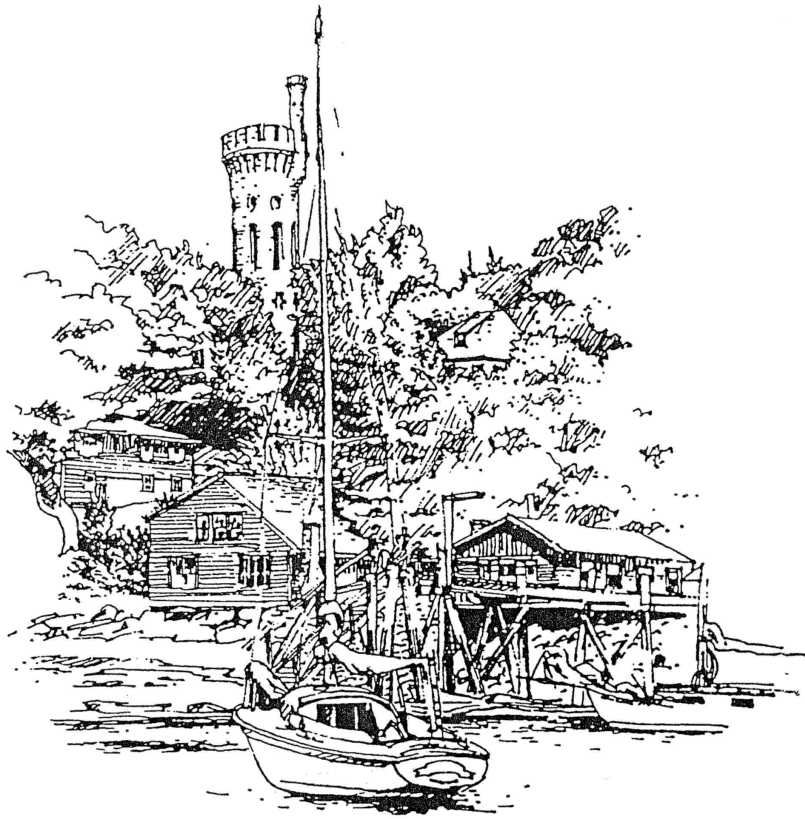


# TOWN OF FREEPORT



## ZONING ORDINANCE May 2008

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## ARTICLE I

### TITLE, PURPOSE AND DEFINITIONS

#### **Section 101. Title**

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

#### **Section 102. Purpose**

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

#### **Section 103. Word Usage**

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

#### **Section 104. Definitions**

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

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

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

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

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

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

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

- **Agricultural products.** "Agricultural products" shall be as defined as stated in 7 MRSA §152 as amended from time to time, meaning those plants and animals and their products that are useful to humans and includes, but are not limited to, forages and sod crops, grains and grain products, feed crops, dairy and dairy products, poultry and poultry products, bees and bees' products, livestock and livestock products and fruits, berries, vegetables, flowers, seeds, grasses and other similar products, or any other plant, animal or plant or animal products that supply humans with food, feed, fiber or fur. "Agricultural products" does not include trees grown and harvested for forest products. *{Amended, Effective 06/18/13}*
- **Agricultural Product Farm Stands** – hereafter known as Farm Stands are a booth, stall or structure, from which agricultural products are sold to the general public. A Farm Stand is not considered a peddler on private property. Farm Stands that are 300 square feet or less do not have to meet the setback requirements of the district in which it is located. *{Amended, Effective 06/18/13}*

- **Agricultural Product Farm Stores** – hereafter known as Farm Stores are a structure, from which agricultural products are sold to the general public. A Farm Store is not considered a peddler on private property. Farm Stores are structures that are more than 300 square feet. *{Amended, Effective 06/18/13}*
- **Farm.** "Farm" shall be defined as stated in 7 MRSA §152 as amended from time to time and shall mean the land, plants, animals, buildings, structures, ponds and machinery used in the commercial production of agricultural products. *{Amended, Effective 06/18/13}*
- **Farm operation.** "Farm operation" be defined as stated in 7 MRSA §152 as amended from time to time and shall mean a condition or activity that occurs on a farm in connection with the commercial production of agricultural products and includes, but is not limited to, operations giving rise to noise, odors, dust, insects and fumes; operation of machinery and irrigation pumps; disposal of manure; agricultural support services; and the employment and use of labor. *{Amended, Effective 06/18/13}*
- **Farming or ranching.** "Farming" or "ranching" be defined as stated in 7 MRSA §251 as amended from time to time and shall mean primarily engaging in the commercial production of agricultural products as a livelihood and includes dairy farming; raising livestock, freshwater fish, fur-bearing animals or poultry; producing, cultivating, growing and harvesting fruit, produce or floricultural or horticultural commodities; or any practices on a farm or ranch that are incident to or in conjunction with these farming operations. In addition to the State definition of farming and ranching, for the purposes of this Ordinance, ranching shall also include commercial equestrian facilities for the keeping, breeding, raising, and training of horses and related activities including raising hay and feed and maintaining pasturage. *{Amended, Effective 06/18/13}*

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

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

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



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

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

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

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

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

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

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

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

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

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

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



**Auto Repair Service Garage:** A place where the following services may be carried out: general repair, engine rebuilding, parts replacement, rebuilding or reconditioning of motor vehicles, collision service such as body, frame or fender straightening and repair, overall painting and undercoating and mechanized washing of automobiles but where no engine fuels are sold at retail.

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

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

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

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

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

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

**Boat Yard:** A business or gainful occupation 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}*

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

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

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

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

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

**Commercial Recreation-Outdoor:** Any outdoor recreational use such as, but not limited to, golf courses, tennis courts, riding stables, swimming pools, or ice skating rinks operated primarily for

profit, but not including campgrounds, drive-in movie theaters, race tracks and mechanical or motorized rides.

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

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

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

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

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

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

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

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

**Conservation Area – Secondary:** Land within seventy five (75) feet of rivers or streams as defined by the Department of Environmental Protection and other natural resource areas of local importance included in the Freeport Open Space Plan dated July 20, 1999 and as amended from time to time, but not those areas considered to be primary conservation areas. In village open space subdivisions, the secondary conservation areas are those areas shown on the Freeport Village Open Space Map 1 and Freeport Village Open Space Map 2, dated August 2, 2005, and

attached as addendum 2 of this Ordinance. Freeport Village Open Space Map 1 shows the location of gullies, streams, and wetlands of significance and a 200' buffer along Interstate 295. Freeport Village Open Space Map 2 identifies civic destinations and employment centers to determine if land within a proposed subdivision could provide a connection or link between destinations or to a trail that has a history of use by the public.

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

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

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

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

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

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

**Dwelling Unit - residential**: A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one (1) family at a time, and containing living, sleeping, toilet, cooking facilities. The term shall include prefabricated or modular housing, mobile homes, and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. This does not include hotels, motels, rooming houses, temporary trailers, or recreational vehicles with its tires on the ground and registered with the State Division of Motor Vehicles is not considered a residential dwelling unit. *{Amended, Effective 07/01/09, 01/26/10}*

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

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

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

**FAA**: Federal Aviation Administration

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

**FCC**: Federal Communications Commission

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

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

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

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

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

**Floor Area, Gross:** The sum of the gross horizontal areas of all floors of a building measured from the exterior face of exterior walls, or from the center line of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than six feet.

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

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

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

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

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

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

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



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

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

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

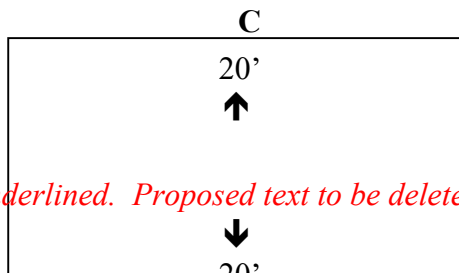
**Frontage-Shore:** The length of a lot bordering on a water body or wetland measured in a straight line, between the intersections of the side lot lines with the shoreline. *{Amended, Effective 07/01/09}*

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

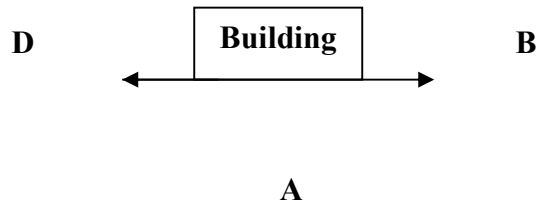
**Ground level** – for the purposes of Section 514 of this ordinance, each building must have at least one ground level. The ground level is the level of a building that is closest to the sidewalk. A building that has storefronts on Main St. and another street other than Bow St., the ground level is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







Steps:

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

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

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

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

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

High Water Elevation (Non-tidal): That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river during the period of normal high-water are considered part of the river.

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

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

**Impervious Surface:** Structures and other man-made improvements to land and materials covering the land 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}*

**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.

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

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

**Junkyard:**

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

“Automobile graveyard” does not include:

- (1) An area used for temporary storage of vehicles or vehicle parts by an establishment or place of business that is primarily engaged in doing vehicle repair work to make repairs to render a motor vehicle serviceable. In order for a vehicle’s storage to be considered temporary, it must be removed from the site within 180 calendar days of its receipts;

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

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

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

inspection of the Maine Department of Agriculture, Food and Rural Resources and licensing pursuant to 32 M.R.S.A., Section 1901 and as hereafter amended.

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

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

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

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

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

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

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

**Lot Lines:** The lines bounding a lot.

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

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

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

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

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

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

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

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

**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 units 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-II, C-III, and C-IV Districts, is a development with a gross floor area of 30,000 to 100,000 square feet which includes a grocery store and/or drug store and other retail uses.

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



- A. Portions of the tract or parcel subject to rights-of-way and easements for vehicular traffic:
  - 1. For multi-family developments: total acreage of the tract or parcel used for roads and parking.
  - 2. For any other subdivisions: total acreage used for street right-of-way.
- B. Unbuildable Land (Primary conservation area). The following environmentally sensitive land which, if disturbed, may adversely impact the ecological balances in the environment. No construction or development shall occur on the land areas listed below unless otherwise permitted as provided below.
  - 1. Deer wintering areas as identified in the Maine Department of Inland Fisheries and Wildlife, Identification and Management of Significant Fish & Wildlife Resources in Southern Coastal Maine, provided in digital format dated October 2003 as amended from time to time.
  - 2. Wetlands; Forested wetlands shall not be considered an unbuildable area (primary conservation area), except those forested wetlands that are mapped as having very poorly drained soils in the USDA SCS Cumberland County Soil Survey, or forested wetlands flooded during the 100-year storm event, or areas that support breeding habitat for vernal pool-dependent amphibian species.
  - 3. Portions of the tract or parcel containing slopes over twenty percent (20%) which, because of unstable soils, would be subject to erosion if development were to be located on them.
  - 4. Portions of the tract or parcel in the 100-year floodplain, floodway and/or coastal high hazard area as designated on the most recently adopted Flood Insurance rate map of the National Flood Insurance Program for the Town of Freeport.
  - 5. Portions of the tract or parcel below high water elevation (non-tidal) and below ten percent (10%) exceedance high water (tidal) as defined above.
  - 6. Portions of the tract or parcel covered by surface water bodies.

