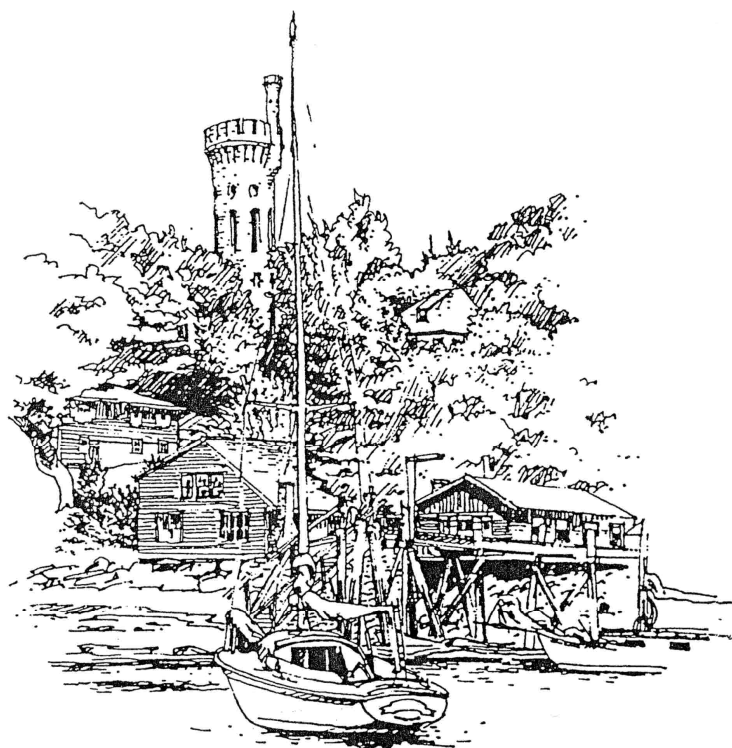


# TOWN OF FREEPORT



## ZONING ORDINANCE May 2008

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Amendments are proposed to Sections 104 & 302. Page numbers in table of contents will be updated  
as applicable.

# **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, to provide for adequate public services, and to affirmatively further the purposes of the federal Fair Housing Act, 42 U.S.C. ch. 45, as amended, and the Maine Human Rights Act to achieve the applicable statewide or regional housing production goal established by the Department of Economic and Community Development.
- 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.

**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 Dwelling Unit (ADU):** A self-contained dwelling unit located within, attached to or detached from a Single-Family Dwelling or Duplex Dwelling located on the same lot. Accessory Dwelling Units are subordinate to a Single-Family Dwelling or a Duplex Dwelling and customarily incidental to the principal use of such structure. ADUs are regulated by Section 532 of this Ordinance.

**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. Accessory structures shall conform to the space standards of each district. *{Amended, Effective 03/16/21}*

**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.

**Adult Use Cannabis Cultivation Facility:** A “cultivation facility” as that term is defined in 28-B M.R.S. § 102(13).

**Adult Use Cannabis Retail Store:** A “marijuana store” as that term is defined in 28-B M.R.S. § 102(34).

**Adult Use Cannabis Testing Facility:** A “testing facility” as that term is defined in 28-B M.R.S. § 102(54).

**Affordable Housing Development:** “Affordable housing development” means:

1. For rental housing, a development in which a household whose income does not exceed 80% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a 51% or more of the units in the development without spending more than 30% of the household's monthly income on housing costs; and
2. For owned housing, a development in which a household whose income does not exceed 120% of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a 51% or more of the units in the development without spending more than 30% of the household's monthly income on housing costs.
3. For purposes of this definition, “housing costs” include, but are not limited to:
  - a) For a rental unit, the cost of rent and any utilities (electric, heat, water, sewer, and/or trash) that the household pays separately from the rent; and

- b) For an ownership unit, the cost of mortgage principal and interest, real estate taxes (including assessments), private mortgage insurance, utilities (electric, heat, water, sewer, and/or trash), homeowner's insurance, condominium fees, and homeowners' association fees.

**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.

**Area Median Income:** The midpoint of a region's income distribution calculated on an annual basis by the U.S. Department of Housing & Urban Development.

**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 Area:** Average lot area 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.

**Base Density:** The maximum number of dwelling units allowed on a lot based on the space and bulk standards for lots in subdivisions in the applicable zoning district.

