



**TOWN OF FREEPORT, MAINE**

Planning Department

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**TO: FREEPORT TOWN COUNCIL**

**FROM: CAROLINE PELLETIER, INTERIM TOWN PLANNER**

**RE: PROPOSED ZONING ORDINANCE AND ZONING MAP AMENDMENTS – COASTAL BLUFFS (Section 507.H.2 of the Freeport Zoning Ordinance and the Official Zoning Map of the Town of Freeport).**

**DATE: TUESDAY, MARCH 10, 2020**

**Background:** The Planning Department and Freeport Planning Board have been working on updating the Shoreland Zoning regulations in the Freeport Zoning Ordinance to be consistent with State law. For many reasons, this project is taking longer than anticipated. Part of that project, is also updating the Freeport Zoning Map which reflects boundaries of Shoreland Areas.

At the directive of the Town Manager, it was requested that the Planning Board review of standards and mapping for coastal bluffs.

Shoreland Zoning requires that setbacks for structures be taken from the top of a coastal bluff when identified on Maine Geological Survey Coastal Bluff Maps as either “unstable” or “highly unstable”. In other cases, Shoreland Zoning requires that setbacks be taken from either from the highest annual tide line or normal high-water line.

Freeport has historically shown these unstable and highly unstable bluffs on the Freeport Zoning Map with a red line along the coastline (see attached). This proposal would remove the red lines from the Official Zoning Map and refer residents directly to the Maine Geological Survey maps, which is the data source. This approach would also include language in the Zoning Ordinance to incorporate this change and note that any letter of map amendments subsequently issued by Maine Geological Survey would be considered, in cases where bluffs are recategorized as stable.

**Process:** The Planning Board held a formal public hearing at the March 4, 2020 Planning Board meeting. A legal advertisement was run in the Brunswick Times Record on 2/21/20 & 2/25/20.

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**Public Notice**

**PUBLIC HEARING**

The Freeport Planning Board will hold a public hearing on Wednesday, March 4, 2020 at 6:00 pm in the Freeport Town Hall Council Chambers to discuss a proposed amendment to Section 507.H.2 of the Freeport Zoning Ordinance and to the Official Zoning Map of the Town of Freeport pertaining to the identification of coastal bluffs. The bluffs currently shown on the Official Zoning Map will be removed and the Ordinance language will be updated to reference coastal bluff maps produced by the Maine Geological Survey for determining the location of “highly unstable” and “unstable” bluffs in the Town of Freeport. This change will only pertain to parcels within the Shoreland Area. The public is welcome to attend. Supporting documents are available for viewing on the Town's website at [www.freeportmaine.com](http://www.freeportmaine.com) or at the Planning Department Office at the Freeport Town Hall during normal business hours.

Abutter notification was sent in accordance with the notification requirements outlined in the Rules of Order and Procedure of the Freeport Planning Board. This resulted in about 800+/- property owners being notified via US Mail about the Planning Board hearing. There were many members of the public in attendance at the meeting, however only one member of the public spoke at the public hearing.

The attached language is the draft recommended by the Planning Board and including staff input and comments from the Town Attorney.

The Planning Board made the following motion to recommend the proposed Zoning Ordinance amendment to the Council:

“MOVED AND SECONDED: I move to approve the proposed amendment 507 Subsection H.2 of the Freeport Zoning Ordinance and the official zoning map pertaining to the coastal bluffs including the further amendments noted by Caroline for the mapping identified. (Regarding Letter of map amendment). (Torres & Canaan) VOTE: (4 Ayes) (0 Nays) (3 Excused-Ball, Child, and Winrich)

**Proposed Amendments**  
**Chapter 21: Town of Freeport, Maine Zoning Ordinance**

*Note: Text shown as struck through is proposed to be deleted.  
Proposed new text is shown as underlined.*

**Section 507. Shoreland Zone Regulations** *{Amended, Effective 07/01/09 & 09/17/19}*

**A. Purposes:**

It is the intent of this Section to provide for the regulation of activities and uses in the Shoreland Zones in order to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect freshwater and coastal wetlands; to control building sites and placement of structures; to conserve shore cover and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

**B. Authority:**

This Section has been prepared in accordance with the provisions of Title 38 Sections 438-A(1) of the Maine Revised Statutes Annotated (M.R.S.A.).