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

- 1. Whether a portion of the unbuildable area could be incorporated into a minimum sized subdivision lot in such a manner that an adequate developable area for buildings and site improvements with conforming setbacks is retained;
- 2. Whether the environmentally sensitive land is adequately protected from disturbance or degradation.

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



**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 his/her goods or apparel including, but not limited to: beauty and barber shops, laundromats, dry cleaners, photography studios, alteration services, shoe, jewelry and household appliances repair services.

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

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

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

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

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

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

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

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

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

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

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

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

**Public Utility Facilities:** A facility, whether publicly or privately owned, which provides direct or indirect utility service to the public, such as, but not limited to, sewage and water pumping stations and treatment facilities, telephone electronic equipment structures, electric power sub-stations and transformer stations, and major electrical power lines or pipelines whose major purpose is transport

through a municipality. Local utility transmission lines are excluded from this definition. Wireless telecommunications facilities, as defined in this Section 104, are not considered public utility facilities.

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

Charles	Medomak	Rumney
Coastal Beaches	Ondawa	Saco
Limerick	Podunk	Tidal Marsh

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

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

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

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

**Required Open Space:** The sum of the land area of conservation land and unbuildable land (primary conservation areas) as defined in net residential acreage. This land is within a subdivision with uses as permitted in Sec. 504A, 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.

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

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

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

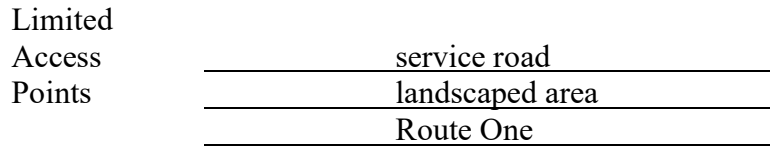
Construction of a private way or minimum road frontage requirements shall in no way be construed to imply acceptance by the Town of Freeport for purposes of maintenance, improvements or other Town services. *{Amended, Effective 10/03/17}*

**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}*

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

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

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



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

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

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



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

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

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

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

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

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

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

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

**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.

**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.

**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.

**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.

**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 30 acres. They are not permitted in the Shoreland Zone.

**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}*

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

**Street:** See “Road”.

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

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

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

**Subdivision – Large Lot:** A residential development design that requires lot sizes be at least double the minimum lot size of the district in which the subdivision is located. The net residential density of a large lot subdivision shall be fifty percent (50%) less than an open space subdivision. A note on the plan and a deed restriction forbidding further subdivision of these lots unless the appropriate density requirement for a large lot subdivision can be met must be provided.

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

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

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

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

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

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

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

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

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

**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}*

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

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

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

that promote Freeport such as t-shirts, mugs.

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

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

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

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

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

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

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

**Wireless Telecommunication Tower (Tower):** Any new or existing ground mounted or structure mounted pole, spire, structure or combination thereof, designed and constructed primarily for the purpose of supporting, fixing or attaching one or more antennas, including supporting lines, cables, wires, braces and masts. The term includes but is not limited to, radio and television transmission towers, microwave towers, common carrier towers, cellular towers, personal communications service towers, and other similar towers.

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

## ARTICLE IV

### ZONING DISTRICT REGULATIONS

#### Section 401. Purpose and Land Use Controls

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

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

##### I. RR-I

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

B. The following are permitted Uses:

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

The following uses are subject to subdivision review

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

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

10. Municipal Facility
11. Commercial Recreation, Outdoor
12. Public Utilities
13. Campgrounds
14. Religious Institution
15. Public or Private School
16. Outdoor Recreation School up to 5,000 square feet of gross floor area or up to 5,000 square feet total gross square footage of all buildings on any parcel. The lot size must be at least 5 acres.
17. Cemeteries
18. Nursing Homes which may include congregate care multi-family units
19. Private Assembly
20. Bed and Breakfast Inn
21. Day Care Center Facilities
22. Wireless Telecommunication Facility only if the base of any on-site tower is located at or above elevation 240 feet above mean sea level (See Sec. 528).
23. Parking area for open space *{Amended, Effective 12/02/14}*
24. Small Solar Farm, subject to the standards of Section 534

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

2425. Aquaculture

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

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

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

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



- B. Net residential density, per dwelling unit, two-family dwelling: *net residential acreage*  
*1 unit per 1.5 acres of  
of net residential acreage*
- C. Minimum lot size, single family: *20,000 s.f.*
- D. Average lot size for single family: *not less than 1 acre*
- E. Minimum lot area per dwelling unit, two-family: *20,000 sq. feet*
- F. Average lot area per dwelling, two-family: *not less than 30,000 sq. feet*

2. Expanded Open Space Subdivisions requirements

- A. Net residential density, single family: *1 unit per 2.1 acres of  
net residential acreage*
- B. Net residential density per dwelling unit, two-family dwelling: *1 unit per  
1.25 acres of net residential acreage*
- C. Minimum lot size, single family: *20,000 square feet*
- D. Average lot size, single family: *not less than 25,000 sq. ft.*
- E. Minimum lot area per dwelling unit, two-family dwelling: *10,000 square feet*
- F. Average lot area per dwelling unit, two-family dwelling: *not less than 15,000 sq. ft.*

3. Large Lot Subdivisions requirements

- A. Net residential density, single family: *1 unit per 5 acres of  
net residential acreage*
- B. Net residential density per dwelling unit, two-family dwelling: *1 unit per  
3 acres of net residential acreage*
- C. Large lot subdivision minimum lot size, single family: *5 acres*
- D. Large lot subdivision minimum lot size per dwelling unit, two-family dwelling: *3 acres*

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

- 1. Minimum road frontage and lot width, open space and expanded open space Subdivisions: *50 feet*
- 2. Average road frontage and lot width, open space and expanded open space subdivisions: *not less than 80 feet*
- 3. Minimum road frontage large lot subdivisions: *200 feet*
- 4. Minimum lot width large lot subdivisions: *150 feet*
- 5. Minimum setback for open space and expanded open space subdivisions
  - front: *25 feet*
  - rear: *40 feet*
  - side: *10 feet*
  - combined side: *40 feet*
- 6. Minimum setback for large lot subdivisions
  - front: *50 feet*

	rear:	75 feet
	side:	50 feet
7. Maximum building height:		35 feet
8. Minimum shore frontage:		See Section 507

F. Other Standards:

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

## II. RR-IA

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

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

B. Permitted Uses:

1. All uses listed in Section 402.I.B. as permitted and all permitted uses subject to site plan review regardless of size;
2. In addition, the following uses are permitted and subject to site plan review regardless of size:
  - a. The following uses are permitted only when the owner of the property on which the use is located uses the property as the owner’s primary residence and is also the majority owner of the following permitted small business use located on the property:
    - (1) Auto repair service garage;
    - (2) Auto sales, used;
    - (3) Landscaping;

(4) Arboriculture.

C. Space Standards:

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

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

1. Non-Conformance: As used in this Subsection 1 and except as otherwise indicated, the words “existing”, “non-conforming”, “legally”, “illegal” and “illegally” shall be applied as of August 21, 1991, and the word “use” shall mean any of the uses listed in Section 402.II.B.2. An existing legally non-conforming use shall not require site plan review in order to continue. An existing legally non-conforming use which is proposed to expand shall require site plan review only for the expansion. An existing use, a portion of which is legally non-conforming and a portion of which has expanded illegally prior to August 21, 1991, shall require site plan review only for the illegal expansion. An illegally existing use shall require site plan review for the entire existing use as well as the any proposed expansion.
2. Except for non-conforming uses or expansions which are exempt from site plan review under Subsection 1 above, all uses listed in Section 402.II.B.2. are subject to the following standards:
  - a. Setbacks: No exterior storage of materials, commercial vehicles used by the business, parking areas or any other exterior indications of the business use shall be permitted in any setback except that plantings rooted in the ground shall be permitted in the side and rear setbacks. In the front setback, in a strip extending along the entire frontage, for a depth of a minimum of fifty (50) feet, except for accessways, landscaping is required.
  - b. Buffering: Buffers shall be provided in the setbacks at the district boundaries, where required. In addition, except as permitted in Section 402.II.D.2.a., buffers are required in the side and rear setbacks of each lot and shall meet the standards listed in Sec. 506.A, B, C and D.
  - c. The performance standards of Article V, where applicable, shall be met. Objectionable conditions such as, but not limited to, noise, smoke, dust, odors or glare shall not be generated by any use, including those otherwise exempt from these standards under Subsection 1 above.
  - d. In addition to the residents of the dwelling unit, no more than two full-time employees or combination of full-time and part-time employees or a number of part-time employees equivalent to the time worked by two full-time employees (a maximum of 80 hours per week) may be employed by the business use and no more than a total of five employees shall be on the site at any one time.
  - e. Size Limitations: The area used by the business shall not occupy more than fifty percent (50%) or 20,000 square feet of the land area of the parcel, whichever is less. Included in this business occupancy area calculation shall be all the primary,

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

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

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

*{Amended, Effective 08/04/15}*

### **Section 403. Rural Residential District II “RR-II”**

#### A. Purpose:

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

#### B. The following are permitted Uses:

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

The following uses are subject to subdivision review

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

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

9. Municipal Facility
10. Public Utilities
11. Campgrounds
12. Religious Institution
13. Public or Private School
14. Outdoor Recreation School up to 5,000 square feet of gross floor area or up to 5,000 square feet total gross square footage of all buildings on any parcel. The lot size must be at least 5 acres.
15. Cemeteries
16. Nursing Home with a maximum of 20 beds
17. Private Assembly
18. Bed and Breakfast Inn
19. Parking area for open space *{Amended, Effective 12/02/14}*
20. Small Solar Farm, subject to the standards of Section 534

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

2021. Aquaculture

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

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

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

1. Open Space Subdivisions requirements

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

*not less than 30,000 sq. ft.*

2. Expanded Open Space Subdivisions requirements

- A. Net residential density, single family: *1 unit per 2.1 acres of net residential acreage*
- B. Net residential density per dwelling unit, two-family dwelling: *1 unit per 1.75 acres of net residential acreage*
- C. Minimum lot size, single family: *20,000 square feet*
- D. Average lot size, single family: *not less than 25,000 sq. ft.*
- E. Minimum lot area per dwelling unit, two-family dwelling: *15,000 square feet*
- F. Average lot area per dwelling unit, two family dwelling: *not less than 20,000 sq. ft.*