**Base Flood - a flood having a one (1) percent chance of being equaled or exceeded in any given year, commonly called the one hundred (100) year flood.**

**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 for the retail sale of boats and/or where boats are hauled, stored, repaired and/or constructed. The retail sale of gasoline and other fuels is prohibited. *{Amended, 03/19/19}*

**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 typically for a fee, for (i) tents, trailers, recreational vehicles or other similar forms of temporary shelters; or (ii) rental cabins designed, equipped, and used for seasonal (between May 1 and November 1), transient (lasting no more than 14 consecutive days) recreational occupancy, which do not exceed 600 square feet in gross floor area, are not constructed on a basement or slab, and contain no cooking facilities.  
*{Amended, 12/15/20}*

**Cannabis:** “Marijuana” as that term is defined in 28-B M.R.S. §102 (27), as may be amended.

**Cannabis Cultivation Facility:** An Adult Use Cannabis Cultivation Facility or a Medical Cannabis Cultivation Facility.

**Cannabis Establishment:** A Cannabis Cultivation Facility or a Cannabis Manufacturing and Processing Facility. Unless a general definition (including, but not limited to, agriculture, manufacturing/processing, retail trade, business and professional offices, home occupation, or accessory use) expressly includes a Cannabis Establishment, the general definition does not include a Cannabis Establishment. A Cannabis Establishment does not include an Adult Use Cannabis Retail Store, a Medical Cannabis Caregiver Retail Store, an Adult Use Cannabis Testing Facility or a Medical Cannabis Testing Facility, which are not permitted in the Town of Freeport.

**Cannabis Extraction:** The process of extracting cannabis concentrate from cannabis using water, lipids, gases, solvents or other chemicals or chemical processes, as defined in 28-B M.R.S. §101 (30), as may be amended. Cannabis Extraction does not include extraction processes that use inherently hazardous substances.

**Cannabis Home Cultivation:** The cultivation of (i) cannabis for personal adult use by persons twenty-one (21) years of age or older in accordance with the provisions of 28-B M.R.S. § 1502; or (ii) medical cannabis by an exempt caregiver or a qualifying patient.

**Cannabis Manufacturing:** The production, blending, infusing, compounding or other preparation of cannabis concentrate and cannabis products, including, but not limited to, Cannabis Extraction or preparation by means of chemical synthesis.

**Cannabis Manufacturing and Processing Facility:** A “products manufacturing facility” as that term is defined in 28-B M.R.S. § 102(43) as amended, or a “manufacturing facility” as that term is defined in 22 M.R.S. § 2422(4-R) as amended.



**Cannabis Uses, Other:** Any use involving cannabis that is not a Cannabis Establishment, Cannabis Home Cultivation, or a Medical Cannabis Small-Scale Caregiver Operation.

**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.

**Centrally Managed Water System:** A water system that provides water for human consumption through pipes or other constructed conveyances to at least fifteen (15) service connections or serves an average of at least twenty-five (25) people for at least sixty (60) days a year, as regulated by 10-144 C.M.R. Ch. 231, Rules Relating to Drinking Water. This water system may be privately owned.

**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.

**Comparable Sewer System:** Any subsurface wastewater disposal system that discharges over two thousand (2,000) gallons of wastewater per day, as regulated by 10-144 C.M.R. Ch. 241, the Maine Subsurface Wastewater Disposal Rules.

**Comprehensive Plan:** The Town of Freeport Comprehensive Plan, as such may be amended from time to time.

**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 an open space subdivision, expanded open space subdivision, village open space subdivision or commercial open space subdivision. 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 space subdivisions, thirty percent (30%) of the net residential acreage shall be conservation land. For commercial open space subdivisions, twenty percent (20%) of net residential acreage shall be conservation land. *{Amended, Effective 08/06/19}*

**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.

**Designated Growth Area:** An area that is identified as a "growth area" in the Comprehensive Plan.

**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, Single-Family: A single structure containing one (1) dwelling unit.

Dwelling, Duplex: A structure containing two (2) dwelling units.

Dwelling, Multifamily: A structure containing three (3) or more dwelling units.

**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) household at a time, and containing living, sleeping, toilet, and cooking facilities. The term shall include prefabricated or modular housing, mobile homes, tiny homes as defined in 29-A M.R.S. § 101(80-C), and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. This does not include hotels, motels, rooming houses, or recreational vehicles. *{Amended, Effective 07/01/09, 01/26/10}*

**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.

**Exempt Caregiver:** A natural person who cultivates cannabis for no more than two (2) family members or members of the Caregiver's household, is exempt from registration by the State pursuant to 22 M.R.S § 2423-A(3)(C-1) and may not possess more than eight (8) pounds of cannabis.