**C. Applicability:**

The regulations of this Section 507 shall be in addition to and shall apply concurrently with the zoning district in which the parcel is located. Where a conflict exists, the more restrictive requirements shall apply. The Shoreland Zones include Resource Protection 1, Shoreland Area, Stream Protection, and Marine Waterfront as defined in Section 507.F below.

**D. Effective date**

The effective date of these ordinance amendments shall be on the date approved by the Commissioner of the Department of Environmental Protection hereinafter “the Commissioner”, or if the Commissioner fails to act on the Ordinance amendments within 45 days of his/her receipt of the Ordinance amendments, it shall be automatically approved.

An application for a permit submitted to the municipality within the forty-five day period shall be governed by the terms of this Ordinance amendment if the Ordinance amendment is approved by the Commissioner.

**E. Districts and Zoning Map.** The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map which is part of this Ordinance

1. Resource Protection 1
2. Shoreland Area
3. Maritime Waterfront
4. Stream Protection

**F. Establishment of Districts**

1. Resource Protection – The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, or biological ecosystems. The space and bulk standards of the adjacent district apply in this District. This district includes the following areas:
  - a. Areas within 250 feet, horizontal distance of the upland edge of salt water marshes and salt meadows which are rated “high” or “moderate” value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife as of January 1, 1973, and areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands which are rated “moderate” or “high” value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department of Environmental Protection as of May 1, 2006
  - b. Floodplains as defined as 100-year floodplain as designated on the Federal Emergency Management Agency’s (FEMA) Flood Insurance Rate Maps adjacent to tidal waters.
  - c. Areas of two or more contiguous acres with sustained slope of 20% or greater.
  - d. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which is not surficially connected to a water body during the period of normal high water.
2. Shoreland Area – The Shoreland Area is an overlay district and is an area that is suitable for the uses permitted in the underlying district. It includes areas within 250’ of the high water line of a tidal area other than those in Resource Protection 1 or Stream Protection. Any uses allowed in the underlying district are allowed in the shoreland area provided all of the standards of Section 507 are met. Space and bulk standards in this area are the same as the underlying District.
3. Stream Protection – The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high water line of a stream as defined in this Ordinance, exclusive of those areas within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and another shoreland zone intersect, that land area shall be regulated under the terms of the other shoreland zone.

4. Marine Waterfront – The Marine Waterfront District includes areas where the existing predominant pattern of development is functionally water dependent uses. The intent of this district is to recognize and preserve the marine heritage of Freeport and to permit services essential to fishing and boating. There is no minimum lot size, lot frontage, or shore setback requirements in this area, the setback requirements from the front, side, and rear property lines shall be fifteen (15) feet.

**G. Permitted Uses:**

**TABLE 1. LAND USES IN THE SHORELAND ZONE**

<b><u>LAND USES</u></b>	<b><u>DISTRICT</u></b>		
	<b><u>SP</u></b>	<b><u>RP</u></b>	<b><u>MW</u></b>
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	CEO	yes
2. Forest management activities and timber harvesting	yes	CEO	yes
3. Clearing or removal of vegetation for activities other than timber harvesting	CEO	CEO	yes
4. Fire prevention activities	yes	yes	yes
5. Wildlife management practices	yes	yes	yes
6. Soil and water conservation practices	yes	yes	yes
7. Emergency operations	yes	yes	yes
8. Agriculture	CEO	CEO	yes
9. Aquaculture	CWC	CWC	CWC
10. One and two family and multi-family residential, including driveways	no	no	no
11. Conversions of seasonal residences to year-round residences	no	no	no
12. Home occupations	yes	yes	yes
13. Essential services	CEO	CEO	CEO
14. Public and private recreational areas involving minimal structural development	CEO	CEO	PRB
15. Individual, private campsites	CEO	CEO	CEO
16. Campgrounds	no	no	no
17. Parking facilities associated with permitted uses	no	no	PRB
18. Marina, boat yard, ship chandlery, commercial fishery, municipal wharf	no	no	PRB
19. Excavation, filling and earth moving of <15 cubic yards	no	yes	yes
20. Filling and earth moving of >15 cubic yards	no	CEO	CEO
PRB – Project Review Board      SP – Stream Protection			
CEO – Codes Enforcement Officer      RP – Resource Protection I			
CWC – Coastal waters Commission      MW – Marine Waterfront			
LPI – Local Plumbing Inspector			