3. Large Lot Subdivisions requirements

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

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

- 1. Minimum road frontage and lot width, open space and expanded open space subdivisions: *50 feet*
- 4. Average road frontage and lot width, open space and expanded open space subdivisions: *Not less than 80 feet*
- 5. Minimum road frontage large lot subdivisions: *200 feet*
- 6. Minimum lot width large lot subdivisions: *150 feet*
- 5. Minimum setback for open space and expanded open space subdivisions
  - front: *25 feet*
  - rear: *40 feet*
  - side: *10 feet*
  - combined side: *40 feet*
- 6. Minimum setback for large lot subdivisions
  - front: *50 feet*
  - rear: *75 feet*
  - side: *50 feet*
- 7. Maximum building height: *35 feet*
- 8. Minimum shore frontage: *See Section 507*

F. Other Standards:



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

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

### A. Purpose:

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

### B. Permitted Uses:

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

The following uses are subject to subdivision review

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

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

8. Municipal Facility
9. Multiple Family Dwelling - Maximum of 6 units per building
10. Public Utilities
11. Religious Institution
12. Bed & Breakfast Inn
13. Public or Private School
14. Outdoor Recreation School up to 5,000 square feet of gross floor area or up to 5,000 square feet total gross square footage of all buildings on any parcel. The lot size must be at least 100,000 s.f.
15. Wireless Telecommunication Facility (see Sec. 528)
16. Parking area for open space *{Amended, Effective 12/02/14}*
17. Small Solar Farm, subject to the standards of Section 534

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

1. Minimum lot size: 50,000 s.f.

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

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

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

1. Open Space Subdivisions requirements

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

2. Expanded Open Space Subdivisions requirements

- A. Must be connected to the public sewer system
- B. Net residential density, single family: *1 unit per 1 acre of net residential acreage*
- C. Net residential density, per dwelling unit, two family, and multiple family dwellings: *1 unit per 25,000 square feet of net residential acreage*
- D. Minimum lot size, single family: *12,000 square feet*
- E. Average lot size, single family: *not less than 17,000 square feet*
- F. Minimum lot area per dwelling unit, two family, and multiple family dwellings: *7,500 square feet*
- G. Average lot area per dwelling unit, two family, and multiple family dwellings, *Not less than 10,000 sq. ft.*

3. Large Lot Subdivisions requirements

- A. Net residential density, single family: *1 unit per 100,000 square feet of net residential acreage*
- B. Net residential density, per unit, two family, and multiple family dwellings: *1 unit per 60,000 square feet*
- C. Large Lot subdivision minimum lot size, single family: *100,000 square feet*
- D. Large Lot subdivision minimum lot size per dwelling unit, two family, and multiple family dwellings: *60,000 square feet*

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

- 1. Minimum road frontage and lot width, open space and expanded open space subdivisions: 50 feet
- 2. Average road frontage and lot width, open space and expanded open space subdivisions: Not less than 75'
- 3. Minimum road frontage, large lot subdivisions: 150 feet
- 4. Minimum lot width, large lot subdivisions: 100 feet
- 5. Minimum setback for open space and expanded open space subdivisions
  - front: 20 feet
  - rear: 25 feet
  - side: 10 feet
  - combined side: 30 feet
- 6. Minimum setback for large lot subdivisions
  - front: 30 feet
  - rear: 30 feet
  - side: 20 feet
- 7. Maximum building height: 35 feet
- 8. Minimum shore frontage: See Section 507

F. Other Standards:

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

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

*{Amended, Effective 01/07/14}*

### A. Purpose:

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

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

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

The following uses are subject to subdivision review:

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

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

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

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



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

40. Parking area for open space *{Amended, Effective 12/02/14}*

41. Artisan Food and Beverage *{Effective 12/17/14}*

- a. food truck(s) as an accessory use is allowed subject to the provisions of Sec. 526A – Food Trucks

42. Boat Yard *{Effective 03/19/19}*

43. Small Solar Farm, subject to the standards of Section 534

44. Large Solar Farm, subject to the standards of Section 534

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

1. Minimum lot size:

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

2. Minimum road frontage:

Route 1	200 feet
All other roads:	100 feet

3. Maximum building height: 35 feet

4. Minimum setbacks: projects that meet the criteria of Sec. 406.G.4 are eligible for 50% reduction of the setbacks listed below: *{Amended, 03/19/19}*

Minor Street:

front:	60 feet
side:	40 feet
rear:	40 feet

U.S. Route 1:

Front:	50 feet
Side:	50 feet
Rear:	50 feet

From residential buildings: In addition to the setback requirements listed above, new buildings for the uses of auto repair service garage, construction services, manufacturing and processing, and/or warehouse and storage facility that require Site Plan Review approval shall not be located any closer than 100 feet from the closest point of a residential building on an adjacent property. For the purposes of this section, a

residential building means a single family, two-family, multiple family or mobile home, as well as commercial uses that are either temporary or permanent shelter such as campgrounds, hotels and motels, and nursing homes.

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

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

1. Open Space Subdivisions requirements

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

2. Expanded Open Space Subdivisions requirements

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

H. Minimum lot area per dwelling unit, two family, and multiple family dwellings:  
*7,000 square feet*

3. Large Lot Subdivisions requirements

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

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

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

F. Prohibited Uses:

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

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

G. Other Standards:

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

Landscaping is required in all front, side and rear setbacks for a minimum depth of 25 feet. The purpose of the landscaping is to provide a buffer between low density residential uses and commercial/industrial uses. The Project Review Board shall determine the type of landscaping to be required and may use the applicable standards listed in Section 506 (Buffer Zones) below.
3. Minimum outdoor storage standards for non-residential uses are:
  - a. The storage area shall be fully fenced with an opaque material 5 to 6 feet high.
  - b. Only materials and/or equipment used in the business shall be stored.
  - c. Stored materials shall be no higher than the height of the fence.
  - d. No outdoor storage shall be allowed in any setback areas.
4. A reduction of fifty percent of any setback requirement is allowed if doing so will increase the distance between an existing residential building and a commercial building, if environmentally sensitive areas will be avoided, or if a lot shares access with another commercial building, and /or varying the setback will alter the front lines of the buildings. *{Amended, 03/19/19}*
5. All buildings that are subject to Site Plan Review and that are plainly visible from a public road shall be required to meet the building design standards of this section. For the purposes of this section, buildings that are screened by a depth that is the same or more than the front setback requirement of natural, mature vegetation, and/or another building, and/or a change in elevation or other method as approved by the Project Review Board are not considered to be visible from the road, These building may be seen from the road, but they are not considered to be in plain sight.
  - a. Designs that are characterized by long monotonous unrelieved shape or form or by the unbroken extension of line for any building are not permitted. Wall projections, recesses, windows, roof elevation variations and design features such as moldings, color changes, material changes, signs, awnings, dormers and so on can be used to break up the visual expanse of a building facing a public or private road.
  - a. Efforts should be made to vary the setback of the building on a parcel from the setback of adjacent buildings to avoid a monotonous, visual building line along a road. In situations where this is not possible landscaping, parking lot

design and building design are some examples of site features which can be used to minimize the uniformity of the setback line.

6. Buildings that are subject to Site Plan Review that are not plainly visible as described in Sec.406.G.5 above shall provide extra attention to the entrance rather than the building. For example, signs for the business or a simple address sign might be made of a distinctive material, or decorative plantings, lighting, or art work may be included. The Project Review Board may base the appropriateness of an entrance design on the amount of customer recognition that is needed for a business.
7. Non-residential uses are allowed one overhead door on a side of the building visible from U.S. Route One. The Project Review Board may approve more than one overhead door on a side of a building visible from Route One if the size and shape of the lot are such that no other feasible alternative exists or if the building is not plainly visible from U.S. Route One as described in Sec. 406.G.5.

## **Section 409. Commercial District I “C-I”**

A. Purpose: *{Amended, Effective 02/04/20}*

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

B. Permitted Uses:



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

The following uses are subject to site plan review regardless of size: *{Amended, 03/19/19}*

7. Public or Private School
8. Commercial School
9. Outdoor Recreation School
10. Auto Repair Service Garage subject to the standards of Sec. 409.D.6 listed below
11. Auto Service Station
12. Retail Trade up to 15,000 s.f. building footprint
13. Commercial Sales and Service - Outdoor
14. Business and Professional Offices
15. Commercial Recreation – Indoor and Outdoor
16. Public Utilities
17. Convenience Store with Gas Pumps
18. Restaurant
19. Restaurant - Drive-Up
20. Restaurant - Carry-Out
21. Bed and Breakfast Inn
22. Hotel/Motel
23. Boatyard
24. Public and Private Assembly Indoor
25. Parking Facility
26. Commercial Sales and Service
27. Manufacturing and Processing
28. Day Care Center Facilities
29. Auto Sales for up to 30 vehicles stored outdoors
30. Flea Markets
31. Art Gallery and Museum
32. Residential Health Care Facility
33. Nursing Home
34. Construction Services
35. Research and Development Facility
36. Parking area for open space *{Amended, Effective 12/02/14}*
37. Artisan Food and Beverage *{Amended, Effective 02/04/20}*
38. Vehicle wash center *{Amended, 03/19/19}*
39. Mixed Use Development *{Amended, Effective 02/04/20}*
40. Food Truck, as an accessory to any permitted use that is subject to Site Plan Review, and subject to the provisions for Section 526A. – Food Trucks *{Amended, Effective 02/04/20}*

The following uses are permitted 300 feet or more from the easterly edge of the U.S. Route One right-of-way **or if closer than 300 feet from the easterly edge of U.S. Route One the standards of Section 409.D.8 shall be met**, and are subject to site review regardless of size: *{Amended, Effective 02/04/20}*

- 41. Multiple Family Dwelling
- 42. Warehouse and Storage Facility
- 43. Wireless Telecommunication Facilities
- 44. Truck Facilities
- 45. Small Solar Farm, subject to the standards of Section 534
- 46. Large Solar Farm, subject to the standards of Section 534

### C. Space and Bulk Standards

1. Minimum lot size and road frontage requirement if the building(s) or use(s) is/are connected to the public water and sewer system and if one of the following conditions exists or is provided<sup>1</sup>: *{Amended, Effective 10/03/17}*
  - a. there is no more than one access point (existing or proposed) per lot of record as of May 6, 2008 on U.S. Route One, or
  - b. the only access point off U.S. Route One is shared with an adjacent lot or lots and the lot or lots sharing the access points don't have other access points on U.S. Route One; or
  - c. a lot has more than one existing access point per lot of record as of May 6, 2008; provided, however, that (i) in these situations the Project Review Board may relocate some or all of the access points, (ii) the development shall not have more access points than exist on May 6, 2008, and (iii) the Project Review Board may in its discretion limit access points to a number less than the number existing on May 6, 2008 if the Project Review Board shall determine that the maintenance of the number of access points existing as of May 6, 2008 is likely to<sup>2</sup>:
    - A. detract from public safety considering such factors such as accidents in the area, traffic volumes, road geometrics, types and frequency of traffic moving to and from existing uses within 1,000' of the proposed use; or
    - B. adversely effect the ability of vehicular traffic to maintain the existing speed limit; or
    - C. threaten an environmentally sensitive area,

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

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

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

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

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

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

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

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

Minimum lot size	1 acre
Road frontage requirement	300 feet

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

Minimum lot size	3 acres
Road frontage requirement	300 feet

3. Maximum building height: *{Amended, 03/19/19}* 35 feet  
Projects that meet the criteria of Sec. 409.D.7 are eligible for a maximum height of 45 feet.