**FAA:** Federal Aviation Administration

**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 or Flooding -**

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

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

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

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

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

~~**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:** See Gross Floor Area.

**Food Truck:** A truck or trailer 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, Amended 01/04/22}*

**Forested Wetlands:** A freshwater wetland dominated by woody vegetation that is six (6) meters (approximately twenty (20) 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.

**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}*

**Gross Floor Area:** 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.

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

**Ground level:** For the purposes of Section 514 of this Ordinance, each building must have at least one ground level. The ground level is the level of a building that is closest to the sidewalk. A building that has storefronts on Main St. and another street other than Bow St., the ground

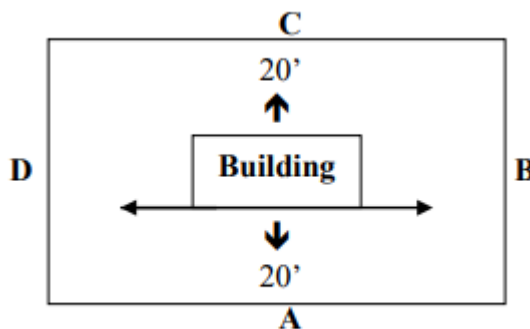
level is considered the level of the building closest to the sidewalk on Main St. A building that has a storefront(s) on Main St. and Bow St. may have more than one ground level if a storefront has an entrance on Bow St. that is accessible from the sidewalk without any exterior stairs, all other levels of the building are not considered ground level. *{Amended, Effective 12/18/18}*

**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. Height limitations do apply to Solar Energy Generation Systems (including, but not limited to, Accessory Solar Energy Generation Systems, Small Solar Farms, and Large Solar Farms), as defined in Section 104, and those regulations are listed in Section 534 of this Ordinance. *{Amended, Effective 03/16/21}*

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.

**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. Home Occupation includes Medical Cannabis Small-Scale Caregiver Operation uses.

**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 with low-permeability material such as asphalt or concrete. Common impervious areas include, but are not limited to, roads, rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, or other surfaces which similarly impede the natural infiltration of stormwater. *{Amended, Effective 10/03/17}*

**Increase in nonconformity of a structure:** Any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the space standards of the zoning district. Included in this allowance are expansions which in-fill irregularly shaped structures. *{Amended, Effective 09/20/22}*

**Individual private campsite:** An area of land which is not associated with a campground, outdoor recreation and/or outdoor recreation school, and does not meet the definition of rustic campsite, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fire place, or tent platform.\* *{Amended, Effective 09/17/19}*

**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.

**Inherently Hazardous Substances:** Means a liquid chemical, compressed gas or commercial product that has a flash point at or lower than thirty-eight (38) degrees Celsius or one hundred (100) degrees Fahrenheit, including, but not limited to, butane, propane and diethyl ether. Inherently Hazardous Substance does not include any form of alcohol or ethanol.

**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 road rights-of-way.

**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.

**Marijuana:** See Cannabis.

**Medical Cannabis Cultivation Area:** A “cultivation area” as that term is defined in 22 M.R.S. § 2422(3).

**Medical Cannabis Cultivation Facility:** An indoor Medical Cannabis Cultivation Area located anywhere other than a Medical Cannabis Registered Caregiver’s residential dwelling or accessory structure.

**Medical Cannabis Caregiver Retail Store:** A “caregiver retail store” as that term is defined in 22 M.R.S. § 2422(1-F) as may be amended.

**Medical Cannabis Registered Caregiver:** A “caregiver” as that term is defined in 22 M.R.S. § 2422(8-A), as may be amended, who is registered by the State pursuant to 22 M.R.S. § 2425-A.

**Medical Cannabis Small-Scale Caregiver Operation:** A commercial or noncommercial use by a Medical Cannabis Registered Caregiver who sells or dispenses cannabis solely out of the Caregiver's residential dwelling or accessory structure; does not process or manufacture cannabis using chemicals or solvents; and cultivates no more than thirty (30) mature cannabis plants. Medical Cannabis Small-Scale Caregiver Operation is considered a home occupation and is subject to the performance standards of Section 503 of this Ordinance.

**Medical Cannabis Testing Facility:** A "marijuana testing facility" as that term is defined in 22 M.R.S. § 2422(5-C) as may be amended.