## H. Principal and Accessory Structures

1. All new principal and accessory structures shall be setback at least seventy-five (75) feet, horizontal distance, from the normal high-water line of a waterbody, tributary stream or the upland edge of a wetland. In the Resource Protection District, the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply. This setback does not apply to piers, docks, and retaining walls necessary for the control of shoreline erosion, nor to other functionally dependent uses.
2. ~~For areas identified as a “coastal bluff area” (designated with a red line) on the Official Zoning map, all new principal and accessory structures shall be setback at least 75’ from the top of the bank. The top of the bank shall be determined by the Codes Enforcement Officer.~~
2. For principal and accessory structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable” by the Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map (Freeport Quadrangle, Maine and/or Yarmouth Quadrangle, Maine) or as amended through an official letter of map amendment issued by Maine Geological Survey . If the applicant and the permitting official(s) are in disagreement as to the specific location of a “highly unstable” or “unstable” bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the Board of Appeals.
3. The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zones shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zones, including land previously developed, except in the Marine Waterfront District where the lot coverage shall not exceed seventy (70) percent.
4. Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection 1, Stream Protection, and Shoreland Area, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission lines, windmills, antennas, and similar structures having no floor area.
5. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Codes Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over

the high water line of a water body or the upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A., section 480-C); and the applicant demonstrates that no other reasonable access alternative exists on the property.

6. The setback requirements from all other property lines are as outlined in Sec. 507.F above.

**I. Space Standards:**

1. Minimum Shore Frontage, and lot sizes:

- a. Residential per dwelling unit;
 

	Minimum	Minimum
	shore frontage	lot area
(1) Adjacent to tidal areas -	150 feet	30,000 s.f.
(2) Adjacent to non-tidal areas -	200 feet	40,000 s.f.
- b. All non-residential uses subject to review by the Project Review Board or the Codes Enforcement Officer;
 

(1) Adjacent to tidal areas -	200 feet	40,000 s.f.
(2) Adjacent to non-tidal areas -	300 feet	60,000 s.f.
- c. Land below the normal high water line of a water body or upland edge of a wetland and land beneath roads serving two (2) lots shall not be included toward calculating minimum lot area.
- d. Lots located on opposite sides of a public road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.
- e. The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
- f. Setback requirements from property lines other than from the resource being protected shall be those required in the underlying district unless otherwise listed in Section 507.F. above.
- g. If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

**J. Parking Areas:**

1. Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, except that in the MW District, parking areas shall be set back at least twenty-five (25) feet horizontal distance from the shoreline or tributary stream. The setback requirement for parking areas serving public boat launching facilities in other Districts may be reduced to no less than fifty (50) feet from the normal high-water

line or upland edge of a wetland if the Codes Enforcement Officer finds that no other reasonable alternative exists.

2. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.
3. In determining the appropriate size of proposed parking facilities, the following shall apply:
  - a. Typical parking space: 9 feet wide by 18 ½ feet long, for boat trailers add an additional 20 feet.
  - b. Internal travel aisles: 20 feet

### **K. Roads and driveways**

New public roads shall meet the requirements of the “Street Acceptance and Standards Ordinance of the Town of Freeport, Maine.” Where the standards described below are more stringent, they shall be required. The following standards shall apply to the construction of roads and drainage systems, culverts and other related features.

1. Roads shall be set back at least seventy-five (75) feet horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists, as determined by the Codes Enforcement Officer, or the Project Review Board if a road or driveway is also subject to Subdivision and/or Zoning Ordinance review. If no reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet horizontal distance upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream or wetland.

On slopes greater than 20 percent the road and/or driveway shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in slope above twenty (20) percent.

