is urged to schedule a pre-application conference with the Town Planner. The purpose of this meeting is to familiarize the applicant with the review procedures, submission requirements and the approval criteria and to familiarize the Town Planner and other relevant Town staff with the project. The Town Planner shall determine who has the authority to review the project: the town planner, the Staff Review Board, or the Project Review Board.

b. **Notification**. Notwithstanding other notification requirements included in Sec. 602, all agendas of the Project Review Board and the Staff Review Board shall be posted in the Town Clerk's Office and the Freeport Community Library for inspection during normal business hours and the notice shall be placed on Freeport's local cable channel 7 and the Town's website.

c. **Classification of Site Plans**:

1. **Town Planner review**. The Town Planner has the authority to review and take action on projects that do not modify the intent of the approved site plan. They shall be shown on a plan submitted by the applicant to the Town Planner and the Town Planner shall sign and date the plan to record agreement that the change does not modify the intent of the approved site plan. Examples include, but are not limited to, minimal lighting, landscaping changes and changes to previously approved ground and building mounted signs and new building mounted signs provided the signs meet the standards of the Freeport Sign Ordinance, building modifications up to 500 square feet, impervious surface modifications up to 500 square feet, and site plan renewals in which the plans still meet the local standards. Notwithstanding the above, either the Town Planner or the applicant may request a hearing by the Project Review Board.

2. **Staff Review Board**. Developments that meet the criteria of Sec. 602.C.c.2.a-g below shall be considered minor amendments and shall be eligible for review by the Staff Review Board. Developments that also require a Design Review Certificate or Subdivision approval are not eligible for review by Staff Review Board , those projects require review

by the Project Review Board. The Staff Review Board shall consist of the Town Planner, the Fire Chief, the Codes Enforcement Officer, the Town Engineer and the Public Works Superintendant, or the designee of any of them, with input from other Town departments as needed. The Staff Review Board shall have the same powers and duties as the Project Review Board. A public hearing shall not be required; however, notification of the nature of the application and the time and place of the meeting shall be given by mail to the applicant and the owners of all property within 200 feet of the property involved at least 5 days in advance of the meeting. The Staff Review Board shall accept public comment for all application. A quorum of the Board necessary to conduct an official Board meeting shall consist of at least three (3) members. Action on any application by the Staff Review Board shall require a majority of those members present and voting. An audio recording of each meeting shall be made and retained by the Town. The completed application for site plan review, together with the documentation required in these regulations shall be placed on the Staff Review Board's agenda for consideration within 20 days. Any appeals from the decisions of the Staff Review Board shall be taken directly to the Project Review Board within 30 days of decision. The following developments shall be eligible for staff review:

a. Change of use from one permitted use to another permitted use provided any expansions do not exceed the limits stated in Section 602.C.c.2.b-c.. listed below
b. Building footprint modifications greater than 500 square feet but less than 1,500 square feet.
c. Parking lot modifications greater than 500 square feet but less than 1,500 square feet.
d. Filling of lands or creation of ponds on properties where the primary use is residential.
e. Filling of lands or creation of ponds where the primary use of the property is commercial which are greater than 200 cubic yards but less than 600 cubic yards of material.
f. Renewal of gravel pit operations that do not include an expansion or other modification.
g. Review of wireless telecommunications antennae on an existing tower or on a structure for which a wireless telecommunication antenna(e) has been previously approved.

If, however, the Town Planner or the applicant determines that a project appears to be complicated or disputed, the Town Planner may refer the application to the Project Review Board for their review at the next available meeting.

3. **Project Review Board**. Developments that don't meet the criteria for review and action by either the Town Planner or the Staff Review Board

shall require review and action by the Project Review Board. The Project Review Board shall accept public comments on any item at any stage of the review process. A public hearing shall not be required, but the Project Review Board may decide to schedule a public hearing if the size and/or nature of the development is perceived to have a significant impact on the community, not just the nearby properties.

Projects that amend previously approved site plans, and that have sufficient information to be considered complete by the Town Planner, may be reviewed and have action taken in a single meeting of the Project Review Board.

