

**TOWN OF FREEPORT
CONSERVATION COMMISSION ORDINANCE**

CHAPTER 35

Section 35-1 Definitions

As used in this Ordinance, unless the context indicates otherwise, the following terms have the following meanings:

1. **Commission**. “Commission” means the Conservation Commission established pursuant to Section 35-2.
2. **Land Bank Fund**. “Land Bank Fund” means the fund for the purchase of municipal land established pursuant to Section 35.7.
3. **Hedgehog Mountain Fund**. “Hedgehog Mountain Fund” means the fund created by the remaining monies raised for the purchase of the Hedgehog Mountain property and any future income from the operation and maintenance of the Hedgehog Mountain property.
4. **Hedgehog Mountain Plan**. “Hedgehog Mountain Plan” means the Report of the Hedgehog Mountain Planning Committee as accepted by the Freeport Town Council on March 1, 1994.
5. **Hedgehog Mountain Property**. “Hedgehog Mountain Property” means the property described in the Hedgehog Mountain Plan and any additions to that parcel that may be from time to time acquired by the Town.

Section 35-2 Commission Established

A Conservation Commission shall be established which shall consist of and be administered by seven (7) persons appointed by the Freeport Town Council for staggered three-year terms. The members must be legal residents of the municipality and shall serve without compensation. The Commission shall annually elect a Chair, a secretary and a treasurer from among its members and shall adopt reasonable rules for the conduct of its meetings. The decisions of the Commission shall be by majority vote of those present and voting and no business may be transacted without a majority of the members present. The Commission shall keep accurate records of its meetings and actions and shall file an annual report with the Town Manager.

The Commission may also appoint up to five associate members, which associate members may assist in the work of the Commission and participate in its discussions but shall hold no office and have no vote.

Neither a municipal officer nor a member of the Freeport Planning Board may be a member of the Commission.

In the event of a permanent vacancy, the Town Council shall, within 60 days of its occurrence, appoint a person to serve for the unexpired term.

Members and associate members may be removed by the Town Council for cause, after notice and hearing. Excessive absence from regular schedule meetings shall be considered cause for removal.

Section 35-3 Powers and Duties

The Commission:

1. May purchase and acquire, in its name, on behalf of the municipality, fee simple interests and any lesser interests, including conservation restrictions, development rights or easements, in any real property situated within the borders of the municipality, of the types set forth in Section 35-4, including any improvements on that real property, provided that all purchases or acquisitions are consistent with the Commission's open space plan;
2. May recommend to the Town Council the acceptance of gifts of any real property interests or of funds to further the purposes of the land bank or the conservation goals of the Commission;
3. May dispose of all of any portion of the real property interests held by it, subject to the Constitution of Maine to the extent applicable and subject to the approval of the Town Council and the Commission;
4. May incur debt, pledging the full faith and credit of the municipality, only after having been authorized to do so by the Town Council;
5. May obtain such professional services as are necessary in order to perform its duties, including development and updating of the Commission's open space plan;
6. May maintain, manage and improve land and interests in land held by it in a manner which allows public use and enjoyment consistent with the natural, historic and scenic resources of the land, including planting, pruning, and cutting of trees and shrubs to manage and enhance natural systems and constructing nature trails, bird nest boxes and nature identification signs, provided that the expenditure of Land Bank funds for administration, maintenance, management and limited capital improvement of municipally owned conservation lands shall not exceed 10% of the Land Bank Fund without a 2/3 vote of the Commission.
7. May, as delegated to it by the Town Council from time to time, be responsible for the care and superintendence of public parks and other properties as designated by the Town Council and, subject to the approval of the Town Council, direct the expenditure of all monies appropriated for the improvement of the same;

8. May conduct research in conjunction with the Planning Board into local land and water areas;
9. May seek to coordinate the activities of conservation bodies organized for similar purposes.
10. May advertise, prepare, print and distribute books, maps, charts, plans and pamphlets which in its judgment it deems necessary utilizing such funds as may be donated to the Town of Freeport or appropriated by the Town Council for such purposes;
11. Prepare and maintain an index of all open areas, publicly or privately owned, within the Town of Freeport, including marsh lands, swamps and other wetlands for the purpose of obtaining information pertinent to proper utilization, protection, development or use of such open areas.
12. May recommend to the Town Council or Planning Boards or any agency of the State of Maine, a program for better utilization, protection, development or use of such open areas.
13. Shall submit to the Town Council annually a budget for all expenses and projects of the Commission that do not involve the acquisition of property interests or the management of Hedgehog Mountain. Separate budgets for the expenditure from the Land Bank and Hedgehog Mountain Funds will be limited to the purposes for which these funds are dedicated. All expenditures authorized by the Commission must be approved by the Town Council through the budgetary process.