**Medication Assisted Treatment Facility for Opioid Addiction:** A fully licensed facility used to dispense FDA approved medications for the purpose of treating opioid dependence. *{Amended, Effective 10/04/16}*

**Mixed Use Development:** A structure with at least one residential dwelling unit and at least one other use that is permitted within the District. *{Amended, Effective 02/04/20}*

**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}*

**Nature-Based Commercial Enterprise:** Any commercial activity carried out on land with significant natural, cultural, or historical values whose principal purpose is to provide members of the general public with opportunities to observe and appreciate the values prevailing on the land, typically for a fee. A “Nature-Based Commercial Enterprise” constructs, maintains, and operates facilities and offers services and activities in a manner that provides for the long-term conservation of existing natural, cultural or historical values. A “Nature-Based Commercial Enterprise” may include, but is not limited to: family activities and games, mini-golf, and a vehicle or train tour, all incorporating educational components highlighting the natural, cultural, or historical prevailing on the land; a gift shop; arts gallery; arts museum; and a café for sale of food items primarily prepared offsite and beverages with limited indoor and patio seating. A “Nature-Based Commercial Enterprise” shall not include a restaurant or amusement park rides. *{Amended, 12/15/20}*

**Neighborhood Shopping Center:** for the purpose of calculating the parking requirement, a neighborhood shopping center in the C-I, 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 Multifamily developments: total acreage of the tract or parcel used for roads and parking.
  - 2. For any other subdivisions: total acreage used for road 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~~base flood 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~~at or below base flood elevation, 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 Project Review 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.

**Noncombustible construction:** The construction type of the building or structure as classified by the Maine Uniform Building and Energy Code (MUBEC). *{Amended, 12/01/20}*

**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:** Activity engaged in the outdoors without the use of motorized recreational products in a natural environment such as but not limited to hiking, camping, hunting, fishing, canoeing, kayaking, sailing, biking, snowshoeing and cross country skiing. Outdoor recreation may also include rustic campsites. *{Amended, 03/19/19}*

**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 their 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.

**Potable:** Safe for drinking as defined by the U.S. Environmental Protection Agency's (EPA) Drinking Water Standards and Health Advisories Table and Maine's interim drinking water standards for six different perfluoroalkyl and polyfluoroalkyl substances (PFAS), Resolve 2021 Chapter 82, Resolve, To Protect Consumers of Public Drinking Water by Establishing Maximum Contaminant Level for Certain Substances and Contaminants.

**Principal Structure:** The structure 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 area 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.



**Qualifying Patient:** A “qualifying patient” as that term is defined in 22 M.R.S. § 2422(9) as may be amended.

**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.

**Recreational vehicle:** A vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

**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, Sec. 504.B and 504.D 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. *{Amended, Effective 08/06/19}*

**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.

**Road:** For the purposes of this Ordinance and for determining minimum road frontage requirements, a road is considered to be any one of the following:

- any public way maintained by public authority, except a limited access highway, or
- a public or private way in an approved subdivision, or
- a private way fifty (50) feet in width, or
- a private way of thirty (30) feet in width serving 2 or fewer lots provided all of the road or driveway and associated drainage and utilities will be contained 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. *{Amended, Effective 10/03/17}*

**Rustic campsite:** An area for tent camping only. Rustic campsites may include a platform. A portable yurt no greater than 14’ in diameter is considered a tent for the purposes of this Ordinance. *{Amended, 03/19/19}*

**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	service road
Points	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. *{Amended, Effective 03/16/21}*

*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, employees, or residents of specific permitted uses. Restrictions include, but are not limited to signs that allow customers of certain businesses to use parking spaces, gates or other types of barriers on parking lots or parking lots that charge customers to park. For the purposes of shared parking, parking spaces reserved for persons with valid disabled parking placards or plates are not considered to be restricted. *{Amended, Effective 12/18/18}{Amended, Effective 09/20/22}*

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

**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 Array Development Area:** The aggregate area of land occupied by the complete assembly of a ground-mounted Solar Energy Generation System, including but not limited to: (i) the solar photovoltaic (PV) technology (including, but not limited to, solar panels) and associated mounting hardware and equipment, (ii) all inter-panel space, and (iii) all impervious surfaces. The Solar Array Development Area does not include areas adjacent to the ground-mounted Solar Energy Generation System that must, by virtue of an easement, lease condition, or other legal instrument, be kept free of structures or vegetation (other than grass) in order to capture the unobstructed flow of solar insolation (sunlight) for the Solar Energy Generation System, and, does not include driveway(s) required to access the solar array development area. *{Amended, Effective 03/16/21}*