Projects that are proposed on undeveloped land, that include the demolition of buildings, that are located in the Resource Protection 1 District, or when a building and/or parking area is more than doubled in size than the existing building and/or parking area should first submit a conceptual plan. A conceptual plan should include environmentally sensitive areas such as wetlands, water bodies, streams, and steep slopes, locations of passing test pits if a subsurface sewage disposal system is proposed, the location of buildings and parking areas, and building elevations if a building is proposed. Conceptual plans should not be engineered plans. The purpose of the conceptual plan is to introduce the project to the Board and to contact property owners near the development. This portion of the review gives the Board and nearby property owners an opportunity to comment on the project before any engineering is done for the project. This phase of the review process is to direct the applicant as to what changes should be made and what information should be included in the final plan.

d. **Timing of review.** The completed application for site plan review, together with the documentation required in these regulations, shall be placed on the Project Review Board's agenda for consideration within thirty (30) days of its receipt for either conceptual or final review unless the Project Review Board and applicant agree to a continuance; however, any application which is not complete shall not be placed on the agenda but shall be returned to the applicant by the Town Planner with an indication of the additional information required. Within sixty (60) days of the receipt of a Site Plan submission which is determined by the Project Review Board to be complete, the Project Review Board shall act

e. **Possible action.** Action may include approval, approval with conditions, or disapproval of the site plan as submitted or amended.. If the Project Review Board shall vote to disapprove an application, the owner or authorized agent shall be notified in writing and the specific cause of disapproval shall be noted.

f. **Site walk.** The Project Review Board or Staff Review Board may schedule a site visit of the property before making a final decision on the application. All

property owners within 200 feet of the property on which a development proposal is being made will be notified of the date, time and location of the site visit and the Board will report on its findings at its next scheduled meeting.

g. **Conditions of approval.** The Project Review Board or Staff Review Board may attach such condition(s) as it finds necessary to ensure compliance with the purpose and standards of Site Plan Review and all other applicable sections of this Ordinance. Requests for changes in the conditions of approval require Project Review Board review under the provisions of this section.

h. **Review by an expert.** The Project Review Board or Staff Review Board may require that the Town Engineer or other expert consultant(s) review one or more submissions of an application and report as to compliance or noncompliance with this Ordinance and, advise if necessary, of procedures which will result in compliance. The consultant shall estimate the cost of such review and the applicant shall deposit with the Town the full estimated cost which the Town shall place in an escrow account. The Town shall pay the consultant from the escrow account and reimburse the applicant if funds remain after payments are completed. If the actual cost is more than the estimated cost, the applicant shall pay any overages before the Notice of Decision of the Board is issued to the applicant. The consultants shall be fully qualified to provide the required information as determined by the Town of Freeport Project Review Board in its sole discretion. .

The Project Review Board may require the applicant to undertake any study which it deems reasonable and necessary to insure that the requirements of the Ordinance are met. The costs of all such studies shall be borne by the applicant.

i. **Public Hearing**. If the Project Review Board decides to hold a public hearing a notice of the nature of the application and of the time and place of the public hearing shall be given by mail to the applicant and the owners of all property within two hundred (200) feet of the property involved at least ten (10) days in advance of the hearing and shall be published at least seven (7) days in advance in a newspaper of general circulation in the area.

The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Project Review Board.

j. **Performance Guarantee**: The Project Review Board as a condition of approval may require the applicant to post a performance guarantee. The performance guarantee may be in the form of an escrow agreement, irrevocable letter of credit, or other surety in such amount as is approved by the Project Review Board as being reasonably necessary to ensure completion of site improvements such as erosion control, stormwater management facilities, parking areas, landscaping,

retaining walls, lighting and any off-site improvements that were required as a condition of approval.

The Town shall have access to the site at all times to review the progress of the work and shall have the authority to review the field logs maintained by the construction monitor. Any deficiencies noted by the Town representative shall be brought to the attention of the construction monitor who shall see that remedial measures are taken. If the Municipal Engineer or appointed representative shall find, upon inspection of the improvements performed before expiration date of the performance bond, that required improvements have not been constructed in accordance with plans and specifications filed by the applicant, he shall so report to the Municipal Officers or their appointed designee. The Municipal Officer shall then notify the applicant and, if necessary, the issuer of the performance guarantee, and take necessary steps to preserve the municipality's rights under the performance guarantee.

k. **Payment of fees** At the time of application for a building permit, the applicant shall pay to the Town Treasurer any fees that were required as a condition of the approval. Fees such as an inspection fee to cover ensure that the project is constructed as approved, impact fees, and the administrative fee on the performance guarantee.