Section 35-4 Types of Land which may be acquired:

Land, interests in land and other real property interests to be acquired and held as part of the commission must be situated within the boundaries of the municipality and may consist of any of the following types of land and interests in land:

1. Ocean, harbor, river, stream, lake or pond frontage and adjoining backlands;
2. Fresh or saltwater marshes, estuaries, flood plains and adjoining uplands;
3. Islands;
4. Land for future active or passive public outdoor recreational use, including hiking trails, bicycle paths, green belts and high elevations with a view;
5. Aquifers, aquifer recharge areas and other ecologically fragile or significant property;

6. Properties with unique historical or geological characteristics or otherwise important to the community's cultural welfare;
7. Woods or forestland suitable for a town forest or usable by deer as a wintering yard;
8. Farmland or wildlife habitat;
9. Open spaces which help to shape the settlement pattern of the community by promoting the village concept and discouraging sprawl; or
10. Vacant parcels of land, vacant buildings and properties or buildings and properties in significant disrepair which may be reclaimed for the purpose of establishing natural areas for open space or park land.

Section 35-5 Maintenance of Real Property

The Commission shall retain any real property interest acquired pursuant to this chapter predominantly in its natural, scenic or open condition, except as otherwise provided in this ordinance. Except upon the approval of the Town Council, and where appropriate, subject to the Constitution of Maine or state law, the Commission shall not allow:

1. Construction or placing of buildings; roads, other than paths for recreational use; signs; billboards; other advertising, utilities or other structures on or above the surface, except in furtherance of the purposes of this ordinance;
2. Dumping or placing of trash, waste, or unsightly or offensive material;
3. Removal or destruction of trees, shrubs or other vegetation, except where necessary for management purposes and to enhance natural systems or open-space uses;
4. Excavation, dredging or removal of loam, peat, gravel, soil, rock or other mineral substance in such manner as to affect the surface, except limited grading to enhance the open-space uses of the land;
5. Surface use except for purposes permitting the land or water area to remain predominantly in its natural, scenic or open condition; or to permit the land to continue to support the cultural values for which it was purchased.
6. Activities detrimental to drainage, flood control, water conservation erosion control or soil conservation; or
7. Other acts or uses detrimental to the cultural, natural, scenic or open condition of the land or water areas.

In determining whether or not to approve a request to use, improve or dispose of any real property interest acquired by the Commission in a manner otherwise prohibited by this section the Town Council and the Commission shall consider whether the request is in the interest of conservation and any national, state, regional or local program in furtherance of conservation; any public, state, regional or local comprehensive land use or developmental plan affecting the land; and any known proposal by a governmental body for use of the land.

Section 35-6 Annual Filing of Plan:

The Commission shall file annually with the Town Manager an open-space, public-access and conservation plan which shall be, as far as possible, consistent with the Town's comprehensive plan and with any regional planning relating to the area. The Commission may, from time to time, amend the plan. The Commission shall actively seek comments from the Planning Board, Town Council and the general public at a public hearing before adopting a plan or revisions to a plan. The plan must show all real property interests then currently held by the Commission, including a description of the use of those interests and all acquisitions, improvements or dispositions of all real property interests held by the Commission at any time during the year preceding each filing, including the reason for that acquisition, improvement or disposition. The plan shall also delineate all potential open space being considered for purchase and shall establish policies and priorities for these purchases.

Section 35-7 Land Bank Fund

The Commission shall meet its financial obligations for purchasing property interests on behalf of the Town by drawing upon a municipal land bank fund to be set up as a separate account within the Town. Deposits into the fund shall include:

1. Funds appropriated to be deposited into the fund by vote of the Town Council;
2. Voluntary contributions of money or other liquid assets to the fund;
3. Interest from deposits and investments; and
4. Proceeds from disposal of real property interests.

All expenses lawfully incurred in carrying out this ordinance must be evidenced by proper vouchers and shall be paid by the Town only upon submission of warrants duly approved by the Commission. The Town shall prudently invest available assets of the fund and all income from any investment shall accrue to the fund.

The Commission shall keep a full and accurate account of its actions, including a record as to when, from and to whom and on what account money has been paid or received relative to this ordinance, and as to when, from or to whom and for what consideration of real property interest

have been acquired, improved or disposed of. These records and accounts shall be subject to examination by the Town Council.

Section 35-8 Management of the Hedgehog Mountain Property

The Commission shall manage the operation and maintenance of the Hedgehog Mountain property consistent with the Hedgehog Mountain Plan.

The Commission shall review the Hedgehog Mountain plan at least every five years and recommend changes necessary for the proper management and operation of the Hedgehog Mountain Property. All proposed changes to the Hedgehog Mountain Plan must be approved by a two-thirds majority vote of the full Commission before being presented to the Freeport Town Council which will take action on such proposals only after public hearing.

The Commission shall annually, on a date set by the Freeport Town Council, submit a budget for the management and operation of the Hedgehog Mountain property to the Council for approval. The approved budget shall be funded by the Hedgehog Mountain Fund. The budget shall be implemented by the commission without further approvals by the Freeport Town Council, except that any proposed expenditure for non-budgeted items or items exceeding budgeted expenses must be pre-approved by the Freeport Town Council. To the greatest extent possible, the budget for the operation and maintenance of the Hedgehog Mountain property shall be limited in amount to the annual income produced by the Hedgehog Mountain Fund. All income from the management and operation of the Hedgehog Mountain property shall be deposited in the Hedgehog Mountain fund which shall be segregated from any other Commission fund. Expenditures from this fund shall not be subject to any of the restrictions set forth in Section 35-3. An accounting of the Hedgehog Mountain Fund shall be submitted to the Town Council annually and shall accompany the budget.