4. Maximum impervious surface to lot area: 70%

5. Minimum setback *{Amended, 03/19/19}*
- |        |         |
|--------|---------|
| front: | 15 feet |
| side:  | 15 feet |
| rear:  | 15 feet |

Projects that meet the criteria of Sec.409.D.5 are eligible for a minimum side and rear setback of 5'.

D. Other Standards: *{Amended, 06/18/19}*

1. Outdoor storage for non-residential uses is prohibited in the front setback. Outdoor storage areas shall be fenced.
2. For all uses subject to Site Plan Review, in the front setback, in a strip extending along the entire frontage of Route One, except for driveways, for a depth of 15 feet, landscaping is required. Landscaping is also required in all side setbacks for a depth of 15 feet extending from the front property line to the furthest back edge of the developed area (buildings,

- parking lots, other impervious surface). The Project Review Board shall determine whether the side landscaping shall consist of plantings and/or retention of the natural cover. Only accessways, walkways, pedestrian and vehicle connectors between parking lots on abutting lots and common driveways for abutting lots are permitted in the side landscaped setbacks. *{Amended, 03/19/19}*
3. Items for sale are allowed within all of the required setbacks.
  4. If existing or proposed parking spaces are eliminated due to the creation of parking lot connectors and/or common driveways for abutting lots, the property shall be credited for each lost space so that no net loss of parking spaces shall occur.
  5. The side and rear setback requirements may be reduced to a minimum of 5' if the proposed building is adjacent to an existing building used for commercial purposes, if a lot shares access, parking, and/or other facilities with another lot, or if environmental constraints on the property limit the logical location of buildings to be closer to the property line. *{Amended, 03/19/19}*
  6. Building heights up to 45' are allowed provided the building can be adequately screened from U.S. Route One, I-295, Old South Freeport Road and South Freeport Road as applicable with existing trees and the building is 300' or greater from U.S. Route One. *{Amended, 03/19/19}*
  7. The Performance Standards of Section 527 are applicable.
  8. For uses that require outdoor storage of materials or the operation/storage of large equipment (other than inventory for sale), or outdoor equipment that is accessory to vehicle wash centers such as vacuuming devices, the Project Review Board shall require screening that visually obscures the storage area(s) or accessory uses to vehicle wash centers and/or reduces the ambient noise level of the use to the greatest extent practicable. Such screening may include plantings, retention of existing vegetation, berms, fences, or other vegetative or constructed barriers to mitigate the visual and auditory impact of the development on the surroundings. *{Amended, 03/19/19}*

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

## **Section 411. Commercial District III - “C-III”**

### A. Purpose:

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

### B. Permitted Uses:

1. Single Family Dwelling
2. Two Family Dwelling

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

3. Public or Private School
4. Commercial School
5. Outdoor Recreation School
6. Cemeteries
7. Public Utilities excluding commercial communications towers
8. Municipal Use
9. Multiple-family Dwelling
  - a. Existing buildings shall not be subject to the provisions of Section 411.D.6 below
10. PUD (Subject to the provisions of Article V, Section 504)
11. Restaurant
12. Restaurant - Carry-Out
13. Bed & Breakfast Inn
14. Business and Professional Offices
15. Public Assembly - Indoor
16. Private Assembly
17. Auto Repair Service Garage
18. Religious Institutions
19. Hotel - Motel
20. Commercial Sales and Service, including up to 200 square feet of incidental, accessory outdoor storage. This outdoor storage is permitted only on a seasonal basis (April to October). Materials such as propane, which must be located outdoors at all times, are

exempt from the seasonal restriction, but they must be screened from abuttor and street views.

21. Parking Facility
22. Retail Trade
23. Manufacturing and Processing
24. Day Care Center Facilities
25. Commercial Recreation – Indoor
26. Parking area for open space *{Amended, Effective 12/02/14}*
27. Artisan Food and Beverage *{Effective 12/17/14}*
  - a. food truck(s) as an accessory use is allowed subject to the provisions of Sec. 526A – Food Trucks
28. Small Solar Farm, subject to the standards of Section 534

C. Prohibited Uses:

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

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

D. Space Standards:

1. Minimum lot size: 2 acres
2. Maximum Building Height: 35 feet
3. Minimum Road Frontage
  - U.S. Route 1 and Pine Street: 300 feet
  - Other Streets: 150 feet
4. Maximum Impervious Surface to lot area ratio: 70%
5. Minimum Setback:
  - a. All setbacks except from I-95 boundary:
    - Front: 50 feet, if parking is located between the 25' front landscaped setback and the 50' setback. 25' if parking is located beyond 50' of the front property boundary line.
    - Side: On a lot with two side lot lines, the total combined minimum width of both side setbacks shall be 75' and the minimum side setback shall be 25'. If a parcel has only one side lot line, the minimum side setback shall be 35'.  
*{Amended, 03/19/19}*

Rear: 35 feet

- |   |             |
|---|-------------|
| b. All setbacks from I-95 boundary:     | 25 feet     |
| 6. Minimum Land Area per Dwelling Unit: | 7,000 s.f.  |
| 7. Maximum Gross Floor Area per lot:    | 40,000 s.f. |

E. Other Standards:

1. Buffer strips, as required by Section 506, shall consist of at least the minimum required setbacks.
2. Landscaping is required in the setback from U.S. Route 1 and in the front setback from all other streets for a minimum of 25 feet except for driveways. Landscaping is required in all side setbacks for a depth of 15 feet extending from the front property line to the furthest back edge of the developed area (buildings, parking lots, other impervious surface). The Project Review Board shall determine whether the side landscaping shall consist of plantings and/or retention of the natural vegetative cover. Only accessways, walkways, pedestrian and vehicle connectors between parking lots on abutting lots and common driveways for abutting lots are permitted in the side setback.
3. Outdoor storage is prohibited except as permitted in Section 411 B.17 above.
4. The Performance Standards of Section 527 are applicable. *{Amended, Effective 01/02/18}*
5. If existing or proposed parking spaces are eliminated due to the creation of parking lot connectors and/or common driveways for abutting lots, the property shall be credited for each lost space so that no net loss of parking spaces shall occur.
6. Curb cuts on Route One and Pine Street should be limited, where possible, to one per lot. In addition, because of the limited sight distance at certain parcels containing frontage on Pine Street, if any lot fronting on Pine Street is subdivided after May 1, 1997, one common driveway location which provides access to all existing and new lots shall be provided in the deed. The common driveway location shall meet MDOT requirements for sight distance and all necessary easements shall be included in each deed.

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

*{Amended, Effective 08/06/19}*

A. Purpose:

This District is intended to provide suitable locations for a variety of higher density residential and commercial uses which benefit from nearby major highway connections and existing public utilities. Open space and/or buffers are required to provide a buffer between higher density development and adjacent lower density residential properties and to protect environmentally sensitive areas.

B. Permitted Uses:

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



1. Two-Family Dwelling
2. Multiple-Family Dwelling
3. Public or Private School
4. Commercial School
5. Outdoor Recreation School
6. Local convenience goods stores accommodating local needs such as but not limited to retail bakeries, delicatessens, candy, nut and fish stores, fruit and vegetable stores, grocery and food stores, 5 & 10 stores, hardware stores, auto parts supply, book stores, branch banks, dry goods stores and florist shops;
7. Personal service stores such as but not limited to beauty and barber shops, laundromats, cleaners, photography studios, shoe, jewelry and household appliance repair services and alterations services;
8. Supermarket
9. Business and Professional Offices
10. Commercial Recreation - Indoor
11. Commercial Recreation - Outdoor
12. Municipal Facilities
13. Public Utilities
14. Warehouse and Storage Facilities
15. Commercial Sales and Service
16. Truck Facility
17. Manufacturing and Processing which does not involve the basic refinement of bulk raw material
18. Hotel/Motel
19. Day Care Center Facilities
20. Convenience Store with Gas Pumps
21. Auto Service Station
22. Auto Repair Service Garage
23. Restaurant
24. Restaurant - Carry Out
25. Restaurant - Drive-up
26. Construction Services
27. Public Assembly
28. Private Assembly
29. Wireless Telecommunication Facility (See Sec. 528)
30. Parking area for open space *{Amended, Effective 12/02/14}*
31. Artisan Food and Beverage *{Effective 12/17/14}*
  - a. food truck(s) as an accessory use is allowed subject to the provisions of Sec. 526A – Food Trucks
32. Medication Assisted Treatment Facility for Opioid Addiction *{Effective 10/04/16}*

The following uses are subject to subdivision review:

33. Commercial Open Space Subdivision for two-family and/or multiple-family dwellings.

34. Small Solar Farm, subject to the standards of Section 534

35. Large Solar Farm, subject to the standards of Section 534

C. Space Standards for Lots which are Not Within Subdivisions as Listed in Section D below:

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

front:	25 feet
side:	25 feet
rear:	25 feet
6. Maximum Height - Wireless Telecommunication Facility (single user): 75 feet  
Wireless Telecommunication Facility, Co-located: 125 feet

D. Space and Bulk Standards for Lots in Open Space Commercial Subdivisions approved after August 6, 2019

1. Net residential density per dwelling unit; two family and multiple family – 1 unit per 2,904 s.f. (15 units per acre) of net residential acreage
2. Maximum impervious surface to lot area excluding designated open space 90%
3. Allowable number of stories 3 stories
4. Setbacks for developments with property in common ownership  
front: 25 feet  
rear: 50 feet  
side: 25 feet

For developments that will be divided into individual lots:

4. Minimum lot area per dwelling unit; two family and multiple family - 4,000 s.f.
5. Minimum road frontage 30 ft.
6. Minimum setback for commercial open space subdivisions  
front: 10 feet  
rear: 10 feet  
side: 5 feet

E. Prohibited Uses:

1. Manufacture, fabrication, disposal or any use of asbestos products
2. Paper Manufacturing
3. Petroleum and petrochemical refining and reprocessing