l. **Pre-construction meeting**. The applicant shall notify the Municipal Officers or their appointed designee when construction of such improvements shall commence so that the Municipal Officers or their appointed designee can cause inspection to be made to assure that all municipal specifications and requirements shall be met during the construction of required improvements and to assure the satisfactory completion of improvements and utilities required by the Project Review Board; or

m. **As-built plans.** Upon completion of construction, the owner shall present to the Town a set of reproducible Mylar as-built drawings indicating facilities as constructed. The as-built drawings shall bear the professional seal of the licensed engineer.

n. **Review of future plans.** No new plan by the applicant shall be approved by the Project Review Board as long as the applicant is in default on a previously approved plan.

o. **Certificate of occupancy**. A certificate of occupancy shall not be granted until the Codes Enforcement Officer determines that the completed project meets all of the requirements of the plan as approved by the Project Review Board.

Nothing contained in this section shall prevent the Town from pursuing any other action.

p. **Existing development**. Nothing herein contained shall require any change in plans, construction or structure, the construction of which shall have been diligently prosecuted previous to the date of enactment or amendment of this Ordinance, provided plans for such building or structure shall have been timely filed with and approved by the Codes Enforcement Officer.

q. **State and federal permits.** The applicant shall comply with all State and Federal requirements and receive all relevant approvals before application is made for a building permit and/or any development activities may begin. The Codes Enforcement Officer shall issue a building permit after a determination that the application complies with the plan approved by the Staff Review Board or the Project Review Board.

r. **Approval duration**. The approval of a site plan shall become void if construction of site improvements is not initiated within two (2) years of the date of such approval unless such time limit is extended by the Project Review Board. The site may be developed and used only as shown on the approved site plan. All elements and features of the plan are conditions of the approval and no change from the approved plan is permitted unless an amended plan is first submitted to and approved by the Freeport Project Review Board. *{Amended, Effective 02/08/11}*

s. **Violations.** Failure to comply with any conditions of the Site Plan Review, subsequent to approval of the Plan, shall be construed to be a violation of this Ordinance and shall be the grounds for revoking the approval, initiating legal proceedings to enjoin construction or any specific activity violating the conditions of approval, or imposing such fines as the Town Council shall have established for violations of this Ordinance, for each day that the violation continues to exist after official notification by the Codes Enforcement Officer.

C. **Submission Requirements**: When the owner of the property or authorized agent makes formal application for Site Plan Review, the application for the Site Plan or an amendment to an approved plan shall contain at least an application, a deed for the property, plans, building elevations, and a cover letter. More details on each of these items are listed below. The Town Planner shall make an initial review of the application to determine if it is complete.

1. **Application**: A fully executed and signed copy of the application for Site Plan Review. The application form will be provided by the planning department.

2. **Deed**: A copy of the recorded deed for the property. If the applicant is not the property owner a purchase and sale agreement or a lease agreement shall also be submitted to show that the applicant has a serious interest in the project and sufficient title, right, and/or interest to complete the project. The amount being paid for the property may be blacked out.

3. **Cover letter:** A cover letter explaining the project should include details on any proposed construction or change of use that can't be explained by the plans. The cover

letter should also list other local, state, or federal permits or licenses that will be required. If applicable, the cover letter should include the applicant's intent for ownership of the open space.

4. **Plans**: At least twelve (12) copies of a site plan drawn at a scale sufficient to allow review under the Criteria and Standards of section (G) of this Section, but at not more than 50 feet to the inch for that portion of the total tract of land being proposed for development and twelve (12) copies of the plan on 11 X 17" size sheets. All plans shall include the following information:

   a. Owner's name, address and signature;

   b. *Boundaries* of all contiguous property under the control of the owner or applicant regardless of whether all or part is being developed at this time;

   c. The *bearings and distances* of all property lines, and easements and the location of the adjacent right-of-way.. A formal survey is recommended for new developments; however, the Project Review Board may waive the requirement of a formal boundary survey when sufficient information is available to establish, on the ground, all property boundaries;

   d. *Zoning classification*(s) of the property and the location of Zoning District boundaries if the property is located in two or more Zoning Districts;

   e. The *lot area* of the parcel and the *road frontage*;

   f. The *location, size, and type of all existing and proposed buildings* and structures (including size and height) and the setbacks from property lines, driveways, sidewalks, parking spaces, loading areas, open spaces, large trees, open drainage courses, signs, exterior lighting, service areas, easements and landscaping;