This section does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of this Section except for that portion of the road or driveway necessary for direct access to the structure.

2. Existing public roads may be expanded within the legal road right-of-way regardless of their setback from a water body, tributary stream or wetland.

3. New roads and driveways are prohibited in the Resource Protection I District except that the Codes Enforcement Officer may grant a permit to construct a road or driveway to provide access to a permitted use in the district upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in the Resource Protection 1 District 1 the road shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
4. Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in subsection Q below.
5. Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
6. In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto a vegetated buffer strip at least (50) feet, plus two times a number equal to the percentage of the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
7. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto a vegetated buffer strip before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

- a. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road, or driveway at intervals no greater than indicated in the following table:

Grade (Percent)	Spacing (Feet)
0-2	250
3-5	200-135
6-10	100- 80
11-15	80-60
16-20	60-45
21+	40

- b. Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.

- c. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
  - d. On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.
8. Ditches, culverts, bridges, dips water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

#### **L. Storm Water Runoff**

1. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of storm waters.
2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

#### **M. Septic Waste Disposal**

1. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following: a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

#### **N. Public Utilities**

1. Where feasible, the installation of public utility service shall be limited to existing public and private ways and existing service corridors.
2. Where allowed , such structures shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts as determined by the Codes Enforcement Officer.
3. Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

## O. Agriculture

1. All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209)..
2. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified seventy-five (75) feet horizontal distance, of water bodies, tributary streams, or wetlands within the Shoreland Zone. All manure storage areas within the Shoreland Zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water. .
3. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the Shoreland Zone shall require a Conservation Plan to be filed with the Codes Enforcement Officer and approved by the Town Engineer using the Department of Environmental Protection's Best Management Practices, except that manure may be spread on any home garden less than 10,000 square feet outside of the 75 foot shore setback area. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
4. There shall be no new tilling of soil within seventy-five (75) feet, horizontal distance of water bodies, and coastal wetlands nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands within the Shoreland Zone. Operations in existence on July 2, 1992, and not in conformance with this provision may be maintained.
5. After July 2, 1992, newly established livestock grazing areas shall not be permitted within seventy-five (75) feet, horizontal distance of all water bodies, nor within twenty-five (25) feet, horizontal distance, of tributary streams and wetlands within the Shoreland Zone. Livestock grazing associated with presently existing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

**P. Individual Private Campsites.** Individual private campsites not associated with campgrounds, outdoor recreation and/or outdoor recreation school, are allowed provided the following conditions are met:

- (1) One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
- (2) When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional

requirements for the principal structure and/or use, and the individual private campsite separately.

- (3) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
- (4) Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
- (5) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
- (6) A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
- (7) When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

## **Q. Timber Harvesting**

The Freeport regulation of timber harvesting is repealed on the statutory date established under 38 M.R.S.A. section 438-B(5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the shoreland zone. On the date established under 38 M.R.S.A. section 438-B(5) the following provisions of this Ordinance are repealed:

- a. Table 1 – Land Uses in the Shoreland Zone – references to forest management and timber harvesting
- b. Section P in its entirety, except that the following shall remain “Where permitted in the underlying zoning district, timber harvesting in a Shoreland Zone shall be administered and enforced by the Director of the Bureau of Forestry in accordance with Chapter 21 of the Statewide Standards for Timber Harvesting and Related Activities in Shoreland Areas, dated June 15, 2005, established by the Maine Forest Service.”

c. Section 101 – Definitions, the definition of ‘Forest management activities.’”

1. Timber Harvesting shall conform with the following provisions:

- a. Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 ½ feet above ground level on any lot in any ten (10) year period is permitted. The Codes Enforcement Officer may permit timber harvesting in excess of the 40 percent limitation if a forest management plan, signed by a Maine licensed professional forester, concludes that such exemption is necessary for good forest management and is carried out in accordance with the purposes of this Shoreland Zone.