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

F. Other Standards:

1. For developments that require open space, the open space shall be delineated by using the following priority system:
  - a. first priority – establish buffer of at least 50 feet where the Commercial District is adjacent to the Rural Residential District.
  - b. second priority – open space includes primary conservation areas to the greatest extent practical
  - c. third priority – at the discretion of the owner
2. If open space is not required, a 25 foot buffer shall be required where the adjacent property within this District is presently used for residential purposes. A 100 foot buffer strip shall be required where it abuts residential districts
3. Landscaping is required in the front setback as per Section 527.E.
4. The Performance Standards of Section 527 are applicable. *{Amended, Effective 01/02/18}*

## **Section 420. Local Business District “LB”**

### A. Purpose:

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

### B. Permitted Uses:

The specific permitted uses which are listed below are intended to provide examples of a

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

1. Peddler on Private Property subject to the requirements of Section 526.
2. Local convenience goods stores accommodating local needs such as but not limited to retail bakeries, delicatessens, candy, nut and fish stores, fruit and vegetable stores, grocery and food stores, 5 & 10 stores, hardware stores, auto parts supply, book stores, branch banks, dry goods stores, apparel stores and florist shops. All types of restaurants, as defined in this Ordinance, are not included in this definition and, therefore, are prohibited.
3. Personal service stores such as but not limited to beauty and barber shops, laundromats, cleaners, photography studios, shoe, jewelry and household appliance repair services, and alterations services.
4. Shopping Center including a supermarket, department store, local convenience goods and personal service stores.
5. Business and Professional Offices
6. Commercial Recreation - Indoor
7. Municipal Facility
8. Public or Private School
9. Commercial School
10. Outdoor Recreation School
11. Timber framing millwork and cabinetry
12. Warehouse and Storage Facility
13. Parking area for open space *{Amended, Effective 12/02/14}*
14. Artisan Food and Beverage *{Effective 12/17/14}*
  - a. food truck(s) as an accessory use is allowed subject to the provisions of Sec. 526A – Food Trucks
15. Small Solar Farm, subject to the standards of Section 534

C. Space Standards:

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

D. Other Standards

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

**Section 421. Industrial District I “I-I”**

A. Purpose:

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

B. Permitted Uses:

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

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

5. Public or Private School
6. Commercial School
7. Outdoor Recreation School

8. Manufacturing and Processing which does not involve the basic refinement of bulk raw material
9. Business and Professional Offices
10. Warehouse and Storage Facilities
11. Commercial Sales and Service
12. Public Utilities
13. Commercial Recreation - Outdoor
14. Truck Facility
15. Parking area for open space *{Amended, Effective 12/02/14}*
16. Artisan Food and Beverage *{Effective 12/17/14}*
  - a. food truck(s) as an accessory use is allowed subject to the provisions of Sec. 526A – Food Trucks
17. Small Solar Farm, subject to the standards of Section 534

C. Space Standards:

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

D. Prohibited Uses:

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

E. Other Standards:

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



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

## **Section 422. Industrial District II “I-II”**

### **A. Purpose:**

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

### **B. Permitted Uses:**

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

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

4. Manufacturing and Processing which does not involve the basic refinement of bulk raw material
5. Business and Professional Offices
6. Warehouse and Storage Facilities
7. Commercial Sales and Service
8. Public Utilities
9. Public or Private School
10. Commercial School
11. Outdoor Recreation School
12. Commercial Recreation - Outdoor
13. Truck Facility
14. Wireless Telecommunication Facility (See Sec 528)
15. Parking area for open space *{Amended, Effective 12/02/14}*
16. Artisan Food and Beverage *{Effective 12/17/14}*
  - a. food truck(s) as an accessory use is allowed subject to the provisions of Sec. 526A – Food Trucks
17. Small Solar Farm, subject to the standards of Section 534
18. Large Solar Farm, subject to the standards of Section 534

### **C. Space Standards:**

- |  |       |           |
|--|-------|-----------|
| 1. Maximum building height:  |       | 35 feet   |
| Building height may be increased one (1) foot for every five (5) feet that all setbacks are increased to a total of 45 feet. |       |           |
| 2. Maximum impervious surface to lot area:   |       | 70%       |
| 3. Maximum Height:   |       |           |
| Wireless Telecommunication Facility (singer user):   |       | 75 feet   |
| Wireless Telecommunication Facility, Co-located:   |       | 125 feet. |
| 4. Minimum setback -   |       |           |
|  | front | 100 feet  |
|  | side  | 15 feet   |
|  | rear  | 15 feet   |

D. Prohibited Uses:

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

E. Other Standards:

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

## Section 425. Resource Protection II “RP-II”

### A. Purpose:

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

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

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

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

### B. The following are permitted Uses:

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

The following uses are subject to subdivision review

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

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

9. Outdoor Recreation School up to 5,000 square feet of gross floor area or up to 5,000 square feet total gross square footage of all buildings on any parcel. The lot size must be at least five acres.
11. Municipal Facilities
12. Parking area for open space *{Amended, Effective 12/02/14}*
13. Small Solar Farm, subject to the standards of Section 534

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

1. Minimum lot size: 2 ½ acres

- 2. Minimum road frontage: 200 feet
- 3. Maximum building height: 35 feet
  
- 4. Minimum setback-
  - front: 50 feet
  - side: 50 feet
  - rear: 75 feet
  - shore: 100 feet
- 5. Minimum land area per dwelling unit: 2 ½ acres
- 6. Minimum shore frontage: See Section 507
- 7. Maximum lot coverage with impervious surfaces: 10%
- 8. Minimum lot width: 150 feet

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

1. Open Space Subdivisions requirements

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

2. Large Lot Subdivisions requirements

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

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

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

- F. Prohibited Activities: (not to imply that such activities are permitted elsewhere) *{Amended, Effective 06/18/13}*
1. Disposal of solid waste (except brush and stumps), leachable wastes (except subsurface disposal of domestic sewage) and sludge;
  2. Storage of petroleum or gasoline;
  3. Storage of leachable wastes or solid wastes;
  4. Mining or excavation in excess of 10 cubic yards other than excavation for permitted uses or approved uses and within public rights-of-way and as otherwise permitted in Section 509;
  5. Application of de-icing chemicals except sand with a salt content of no more than 10% can be used on public rights of way. Herbicides, pesticides and fertilizers shall be applied in accordance with manufacturer's specifications and direction; No more than 3,000 sq. ft. of lawn area cultivated by means of fertilization shall be permitted per acre of residential use;
  6. Use and storage of hazardous materials as defined in Chapter 14 of Title 38 of the Maine Revised Statutes and hazardous wastes as defined in Chapter 13 of Title 38 of the Maine Revised Statutes;
  7. Stormwater detention and retention ponds from parking lots for municipal facilities;
  8. Overnight storage and maintenance of vehicles in municipal facilities.

G. Other Standards:

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

## **Section 534. Solar Energy Generation Systems**

The purpose of this Section 534 is to allow for the construction and operation of Solar Energy Generation Systems by establishing appropriate standards to ensure safe, effective, and efficient use of Solar Energy Generation Systems that are compatible with existing surrounding uses.

### A. General Standards.

1. Accessory Solar Energy Generation Systems, Small Solar Farms, and Large Solar Farms must obtain all applicable permits from the Freeport Codes Enforcement Officer, including but not limited to building and electrical permits.
2. Accessory Solar Energy Generation Systems, Small Solar Farms, and Large Solar Farms shall be subject to the standards of the Freeport Design Review Ordinance and/or the Freeport Village Overlay District, as applicable.

### B. Additional Standards for Accessory Solar Energy Generation Systems.

1. An Accessory Solar Energy Generation System shall be permitted wherever accessory structures or uses are permitted and shall conform to the standards for such accessory structures or uses of the applicable zoning district(s).
2. A roof-mounted Accessory Solar Energy Generation System shall be excluded when calculating the maximum building height set forth in the applicable zoning district(s). The maximum height of a ground-mounted Accessory Solar Energy Generation System shall be 25 feet or the height of the principal structure, whichever is less.
3. Roof-mounted Accessory Solar Energy Generation Systems are not subject to Site Plan Review.
4. Ground-mounted Accessory Solar Energy Generation Systems accessory to uses other than single and two family dwellings are subject to Site Plan Review by the Freeport Staff Review Board, per Section 602 of this Ordinance.

### C. Standards for Small Solar Farms and Large Solar Farms.

1. Site Plan Review. Small Solar Farms and Large Solar Farms are subject to Site Plan Review by the Freeport Project Review Board, per Section 602 of this Ordinance.
2. Application Requirements. In addition to all of the applicable site plan review submission requirements set forth in Section 602.D.4 of this Ordinance, the following additional submissions are required unless waived by the Project Review Board.

- a. Name(s) and contact information for the owner, operator and installer of the proposed system and the name(s) of the owner of the subject property on which the Small Solar Farm or Large Solar Farm is to be located.
- b. Cover letter describing the project, including details regarding the subject property on which the Small Solar Farm or Large Solar Farm will be located; the construction schedule and anticipated commercial operation date; dimensions of all major components of the Small Solar Farm or Large Solar Farm, including the solar panel specifications, manufacturer(s), and manufacturer-identified period of time for which the solar photovoltaic (PV) technology will be economically feasible for its intended use (referred to in this Section 534 as “useful life”); and a detailed description of how the project complies with each applicable standard of this Ordinance.
- c. A deed, lease, lease option agreement, or similar legal instrument describing the applicant’s right, title, and interest to the subject property and right of access to the subject property from the nearest public roadway.
- d. Site photos showing existing site vegetation, existing and adjacent structures, and views of and from the subject property.
- e. Plans, prepared by a professional engineer, professional surveyor, or licensed landscape architect containing, at minimum, the following information:
  - i. The proposed location of the Small Solar Farm or Large Solar Farm in relation to existing lot lines and natural features (including but not limited to vegetation, streams, and wetlands), as well as existing and proposed deed and lease lot lines, structures, fencing, roads and rights-of-way, driveways, parking areas, curb cuts on the subject property, easements, and underground and overhead utility lines.
  - ii. The proposed location of all Solar Energy Generation System components (including solar collectors (including the location of all inter-panel space), mounting hardware, electricity storage equipment, transmission and distribution lines, and related infrastructure), all existing and proposed structures, all existing and proposed impervious surfaces, all areas proposed to be cleared of vegetation, and their physical dimensions, including the dimensions and square footage of the Solar Array Development Area.
  - iii. A landscaping plan reflecting the location of any existing and proposed screening and demonstrating compliance with all applicable buffer requirements of this Ordinance.
  - iv. Scaled elevation drawings of all Solar Energy Generation System components (including solar collectors (including the location of all inter-panel space), mounting hardware, electricity storage equipment, transmission and distribution lines, and related infrastructure) and all existing and proposed structures, foundations, supports, fencing, security barriers, vegetation, and landscaping.