   Developments proposed on land that hasn't been previously developed, redevelopment of property, and or significant expansion shall also include the following information. The Town Planner may determine what additional information will need to be submitted. The Project Review Board may require additional information or may waive the additional submission requirements required by the Town Planner.

   g. Sketch map showing general location of the site within the town;

   h. The location of all *buildings within 150 feet* of the parcel to be developed and the location of *intersecting roads or driveways within 200 feet* of the parcel;

   i. Existing and proposed *topography* of the site at two foot contour intervals if major changes to the existing topography are being proposes;

   j. A *stormwater drainage* plan showing:

(1) the existing and proposed method of handling stormwater run-off;
(2) the direction of flow of the run-off through the use of arrows;
(3) the location, elevation and size of all catch basins, dry wells, drainage ditches, swales, retention basins, and storm sewers;
(4) engineering calculations used to determine the increased rate of drainage based upon the pre and post development conditions of a two year, ten (10) year and twenty-five (25) year storm frequency. The drainage plan shall result in no increase to the rate of off site-drainage from the pre-development rate.
(5) Plan for maintaining and/or improving stormwater quality. Retention of the first one-half inch of run-off from a storm event for 24 hours may be required.
(6) Compliance with Section 529.4, if applicable.

k. A *utility plan* showing provisions for water supply and waste water disposal, including the size and location of all piping, holding tanks, leach fields, etc., and showing the location and nature of any solid waste collection facility and all electrical, telephone and any other utility services to be installed on the site. Impact on groundwater shall be evaluated. All utilities shall be underground whenever feasible as determined by the Project Review Board.

l. *Lighting* showing the location, type, radius and intensity in foot candles of all exterior lighting, including sidewalk lighting in the Village Commercial 1 and 2 Districts.

m. A *landscaping* schedule keyed to the site plan and indicating the varieties, sizes, and the locations of trees, shrubs, plants and any other landscaping elements to be retained or to be planted or placed on the site. It should include proposed methods of protecting existing trees and growth during and after construction.

n. If a new entrance is proposed; *sight distances* at the entrance is required in both directions

o. *Building elevations*: For new building construction, building elevation drawings of all sides of the building including the description of type, color, and texture of all buildings.

p. Estimated *peak-hour traffic* to be generated by the proposal.

q. The *type and size of all permanent machinery* likely to generate appreciable noise at the lot lines.

r. The amount and type of any raw, finished *or waste materials to be stored* outside of roofed buildings, including their physical and chemical properties, if applicable.

s. A *list of construction items* that will be included in the performance guarantee and the estimated or actual cost of completing those items.

t. Provisions for *maintenance agreements* of all common areas, if applicable.

u. *Condominium declarations*, if applicable, including, but not limited to, organization of the homeowners' association and provisions for maintenance of common areas.

The Project Review Board may waive any of these submission requirements if it determines that the scale of the project is of such size as to make the information unnecessary. The Project Review Board may require other pertinent information necessary to determine if the planned use meets the provisions of this Ordinance.

E. All applications for Site Plan Review shall meet all applicable provisions of Sec. 602.F, Criteria and Standards.

F. Criteria and Standards

1. The following criteria and standards shall be utilized by the staff and the Project Review Board in reviewing applications for Site Plan Review. These standards are intended to provide a guide for the applicant in the development of site and building plans as well as a method of review for the Project Review Board. These standards shall not be regarded as inflexible requirements. They are not intended to discourage creativity, invention and innovation. The Project Review Board may waive the criteria presented in this section upon a determination by the Project Review Board that the criteria are not applicable to the proposed action or upon a determination by the Project Review Board that the application of this criteria are not necessary to carry out the intent of this Ordinance. The Project Review Board shall approve the site plan unless the plan does not reasonably meet the intent of one or more of the following criteria provided that the criteria were not first waived by the Project Review Board.

a. **Preservation of Landscape**: The landscape shall be developed in such a manner as to be in keeping with the character of the surrounding neighborhoods and in accordance with good development practice by minimizing tree and soil removal, retaining existing vegetation where desirable, and keeping any grade changes in character with the general appearance of neighboring areas. If a site includes a ridge or ridges above the surrounding areas and provides scenic vistas for surrounding areas, special attempts shall be made to preserve the natural environment of the skyline of the ridge. Existing vegetation and buffering landscaping are potential methods of preserving the scenic vista.