In addition:

- (1) Within seventy-five (75) feet, horizontal distance of the normal high-water line of all water bodies, tributary streams, or the upland edge of a wetland there shall be no clear cut openings and a well-distributed stand of trees and other vegetation, as defined in Section N.1.b.2., including existing ground cover, shall be maintained.
- (2) At distances greater than seventy-five (75) feet, horizontal distance of the normal high-water line of all water bodies, tributary streams or the upland edge of a wetland, harvesting operations shall not create single clear cut openings greater than ten-thousand (10,000) square feet in the forest canopy.

Where such openings exceed five-thousand (5000) square feet they shall be at least one hundred (100) feet apart. Such clear cut openings shall be included in the calculation of total volume removal.

For the purpose of these standards, volume may be considered to be equivalent to basal area.

- b. No accumulation of slash shall be left within fifty (50) feet of the normal high-water line of a water body. In all other areas, slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body shall be removed.
- c. Timber harvesting equipment shall not use stream channels as travel routes except when:
  - (1) Surface waters are frozen; and

- (2) The activity will not result in any ground disturbance.
- d. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
- e. Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
- f. Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that a strip of vegetation of at least seventy-five (75) feet in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the vegetated strip shall be increased by twenty (20) feet. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty-five (25) feet from the normal high-water line of a water body or upland edge of a wetland.

## **R. Clearing of Vegetation for Development**

1. In a Resource Protection 1 District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.
2. Within the strip of land extending 75', horizontal distance, inland from the normal high water line,
  - b. In all other Districts, a buffer strip of vegetation shall be preserved. All vegetation removal shall be subject to the following provisions:
    - (1) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown; however, a footpath or other recreational trail not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.
    - (2) Selective cutting of trees within the buffer strip is allowed provided that a well distributed stand of trees and other natural vegetation is maintained. For the purposes of this section a "well-distributed stand of trees" adjacent to water bodies, tributary streams, and wetlands, is defined as maintaining a minimum rating score of 8

points as hereinafter defined per 25-foot square area. (625 sq. ft.) as determined on plans prepared by a licensed forester.

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2 - 4 in.	1
>4 - 12 in.	2
>12 in.	4

For the purposes of this section, “other natural vegetation” is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least three (3) saplings less than two (2) inches in diameter at four and one-half (4 ½) feet above ground level for each 25-foot square area. If three (3) saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 3 saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 ½ feet above ground level may be removed in any ten (10) year period.

- (3) Pruning of tree branches on the bottom 1/3 of the tree is permitted.
- (4) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut covered, or removed, except to provide for a footpath or other permitted use as described in Section N.1.b above.
- (5) When the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

Section N.1.b. above does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

3. Outside of the 75’ shore setback:

- a. At distances greater than seventy-five (75) feet, horizontal distance, from the normal high-water line of all water bodies, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the

volume of trees four (4) inches or more in diameter, measured 4 ½ feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision shall not apply to the Marine Waterfront District.

4. Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
5. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

#### **S. Erosion and Sedimentation Control**

1. Notification of the Codes Enforcement Officer shall be required for filling, earthmoving and excavation activities described in Section 507.D.2. above. If the CEO determines that unstable soil conditions may result from the activity, he/she shall require that erosion and sedimentation control measures be instituted and shall include, where applicable, the measures described below:
2. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the Codes Enforcement Officer for approval and shall include, where applicable, provisions for:
  - a. Mulching and revegetation of disturbed soil.
  - b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
  - c. Permanent stabilization structures such as retaining walls or riprap.
3. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
4. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all

stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

5. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases, permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
  - a. Where mulch is used, it shall be applied to a depth of six (6) inches and shall be maintained until a catch of vegetation is established.
  - b. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
  - c. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
6. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater, and shall be stabilized with vegetation or lined with rip-rap.

#### **T. Soils**

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. In addition, if an on-site investigation for a septic system is needed, a Maine Licensed Site Evaluator shall submit a required report. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed design to counteract soil limitations where they exist.

#### **U. Archaeological Sites**

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on, the National Register of Historic Places, as determined by the Codes Enforcement Officer, during the required review process, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment at least twenty (20) days prior to action being taken

by the Codes Enforcement Officer who shall consider comments received from the Commission prior to rendering a decision on the application.