- v. For ground-mounted Small Solar Farms or Large Solar Farms, a statement prepared and stamped by a professional engineer certifying that the proposed Solar Energy Generation System design is safe in terms of its strength, stability, security, and grounding.
- f. Documentation that the Small Solar Farm or Large Solar Farm complies with applicable state and federal laws and rules. Include copies of applications submitted to and permits granted by state regulatory agencies, including any applications and permits related to the interconnection of the Small Solar Farm or Large Solar Farm to the energy grid.
- g. A decommissioning plan for the removal of the Small Solar Farm or Large Solar Farm and stabilization of the site, consistent with the requirements of Section 534.C.3.f.i. A decommissioning plan shall include a proposed decommissioning time schedule and details of how the owner or operator of record of the Small Solar Farm or Large Solar Farm will ensure completion of the following tasks:
  - i. Physical removal of all Solar Energy Generation System components (including solar collectors, mounting hardware, electricity storage equipment, transmission and distribution lines, and related infrastructure), structures, foundations, supports, fencing, and security barriers from the site.
  - ii. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal laws and rules.
  - iii. Stabilization or re-vegetation of the site as necessary to minimize erosion and return the site to substantially its pre-construction state. Native, pollinator-friendly seed mixtures shall be used to re-vegetate areas the greatest extent practicable.
- h. Proof of financial capacity to build, maintain, and remove the Small Solar Farm or Large Solar Farm, including evidence which satisfies the requirements of Section 534.C.3.e.i. This proof should include documentation of the cost of constructing the Small Solar Farm or Large Solar Farm, as well as a statement or other documentation from a bank or lending institution that the owner of the Small Solar Farm or Large Solar Farm has secured adequate financing to cover the cost of construction.
- i. The following additional submission requirements apply to applications for Large Solar Farms:
  - i. Written documentation from the Maine Historic Preservation Commission (MHPC) regarding any known or likely historic, prehistoric, or archeological resources located in or on the subject property. If such resources are identified, the applicant shall submit a plan demonstrating compliance with the requirements of Section 534.C.3.d.i.

- ii. Written documentation from the Maine Natural Areas Program (MNAP) regarding the presence of rare or exemplary natural communities located on the subject property, including any critically imperiled (S1) or imperiled (S2) natural communities or plant species. If such resources are identified, the applicant shall submit a plan demonstrating compliance with the requirements of Section 534.C.3.d.ii.
  - iii. Written documentation from the Maine Department of Inland Fisheries and Wildlife (MDIFW) regarding known locations of rare, endangered, threatened, and special concern species; essential and significant wildlife habitats (including waterfowl and wading bird habitats, deer wintering areas, and significant vernal pools); and significant fisheries habitats (including Atlantic salmon spawning, limited spawning, and rearing habitats) on the subject property. If such resources are identified, the applicant shall submit a plan demonstrating compliance with the requirements of Section 534.C.3.d.iii.
  - iv. For Large Solar Farms that trigger review by the Maine Department of Environmental Protection (MDEP) pursuant to the Site Location of Development Act (Site Law), 38 M.R.S.A. §§ 481-490, a copy of the Site Law application submitted to MDEP and any permits granted by the MDEP at the time of submission of the application to the Town.
3. Performance Standards for Small Solar Farms and Large Solar Farms.
- a. Dimensional Standards.
    - i. The maximum height of any ground-mounted Small Solar Farm or Large Solar Farm shall be twenty-five (25) feet. Height shall be measured from the lowest point of the Solar Energy Generation System components above grade to the highest point of the solar photovoltaic (PV) technology when oriented at maximum tilt or any other structures. This maximum height limitation does not apply to the transmission and distribution lines.
    - ii. The minimum setback of any part of the Solar Array Development Area and any other proposed structures shall conform to requirements of the applicable zoning district or twenty (20) feet from any lot lines, whichever is greater. This minimum setback does not apply to fencing or transmission and distribution lines.
    - iii. For Small Solar Farms or Large Solar Farms permitted in the following districts (RR-IA, C-I, C-III, C-IV, MD-A, MD-B, LB, I-I, I-II) which abut the following districts (RR-I, RR-IA, RR-II, RP-I, RP-II, MDR-I, MDR-II, V-I, V-II, VMU-1 and VMU-2), the Solar Array Development Area and any other proposed structures shall meet the minimum setback requirements of the applicable zoning district or following minimum whichever are greater:

(a) Front: 50 feet

(b) Side: 50 feet

(c) Rear: 75 feet

b. Design & Aesthetics.

- i. Buffer Zones. The Small Solar Farm or Large Solar Farm shall, at minimum, conform to the requirements of the applicable zoning district and, where applicable, to the requirements of Section 506 of this Ordinance. For purposes of applying Section 506 to a Small Solar Farm or Large Solar Farm, (i) the Solar Array Development Area and any proposed structures shall be considered the “building or structure” to be buffered, and (ii) stands of trees shall be used to meet the buffer requirement only if the trees do not interfere with the capture of unobstructed flow of solar insolation (sunlight) by the solar photovoltaic (PV) technology.
- ii. Stormwater Management. The Small Solar Farm or Large Solar Farm shall conform to the requirements of Section 529 of this Ordinance.
- iii. Lighting. The Small Solar Farm or Large Solar Farm shall conform to the requirements of Section 521.A of this Ordinance.
- iv. Land Clearing, Soil Erosion, and Habitat Impacts. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation, and maintenance of the Small Solar Farm or Large Solar Farm, including the need to maximize the capture of unobstructed flow of solar insolation (sunlight). Native, pollinator-friendly seed mixtures shall be used to re-vegetate cleared areas to the greatest extent practicable. Herbicide and pesticide use shall be avoided or minimized. No prime agricultural soil or significant volume of topsoil or prime agricultural soil shall be removed from the site for installation or repair of the Small Solar Farm or Large Solar Farm.
- v. Additional Performance Standards for Commercial Districts (C-I, C-III, C-IV). If the Small Solar Farm or Large Solar Farm is proposed to be located in a Commercial District (C-I, C-III, or C-IV), the requirements of Section 527 of this Ordinance shall apply; provided, however, that the requirements of Section 527.B (Building Design) shall only apply to proposed structures, if any, and not to the Solar Array Development Area. For purposes of applying Section 527.E (Front landscaped setback) to a Small Solar Farm or Large Solar Farm, (i) the Solar Array Development Area and any proposed structures shall be considered the “structure” whose appearance is to be softened, and (ii) landscaping using trees and preservation of existing mature trees shall be required only if such trees do not interfere with the capture of unobstructed flow of solar insolation (sunlight) by the solar photovoltaic (PV) technology.

c. Safety.

- i. Small Solar Farm or Large Solar Farm shall comply with all applicable codes and ordinances, including but not limited to, the Town of Freeport Building Code Ordinance, the Town of Freeport Electrical Code Ordinance, the Town of Freeport Fire Protection Code, the Town of Freeport Floodplain Ordinance, and Shoreland Zoning.
- ii. A sign shall be installed on the property to identify the owner or operator of the Small Solar Farm or Large Solar Farm and provide a 24-hour emergency contact phone number. Additional signage may be required, per the Town of Freeport Electrical Code Ordinance and the Town of Freeport Fire Protection Code. All signage shall also conform to the Town of Freeport Sign Ordinance.
- iii. All electrical and control equipment for a ground-mounted Small Solar Farm or Large Solar Farm shall be labeled and secured to prevent unauthorized access.
- iv. For any ground-mounted Small Solar Farm or Large Solar Farm, fencing shall be installed around the perimeter of the Solar Array Development Area. Where fencing is used, fences should be elevated by a minimum of 5 inches to allow for passage of small terrestrial animals.

d. Protection of Natural and Cultural Resources.

- i. If any portion of the Small Solar Farm or Large Solar Farm includes an archaeologically sensitive area or a structure listed in the National Register of Historic Places or is considered by the Maine Historic Preservation Commission (MHPC) as likely to contain a significant archaeological site or structure, the applicant shall conduct archaeological surveys or submit information on the structure, as requested by the MHPC. If a significant archaeological site or structure is located in or on the subject area, the applicant shall demonstrate that the proposal will cause no or minimal impact to the archaeological site or structure, either by project design, physical or legal protection, or by appropriate archaeological excavation or mitigation.
- ii. If any portion of the Small Solar Farm or Large Solar Farm lies within an area identified by the Maine Natural Areas Program (MNAP) as containing rare or exemplary natural communities, including any critically imperiled (S1) or imperiled (S2) natural communities or plant species, the applicant shall demonstrate that the proposal will cause no or minimal impact to any such identified resources. The plan shall provide for protection of the identified resources in a manner acceptable to MNAP or in accordance with the recommendations of a biologist with demonstrated experience with the identified resources. In the latter situation, the report prepared by the biologist shall assess the potential impact of the Small Solar Farm or Large Solar Farm on the identified resources and any adjacent areas that are important to the maintenance of the identified resources and shall describe appropriate mitigation

measures to ensure that the Small Solar Farm or Large Solar Farm will have minimal impacts on the identified resources.

iii. If any portion of the Small Solar Farm or Large Solar Farm lies within an area identified and mapped by the Maine Department of Inland Fisheries and Wildlife (MDIFW) as containing rare, endangered, threatened, and special concerned species; designated essential and significant wildlife habitat; or fisheries habitat concern, the applicant shall demonstrate that the proposal will cause no or minimal impact to any such identified resources. The plan shall provide for protection of the identified resources in a manner acceptable to MDIFW or in accordance with the recommendations of a wildlife biologist with demonstrated experience with the identified resources. In the latter situation, the report prepared by the wildlife biologist shall assess the potential impact of the Small Solar Farm or Large Solar Farm on the identified resources and any adjacent areas that are important to the maintenance of the identified resources and shall describe appropriate mitigation measures to ensure that the Small Solar Farm or Large Solar Farm will have minimal impacts on the identified resources.

e. Financing and Insurance.

i. The owner or operator of record of the Small Solar Farm or Large Solar Farm shall secure financing to fully construct the Solar Energy Generation System before any construction or pre-construction site preparation activity (including, but not limited to, any clearing of vegetation) begins.

ii. Prior to commencing operations, the owner or operator of record of the Small Solar Farm or Large Solar Farm shall obtain and maintain for the full length of the useful life of the Small Solar Farm or Large Solar Farm, liability insurance in an amount not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

f. Decommissioning and Removal; Performance Guarantee; Abandonment.