b. **Relation of Proposed Buildings to the Environment**: The design and layout of the buildings and/or other development areas shall encourage safety, including fire protection. Proposed structures shall be related harmoniously to the terrain and to existing buildings and land uses in the vicinity which have a visual

relationship to the proposed buildings. Visual compatibility, not uniformity with the surrounding area, shall be emphasized. Special attention shall be paid to the scale (mass), height and bulk, proportions of the proposed buildings, the nature of the open spaces (setbacks, landscaping) around the buildings, the design of the buildings (including roof style, facade openings, architectural style and details), building materials and signs.

If the structure is in the Design Review District, the Project Review Board shall incorporate the findings of the standards or the Design Review Ordinance in its Site Plan Review findings.

c. **Vehicular Access**: The proposed layout of access points shall be designed so as to avoid unnecessary adverse impacts on existing vehicular and pedestrial traffic patterns. Special consideration shall be given to the location, number, and control of access points, adequacy of adjacent streets, traffic flow, sight distances, turning lanes, and existing or proposed traffic signalization and pedestrial-vehicular contacts. The entrance to the site shall meet the minimum sight distance according to MDOT standards to the greatest extent possible

d. **Parking and Circulation**: The layout and design of all means of vehicular and pedestrial circulation, including walkways, interior drives, and parking areas shall be safe and convenient and, insofar as practical, shall not detract from the proposed buildings and neighboring properties. General interior circulation, separation of pedestrian and vehicular traffic, service traffic, drive-up facilities, loading areas, and the arrangement and use of parking areas shall be considered.

e. **Surface Water Drainage**: Adequate provisions shall be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, down-stream conditions, or the public storm drainage system. The increase in rate of runoff in the post development condition shall be held to a zero or less percent of the predevelopment condition unless an engineering study has been performed as described in Section 529.2 above. On-site absorption shall be utilized to minimize discharges whenever possible. All drainage calculations shall be based on a two year, ten year and twenty-five year storm frequency. Emphasis shall be placed on the protection of floodplains; reservation of stream corridors; establishment of drainage rights-of-way and the adequacy of the existing system; and the need for improvements, both on-site and off-site, to adequately control the rate, volume and velocity of storm drainage and the quality of the stormwater leaving the site. Maintenance responsibilities shall be reviewed to determine their adequacy.

f. **Utilities**: All utilities included in the site plan shall be reviewed as to their adequacy, safety, and impact on the property under review and surrounding properties. The site plan shall show what provisions are being proposed for water supply, wastewater, solid waste disposal and storm drainage. Whenever feasible, as determined by the Project Review Board, all electric, telephone and other

utility lines shall be installed underground. Any utility installations above ground shall be located so as to have a harmonious relationship with neighboring properties and the site.

g. **Advertising Features**: The size, location, texture and lighting of all exterior signs and outdoor advertising structures or features shall not detract from the layout of the property and the design of proposed buildings and structures and the surrounding properties, and shall not constitute hazards to vehicles and pedestrians.

h. **Special Features**: Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures, similar accessory areas and structures, shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and the surrounding properties.

i. **Exterior Lighting**: All exterior lighting shall be designed to encourage energy efficiency, to ensure safe movement of people and vehicles, and to minimize adverse impact on neighboring properties and public ways. Adverse impact is to be judged in terms of hazards to people and vehicular traffic and potential damage to the value of adjacent properties. Lighting shall be arranged to minimize glare and reflection on adjacent properties and the traveling public. For all proposed lighting, the source of the light shall be shielded and the light should be directed to the ground, except in the case of ground sign lighting. In the Village Commercial 1 and 2 Districts, lighting for pedestrian walkways and adjacent public sidewalks shall also be provided.

j. **Emergency Vehicle Access**: Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.

k. **Landscaping:** Landscaping shall be designed and installed to define, soften, or screen the appearance of off-street parking areas from the public right(s)-of-way and abutting properties, to enhance the physical design of the building(s) and site, and to minimize the encroachment of the proposed use on neighboring land uses. Particular attention should be paid to the use of planting to break up parking areas. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, retaining existing vegetation where desirable, and keeping any grade changes in character with the general appearance of neighboring areas. Landscaping shall be provided as part of the overall site plan design and integrated into building arrangements, topography, parking and buffering requirements. Landscaping may include trees, bushes, shrubs, ground cover, perennials, annuals, plants, grading and the use of building and paving materials in an imaginative manner.