## **V. Administration**

### **1. Permits Required**

After July 2, 1992, no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the Shoreland Zone in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

- A. A permit is not required for the replacement of an existing road culvert as long as:
  - a. Not more than 25% longer than the culvert being replaced; and
  - b. Not longer than 75 feet and
  - c. Provided that adequate erosion control measures are taken to prevent sedimentation of the water, and that the crossing does not block fish passage in the water course.
- B. A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.
- C. Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

### **2. Permit Application**

- a. Every applicant for a permit, approval or determination required by the provisions of this Ordinance governing the Shoreland Zone shall submit a written application, including a scaled site plan, on a form provided by the Town and any reasonable and relevant information which shall enable the Coastal Waters Commission or CEO to make the determinations required in Subsection 3 below. Applications shall be submitted to the Codes Enforcement Officer. The Coastal Waters Commission or the Codes Enforcement Officer shall process applications for permits, approvals or determinations required by the provisions of this Ordinance governing the Shoreland Zone according to the procedures described in Section 602(c)(1) of this Ordinance, but may modify those procedures as it deems appropriate to process the particular permit, approval or determination which is sought. All applications shall be signed by an owner or individual who can show

evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.

3. The Project Review Board, the Coastal Waters Commission, the Board of Appeals or the Codes Enforcement Officer shall approve an application for a permit, only upon finding that the use, activity or structure complies with all requirements of this Ordinance and that it meets the criteria listed in Section 602.F.1.L. (1) - (7) below.

No approval shall be granted if the use or structure will violate any other local Ordinance or regulation or any State law which the municipality is responsible for enforcing.

4. Special Exceptions.

In addition to the criteria specified in Sec.602.F.1.L.(1) –(7) below, excepting structure setback requirements, the Board of Appeals may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that the following conditions are met:

- a. There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
- b. The lot on which the structure is proposed is undeveloped and was established and recorded in the Cumberland County Registry of Deeds before the adoption of the Resource Protection District.
- c. All proposed buildings, sewage disposal systems and other improvements are:
  - i. located on natural ground slopes of less than 20%, and
  - ii. located outside the floodway of the 100 year floodplain based on the elevation shown on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps.
  - iii. The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limited shall not be altered by a variance.
  - iv. All structures, except functionally water dependent structures, are setback from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Board of Appeals shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the floodplain, and its proximity to moderate-value and high-value wetlands.

5. Expiration of Permit.  
Permits shall expire one year from the date of issuance if substantial start is not made in construction or in the use of the property during that period. If substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.
6. Enforcement.  
The Codes Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record must be submitted by March 1 to the Director of the Bureau of Land Quality Control within the Department of Environmental Protection.
7. Installation of Public Utility Service.  
No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in the Shoreland Zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance, has been issued by the Codes Enforcement Officer. Following installation of service, the company or district shall forward the written authorization to the Codes Enforcement Officer, indicating that installation has been completed.
8. Fines  
Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A, Maine Revised Statutes Annotated, Subsection 4452 as subsequently amended.