i. The owner or operator of record of a Small Solar Farm or Large Solar Farm shall, at its expense, be responsible for the decommissioning and removal of the Small Solar Farm or Large Solar Farm, in compliance with a decommissioning plan approved by the Project Review Board, within 12 months of the end of the useful life of the solar photovoltaic (PV) technology, or within 90 days of the receipt of a notice to the owner or operator of record of a determination by the Codes Enforcement Officer that the Solar Energy Generation System has been abandoned. A Solar Energy Generation System shall be considered abandoned if it ceases to generate electricity for a consecutive period of 12 months. The Project Review Board may extend the 12-month decommissioning deadline if the applicant demonstrates that the solar photovoltaic (PV) technology is likely to remain economically feasible for its intended use for longer than 12 months after the end of its manufacturer-identified useful life.

ii. For any ground-mounted Large Solar Farm, or any ground-mounted Small Solar Farm with a Solar Array Development Area that is 43,560 square feet (1 acre) or greater in size: A performance guarantee in the form of an escrow account, irrevocable letter of credit, or other form satisfactory to the Town Manager covering the cost of the decommissioning plan shall be delivered to the Town Manager at the time of Project Review Board approval. The amount of the performance guarantee shall be determined by the Project Review Board according to the time schedule for the decommissioning, shall be in an amount equal to 125% of the projected total cost of decommissioning and removing the Small Solar Farm or Large Solar Farm and restoring the site to its pre-construction condition, plus any adjustments for reasonable inflation estimates. The amount shall include a breakdown of costs of the various stages of decommissioning, if any. The performance guarantee shall remain in force until the Codes Enforcement Officer certifies that the site has been rehabilitated according to the approved decommissioning plan. Failure to complete the decommissioning plan approved by the Project Review Board shall constitute a violation of this Ordinance, subject to enforcement and legal action as provided in Section 601. In addition, if there is a default of any obligation to decommission a project under this Section 534 or if the Solar Energy Generation System is not removed within 90 days after a determination of abandonment made pursuant to Section 534.C.3.f.i, the Town may call upon the performance guarantee and cause the decommissioning plan to be implemented pursuant to the terms of that guarantee.

g. Additional Performance Guarantee.

The Project Review Board as a condition of approval may require the applicant to post a performance guarantee to ensure completion of site improvements associated with a Small Solar Farm or Large Solar Farm, as provided in Section 602.C.1.j.

## **Section 602. Site Plan Review** *{Amended, Effective 01/22/13}*

### A. Purpose

The purpose and objectives of the Site Plan Review requirements are to conserve the Town's natural beauty and visual character and to provide for public safety and environmental stewardship of the immediate neighborhood including light and noise and by insuring that structures, signs and other improvements are properly related to their sites and to surrounding sites and structures, especially in regard to the natural terrain and landscaping, and that the exterior appearance of structures, signs and other improvements harmoniously relates to their environment.

### B. Applicability

1. **Site Plan Review** is required for all development proposals as outlined in Article IV of this Ordinance. In addition, , in accordance with the provisions of this Ordinance. In addition Site Plan Review is required for the following activities:
  - a. A change of use when the new use is subject to Site Plan Review, except that a change of use of an existing building in the VC-I District from a restaurant to retail trade or from retail trade to a restaurant may be approved by the Town Planner as allowed in Section 602 (C)(c) (1), provided the building is located on a lot which does not abut a lot in residential use and no change occurs to the existing elements and features of the site except for necessary changes to the content of signage.
  - b. A reduction in the number of or a reconfiguration of parking spaces serving a restaurant in the VC-I District, where such reduction or reconfiguration is allowed under Section 514(A)(5) of this Ordinance as amended on April 3, 2001; such reduction may be approved by the Town Planner as allowed in Section 602(C)(c) (1).
2. **Build according to plan.** Construction, site development and landscaping shall be carried out in accord with the plans, drawings, sketches, and other documents approved by the Project Review Board, unless altered with Board approval. Nothing in this subsection shall be construed to prevent ordinary repair, maintenance and improvement of existing structures and facilities.



3. **Multiple Reviews.** When a development is subject to multiple reviews such as Site Plan Review, Design Review, and/or Subdivision Review, the Project Review Board shall conduct a concurrent review; the project is required to meet the criteria and standards of all ordinance under review. If Subdivision Review is required, the procedures of Subdivision Ordinance shall be used. If the development requires action by the Board of Appeals, Project Review Board review shall not commence until the Board of Appeals has made a decision.

#### C. Administration

1. The following procedures and requirements shall apply to all applications for site plan review:
  - b. **Pre-Application Conference.** Prior to submitting a formal application for a project requiring Site Plan Review, the owner of the property or agent, as designated in writing by the owner, is urged to schedule a pre-application conference with the Town Planner. The purpose of this meeting is to familiarize the applicant with the review procedures, submission requirements and the approval criteria and to familiarize the Town Planner and other relevant Town staff with the project. The Town Planner shall determine who has the authority to review the project: the town planner, the Staff Review Board, or the Project Review Board.
  - b. **Notification.** Notwithstanding other notification requirements included in Sec. 602, all agendas of the Project Review Board and the Staff Review Board shall be posted in the Town Clerk's Office and the Freeport Community Library for inspection during normal business hours and the notice shall be placed on Freeport's local cable channel 7 and the Town's website.
  - c. **Classification of Site Plans:**
    1. **Town Planner review.** The Town Planner has the authority to review and take action on projects that do not modify the intent of the approved site plan. They shall be shown on a plan submitted by the applicant to the Town Planner and the Town Planner shall sign and date the plan to record agreement that the change does not modify the intent of the approved site plan. Examples include, but are not limited to, minimal lighting, recalculations of parking requirements, landscaping changes and changes to previously approved ground and building mounted signs and new building mounted signs provided the signs meet the standards of the Freeport Sign Ordinance, building modifications up to 500 square feet, impervious surface modifications up to 500 square feet, and site plan renewals in which the plans still meet the local standards. Notwithstanding the above, either the Town Planner or the applicant may request a hearing by the Project Review Board. *{Amended, Effective 01/02/18}*

2. **Staff Review Board.** Developments that meet the criteria of Sec. 602.C.c.2.a-g below shall be considered minor amendments and shall be eligible for review by the Staff Review Board. Developments that also require a Design Review Certificate or Subdivision approval are not eligible for review by Staff Review Board , those projects require review by the Project Review Board. The Staff Review Board shall consist of the Town Planner, the Fire Chief, the Codes Enforcement Officer, the Town Engineer and the Public Works Superintendant, or the designee of any of them, with input from other Town departments as needed. The Staff Review Board shall have the same powers and duties as the Project Review Board. A public hearing shall not be required; however, notification of the nature of the application and the time and place of the meeting shall be given by mail to the applicant and the owners of all property within 200 feet of the property involved at least 5 days in advance of the meeting. The Staff Review Board shall accept public comment for all application. A quorum of the Board necessary to conduct an official Board meeting shall consist of at least three (3) members. Action on any application by the Staff Review Board shall require a majority of those members present and voting. An audio recording of each meeting shall be made and retained by the Town. The completed application for site plan review, together with the documentation required in these regulations shall be placed on the Staff Review Board's agenda for consideration within 20 days. Any appeals from the decisions of the Staff Review Board shall be taken directly to the Project Review Board within 30 days of decision. The following developments shall be eligible for staff review:

- a. Change of use from one permitted use to another permitted use provided any expansions do not exceed the limits stated in Section 602.C.c.2.b-c.. listed below
- b. Building footprint modifications greater than 500 square feet but less than 1,500 square feet.
- c. Parking lot modifications greater than 500 square feet but less than 1,500 square feet.
- d. Filling of lands or creation of ponds on properties where the primary use is residential.
- e. Filling of lands or creation of ponds where the primary use of the property is commercial which are greater than 200 cubic yards but less than 600 cubic yards of material.
- f. Renewal of gravel pit operations that do not include an expansion or other modification.
- g. Any increase in height of a wireless telecommunication tower that is more than 20 feet or 10%, whichever is greater; any appurtenance to the tower that protrudes out from the edge of the tower more than 20 feet or the width of the tower at the level of the appurtenance, whichever is greater; the installation of more

than 4 cabinets per carrier for the technology involved; any excavation or deployment outside of the limits of the approved site plan; changes around the base of the tower structure that reduces the concealment elements of the support structure; amendments that alter the approved site plan. *{Amended, Effective 10/03/17}*

h. Accessory Solar Energy Generation Systems for uses other than single and/or two family dwellings.

If, however, the Town Planner or the applicant determines that a project appears to be complicated or disputed, the Town Planner may refer the application to the Project Review Board for their review at the next available meeting.

3. **Project Review Board.** Developments that don't meet the criteria for review and action by either the Town Planner or the Staff Review Board shall require review and action by the Project Review Board. The Project Review Board shall accept public comments on any item at any stage of the review process. A public hearing shall not be required, but the Project Review Board may decide to schedule a public hearing if the size and/or nature of the development is perceived to have a significant impact on the community, not just the nearby properties.

Projects that amend previously approved site plans, and that have sufficient information to be considered complete by the Town Planner, may be reviewed and have action taken in a single meeting of the Project Review Board.

Projects that are proposed on undeveloped land, that include the demolition of buildings, that are located in the Resource Protection 1 District, or when a building and/or parking area is more than doubled in size than the existing building and/or parking area should first submit a conceptual plan. A conceptual plan should include environmentally sensitive areas such as wetlands, water bodies, streams, and steep slopes, locations of passing test pits if a subsurface sewage disposal system is proposed, the location of buildings and parking areas, and building elevations if a building is proposed. Conceptual plans should not be engineered plans. The purpose of the conceptual plan is to introduce the project to the Board and to contact property owners near the development. This portion of the review gives the Board and nearby property owners an opportunity to comment on the project before any engineering is done for the project. This phase of the review process is to direct the applicant as to what changes should be made and what information should be included in the final plan.

- d. **Timing of review.** The completed application for site plan review, together with the documentation required in these regulations, shall be placed on the Project Review Board's agenda for consideration within thirty (30) days of its receipt for either conceptual or final review unless the Project Review Board and applicant agree to a continuance; however, any application which is not complete shall not be placed on the agenda but shall be returned to the applicant by the Town Planner with an indication of the additional information required. Within sixty (60) days of the receipt of a Site Plan submission which is determined by the Project Review Board to be complete, the Project Review Board shall act
- e. **Possible action.** Action may include approval, approval with conditions, or disapproval of the site plan as submitted or amended.. If the Project Review Board shall vote to disapprove an application, the owner or authorized agent shall be notified in writing and the specific cause of disapproval shall be noted.
- f. **Site walk.** The Project Review Board or Staff Review Board may schedule a site visit of the property before making a final decision on the application. All property owners within 200 feet of the property on which a development proposal is being made will be notified of the date, time and location of the site visit and the Board will report on its findings at its next scheduled meeting.
- g. **Conditions of approval.** The Project Review Board or Staff Review Board may attach such condition(s) as it finds necessary to ensure compliance with the purpose and standards of Site Plan Review and all other applicable sections of this Ordinance. Requests for changes in the conditions of approval require Project Review Board review under the provisions of this section.
- h. **Review by an expert.** The Project Review Board or Staff Review Board may require that the Town Engineer or other expert consultant(s) review one or more submissions of an application and report as to compliance or noncompliance with this Ordinance and, advise if necessary, of procedures which will result in compliance. The consultant shall estimate the cost of such review and the applicant shall deposit with the Town the full estimated cost which the Town shall place in an escrow account. The Town shall pay the consultant from the escrow account and reimburse the applicant if funds remain after payments are completed. If the actual cost is more than the estimated cost, the applicant shall pay any overages before the Notice of Decision of the Board is issued to the applicant. The consultants shall be fully qualified to provide the required information as determined by the Town of Freeport Project Review Board in its sole discretion. .