l. **Environmental Considerations**: A site plan shall not be approved unless it meets the following criteria:

(1) The project will not result in water pollution, erosion or sedimentation to surface waters;
(2) The project will not result in damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat;
(3) The project will conserve shoreland vegetation;
(4) The project will conserve points of public access to waters;
(5) The project will adequately provide for the disposal of all wastewater;
(6) The project will protect archaeological and historic resources;
(7) The project will not adversely affect existing commercial fishing or maritime activities in the Marine Waterfront District.

H. Project Review Board Appeals.
Any appeals from the decisions of the Project Review Board shall be taken only directly to Superior Court.

Section 603. Validity and Severability

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

Section 604. Conflict with Other Ordinances

This Ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, bylaw, permit or provision of law.

Where this Ordinance imposes a greater restriction upon the use of land, buildings or structures, the provisions of this Ordinance shall control.

Section 605. Effective Date

The effective date of this Ordinance is June 6, 1986, as amended.

ARTICLE V

LEASED PARKING STANDARDS

The Town of Freeport hereby orders that the Freeport Traffic and Parking Ordinance be amended by enacting the following new Article V:

ARTICLE V LEASED PARKING STANDARDS

The Town of Freeport hereby orders that the Freeport Traffic and Parking Ordinance be amended by enacting the following new Article V:

Section 48-501 The priorities, terms and conditions for leased parking spaces in the Village Commercial I District, as established by the Freeport Zoning Ordinance, are established by this Article.

The Town may lease parking spaces to applicants who require leased parking spaces from the municipality in order to satisfy the parking requirements of the Freeport Zoning Ordinance. The leased parking spaces shall be located either in a lot which is owned in fee by the Town of Freeport or owned in fee by a person or organization who has entered into a lease agreement with the Town to provide parking spaces as regulated by this Article. All parking lots regulated in this article shall be located in the Village Commercial I District.

Section 48-502 Leased parking spaces shall be allocated according to the following priorities:

1. Applicants with existing buildings who want to expand or change their use within the existing footprint of the building;

2. Applicants with existing buildings who want to expand the footprints of the existing buildings, to create additional square footage for existing or changed uses.

3. Applicants who want to build a new building after the date of adoption of this Article.

Section 48-503 The terms and conditions for all leased parking spaces shall include the following:

1. Non-Municipal owners of parking lots shall enter into a lease agreement with the Town which contains the following provisions:

    a. Proof of adequate public liability insurance equal to that of the Town shall be submitted by the owner;

b. Notarized agreement to maintain the parking lots, including but not limited to paving, striping, landscaping, signs, stormwater facilities and other amenities, shall be submitted by the owner;

c. Statement that the parking spaces offered for lease are not required to satisfy pending and/or approved development plans on the same or abutting lot;

d. Notice of termination of this lease shall be sent by registered mail to the Town and to all leaseholders of the premises a minimum of one year before the lease expires;

e. The Town may set any other provisions it deems appropriate.

2. Applicants for parking spaces shall be the owners and not the lessees of premises requiring parking spaces.

3. The schedule of parking fees shall be established by the lot owner.

4. The Town shall bill the leaseholder and charge the lot owner 5% of the yearly lease fee to cover its administrative costs. On a case by case basis, the Town Council may, by order, exempt a non-profit lot owner from this 5% fee, provided that the lot owner agrees to bill the lease holder(s) directly and report the payment status of all leases to the Finance Department on a quarterly basis. The Town Council shall have the authority, by order, to revoke any such exemption for just cause.

5. The Town shall decide, based on the priorities established by Section 48-502, which applicant is next eligible for a lease. The applicant may choose to lease whichever spaces are available. If the applicant chooses not to enter into a priority list becomes eligible for a lease and the previous applicant may remain on the list.

6. Applicants for parking spaces shall provide a notarized statement which states that continued occupancy of part or all of the premises requiring leased parking spaces is contingent on continued leasing of parking spaces.

7. Failure by the owner of a premises to continue to provide the required parking spaces shall result in the revocation of its Certificate of Occupancy.

Zoning Map Attachment: Please visit the Town Office to view the Official Zoning Map (and any amendments) which supplement this document.