# Town of Freeport Official Zoning Map

Adopted February 26, 2013

Amendment approved 03/15/16 to add the VI-R in the area of Cottage St

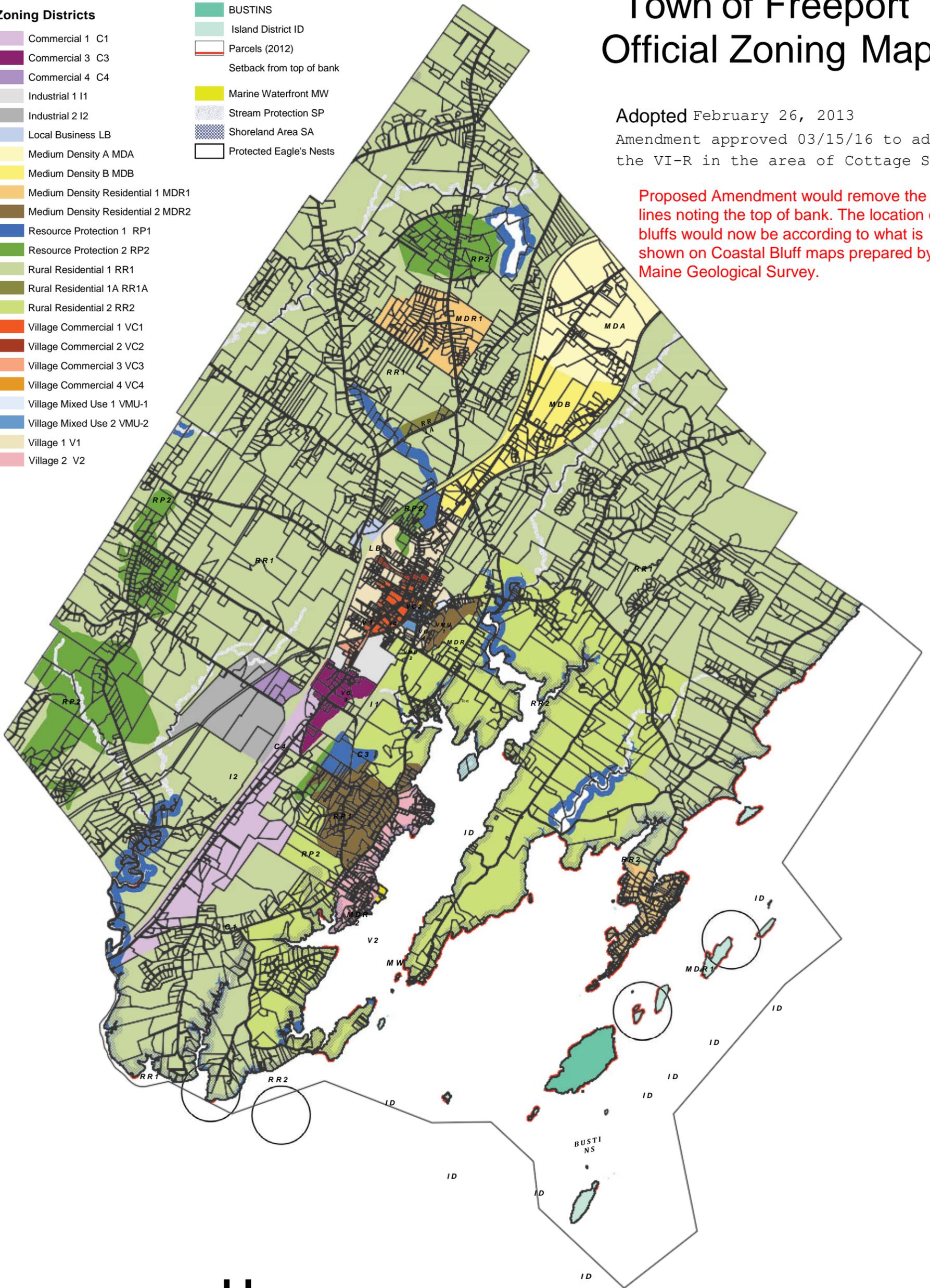
Proposed Amendment would remove the red lines noting the top of bank. The location of bluffs would now be according to what is shown on Coastal Bluff maps prepared by Maine Geological Survey.

## Legend

### Zoning Districts

- Commercial 1 C1
- Commercial 3 C3
- Commercial 4 C4
- Industrial 1 I1
- Industrial 2 I2
- Local Business LB
- Medium Density A MDA
- Medium Density B MDB
- Medium Density Residential 1 MDR1
- Medium Density Residential 2 MDR2
- Resource Protection 1 RP1
- Resource Protection 2 RP2
- Rural Residential 1 RR1
- Rural Residential 1A RR1A
- Rural Residential 2 RR2
- Village Commercial 1 VC1
- Village Commercial 2 VC2
- Village Commercial 3 VC3
- Village Commercial 4 VC4
- Village Mixed Use 1 VMU-1
- Village Mixed Use 2 VMU-2
- Village 1 V1
- Village 2 V2

- BUSTINS
- Island District ID
- Parcels (2012)
- Setback from top of bank
- Marine Waterfront MW
- Stream Protection SP
- Shoreland Area SA
- Protected Eagle's Nests



0 1,900 3,800 7,600 11,400 15,200  
Feet