**Solar Energy Generation System:** A complete assembly consisting of one or more solar collectors and associated mounting hardware, electricity storage equipment, transmission and distribution lines, and related infrastructure, which uses photovoltaic (PV) technology (including, but not limited to, solar panels) to collect, convert solar energy to electricity, store and deliver the electricity for on-site or remote consumption. A Solar Energy Generation System may be roof-mounted or ground-mounted. *{Amended, Effective 03/16/21}*

**Solar Energy Generation System, Accessory or Accessory Solar Energy Generation System:** A Solar Energy Generation System that (i) may be roof or ground-mounted and (ii) generates, stores, and delivers electricity for on-site consumption by a principal use or structure; provided, however, that any excess electricity not consumed on-site may be fed back to the energy grid. An Accessory Solar Energy Generation System is commonly known as a “behind-the-meter” Solar Energy Generation System. An Accessory Solar Energy Generation System shall be considered accessory to a principal use or structure when it is customarily incidental and subordinate to the principal use or structure and is located on the same lot as the principal use or structure. *{Amended, Effective 03/16/21}*

**Solar Farm, Small or Small Solar Farm:** A Solar Energy Generation System that (i) may be roof or ground-mounted; (ii) primarily generates and delivers electricity to the energy grid for off-site consumption; and (iii) if it is ground-mounted, has a Solar Array Development Area that is less than 87,120 square feet (2 acres). They are not permitted in the Shoreland Zone. *{Amended, Effective 03/16/21}*

**Solar Farm, Large or Large Solar Farm:** A Solar Energy Generation System that (i) may be roof or ground-mounted; (ii) primarily generates and delivers electricity to the energy grid for off-site consumption; and (iii) if it is ground-mounted, has a Solar Array Development Area that is 87,120 square feet (2 acres) or greater but less than 10 (ten) acres, except for in the Commercial I (C-I) District, where the Solar Array Development Area may be 87,120 square feet (2 acres) or greater but less than 15 (fifteen) acres. They are not permitted in the Shoreland Zone. *{Amended, Effective 03/16/21 & 10/05/21, Corrected 10/06/21}*

**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.

**Story:** That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. A story is measured as the vertical distance from top to top of two successive tiers of beams or finished floor surfaces and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters. *{Amended, Effective 08/06/19}*

**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 – Commercial Open Space:** a higher-density residential development in a Commercial Districts that permits higher density residential units with reduced road frontage, setbacks and lot areas, and that maintains open space. The area of the required open space shall be equal or exceed the sum of the unbuildable land (primary conservation areas) as defined by net residential acreage plus twenty percent (20%) of the net residential acreage. The required open space must meet the standards of Section 504.D of this Ordinance. *{Amended, Effective 08/06/19}*

**Subdivision – Open Space:** A residential development design that permits reduced lot areas, 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 areas, 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 areas be at least double the minimum lot area 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 areas, 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.

**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.

**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.

**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 Board of Appeals only where strict application of the Ordinance would cause undue hardship to the applicant and/or the applicant's property. In addition, the Codes Enforcement Officer may issue a disability structures permit, pursuant to Section 601.G.2.b(2) of the Zoning Ordinance and Title 30-A, Section 4353-A of the Maine Revised Statutes. *{Amended, Effective 10/19/21}*

**Vehicle wash center** – A structure containing facilities for washing vehicles, boats and other equipment. Facilities may be automated and/or non-automated washing, cleaning and/or drying and/or automated washing and drying. A wash center may also include a bay or bays for washing pets and indoor and outdoor vehicle vacuuming. *{Amended, 03/19/19}*

**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 or stream.

**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 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 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”
Nature-Based and Art Overlay District	“NBAOD”

### Section 302. Zoning Map

The Zoning Districts and Shoreland Zone of the Town are shown on a map entitled “Town of Freeport, Official Zoning Map”, digital copy adopted February 26, 2013, and as most recently amended May 3, 2022 (INSERT DATE OF ADOPTION) by the Freeport Town Council and attested 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~~base flood elevation 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 Planning Board shall notify, by mail, those property owners who would be affected by such a change, as required by the Rules of Order of the Freeport Planning Board and any applicable State laws.

### **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** (This Section was repealed on May 3, 2022)