The Project Review Board may require the applicant to undertake any study which it deems reasonable and necessary to insure that the requirements of the Ordinance are met. The costs of all such studies shall be borne by the applicant.

- i. **Public Hearing.** If the Project Review Board decides to hold a public hearing a notice of the nature of the application and of the time and place of the public hearing shall be given by mail to the applicant and the owners of all property within two hundred (200) feet of the property involved at least ten (10) days in advance of the hearing and shall be published at least seven (7) days in advance in a newspaper of general circulation in the area.

The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Project Review Board.

- j. **Performance Guarantee:** The Project Review Board as a condition of approval may require the applicant to post a performance guarantee. The performance guarantee may be in the form of an escrow agreement, irrevocable letter of credit, or other surety in such amount as is approved by the Project Review Board as being reasonably necessary to ensure completion of site improvements such as erosion control, stormwater management facilities, parking areas, landscaping, retaining walls, lighting and any off-site improvements that were required as a condition of approval.

The Town shall have access to the site at all times to review the progress of the work and shall have the authority to review the field logs maintained by the construction monitor. Any deficiencies noted by the Town representative shall be brought to the attention of the construction monitor who shall see that remedial measures are taken. If the Municipal Engineer or appointed representative shall find, upon inspection of the improvements performed before expiration date of the performance bond, that required improvements have not been constructed in accordance with plans and specifications filed by the applicant, he shall so report to the Municipal Officers or their appointed designee. The Municipal Officer shall then notify the applicant and, if necessary, the issuer of the performance guarantee, and take necessary steps to preserve the municipality's rights under the performance guarantee.

- k. **Payment of fees** At the time of application for a building permit, the applicant shall pay to the Town Treasurer any fees that were required as a condition of the approval. Fees such as an inspection fee to cover ensure that the project is constructed as approved, impact fees, and the administrative fee on the performance guarantee.
- l. **Pre-construction meeting.** The applicant shall notify the Municipal Officers or their appointed designee when construction of such improvements shall commence so that the Municipal Officers or their appointed designee can cause inspection to be made to assure that all municipal specifications and requirements shall be met during the construction of required improvements and to assure the

satisfactory completion of improvements and utilities required by the Project Review Board; or

- m. **As-built plans.** The Project Review Board, Planning Staff or Codes Enforcement Officer may require that as a condition of approval, or for an occupancy permit, that upon completion of construction , the owner shall present to the Town a set of as-built drawings indicating the location of underground utilities on the developed site and in all abutting roads and easements/right of ways. These "as-built" plans shall be submitted in both paper and electronic copies (including a pdf copy) prior to the issuance of a Certificate of Occupancy for the project or occupancy of the building. *{Amended 06/06/17}*
- n. **Review of future plans.** No new plan by the applicant shall be approved by the Project Review Board as long as the applicant is in default on a previously approved plan.
- o. **Certificate of occupancy.** A certificate of occupancy shall not be granted until the Codes Enforcement Officer determines that the completed project meets all of the requirements of the plan as approved by the Project Review Board.

Nothing contained in this section shall prevent the Town from pursuing any other action.

- p. **Existing development.** Nothing herein contained shall require any change in plans, construction or structure, the construction of which shall have been diligently prosecuted previous to the date of enactment or amendment of this Ordinance, provided plans for such building or structure shall have been timely filed with and approved by the Codes Enforcement Officer.
- q. **State and federal permits.** The applicant shall comply with all State and Federal requirements and receive all relevant approvals before application is made for a building permit and/or any development activities may begin. The Codes Enforcement Officer shall issue a building permit after a determination that the application complies with the plan approved by the Staff Review Board or the Project Review Board.
- r. **Approval duration.** The approval of a site plan shall become void if construction of site improvements is not initiated within two (2) years of the date of such approval unless such time limit is extended by the Project Review Board. The site may be developed and used only as shown on the approved site plan. All elements and features of the plan are conditions of the approval and no change from the approved plan is permitted unless an amended plan is first submitted to and approved by the Freeport Project Review Board. *{Amended, Effective 02/08/11}*
- s. **Violations.** Failure to comply with any conditions of the Site Plan Review, subsequent to approval of the Plan, shall be construed to be a violation of this



Ordinance and shall be the grounds for revoking the approval, initiating legal proceedings to enjoin construction or any specific activity violating the conditions of approval, or imposing such fines as the Town Council shall have established for violations of this Ordinance, for each day that the violation continues to exist after official notification by the Codes Enforcement Officer.

D. **Submission Requirements:** When the owner of the property or authorized agent makes formal application for Site Plan Review, the application for the Site Plan or an amendment to an approved plan shall contain at least an application, a deed for the property, plans, building elevations, and a cover letter. More details on each of these items are listed below. The Town Planner shall make an initial review of the application to determine if it is complete.

1. **Application:** A fully executed and signed copy of the application for Site Plan Review. The application form will be provided by the planning department.
2. **Deed:** A copy of the recorded deed for the property. If the applicant is not the property owner a purchase and sale agreement or a lease agreement shall also be submitted to show that the applicant has a serious interest in the project and sufficient title, right, and/or interest to complete the project. The amount being paid for the property may be blacked out.
3. **Cover letter:** A cover letter explaining the project should include details on any proposed construction or change of use that can't be explained by the plans. The cover letter should also list other local, state, or federal permits or licenses that will be required. If applicable, the cover letter should include the applicant's intent for ownership of the open space.
4. **Plans:** At least twelve (12) copies of a site plan drawn at a scale sufficient to allow review under the Criteria and Standards of section (G) of this Section, but at not more than 50 feet to the inch for that portion of the total tract of land being proposed for development and twelve (12) copies of the plan on 11 X 17" size sheets. All plan sheets must also be submitted electronically in a pdf format. All plans shall include the following information: *{Amended 06/06/17}*
  - a. Owner's name, address and signature;
  - b. Boundaries of all contiguous property under the control of the owner or applicant regardless of whether all or part is being developed at this time;
  - c. The bearings and distances of all property lines, and easements and the location of the adjacent right-of-way.. A formal survey is recommended for new developments; however, the Project Review Board may waive the requirement of a formal boundary survey when sufficient information is available to establish, on the ground, all property boundaries;



- d. Zoning classification(s) of the property and the location of Zoning District boundaries if the property is located in two or more Zoning Districts;
- e. The lot area of the parcel and the road frontage;
- f. The location, size, and type of all existing and proposed buildings and structures (including size and height) and the setbacks from property lines, driveways, sidewalks, parking spaces, loading areas, open spaces, large trees, open drainage courses, signs, exterior lighting, service areas, easements and landscaping;

Developments proposed on land that hasn't been previously developed, redevelopment of property, and or significant expansion shall also include the following information. The Town Planner may determine what additional information will need to be submitted. The Project Review Board may require additional information or may waive the additional submission requirements required by the Town Planner.

- g. Sketch map showing general location of the site within the town;
- h. The location of all buildings within 150 feet of the parcel to be developed and the location of intersecting roads or driveways within 200 feet of the parcel;
- i. Existing and proposed topography of the site at two foot contour intervals if major changes to the existing topography are being proposes;
- j. A stormwater drainage plan showing:
  - (1) the existing and proposed method of handling stormwater run-off;
  - (2) the direction of flow of the run-off through the use of arrows;
  - (3) the location, elevation and size of all catch basins, dry wells, drainage ditches, swales, retention basins, and storm sewers;
  - (4) engineering calculations used to determine the increased rate of drainage based upon the pre and post development conditions of a two year, ten (10) year and twenty-five (25) year storm frequency. The drainage plan shall result in no increase to the rate of off site-drainage from the pre-development rate.
  - (5) Plan for maintaining and/or improving stormwater quality. Retention of the first one-half inch of run-off from a storm event for 24 hours may be required.
  - (6) Compliance with Section 529.4, if applicable.
- k. A utility plan showing provisions for water supply and waste water disposal, including the size and location of all piping, holding tanks, leach fields, etc., and showing the location and nature of any solid waste collection facility and all electrical, telephone and any other utility services to be installed on the site. Impact on groundwater shall be evaluated. All utilities shall be underground whenever feasible as determined by the Project Review Board.

- l. Lighting showing the location, type, radius and intensity in foot candles of all exterior lighting, including sidewalk lighting in the Village Commercial 1 and 2 Districts.
- m. A landscaping schedule keyed to the site plan and indicating the varieties, sizes, and the locations of trees, shrubs, plants and any other landscaping elements to be retained or to be planted or placed on the site. It should include proposed methods of protecting existing trees and growth during and after construction.
- n. If a new entrance is proposed; sight distances at the entrance is required in both directions
- o. Building elevations: For new building construction, building elevation drawings of all sides of the building including the description of type, color, and texture of all buildings.
- p. Estimated peak-hour traffic to be generated by the proposal.
- q. The type and size of all permanent machinery likely to generate appreciable noise at the lot lines.
- r. The amount and type of any raw, finished or waste materials to be stored outside of roofed buildings, including their physical and chemical properties, if applicable.
- s. A list of construction items that will be included in the performance guarantee and the estimated or actual cost of completing those items.
- t. Provisions for maintenance agreements of all common areas, if applicable.
- u. Condominium declarations, if applicable, including, but not limited to, organization of the homeowners' association and provisions for maintenance of common areas.

The Project Review Board may waive any of these submission requirements if it determines that the scale of the project is of such size as to make the information unnecessary. The Project Review Board may require other pertinent information necessary to determine if the planned use meets the provisions of this Ordinance.

E. All applications for Site Plan Review shall meet all applicable provisions of Sec. 602.F, Criteria and Standards.

F. Criteria and Standards

1. The following criteria and standards shall be utilized by the staff and the Project Review Board in reviewing applications for Site Plan Review. These standards are intended to provide a guide for the applicant in the development of site and building plans as well as a method of review for the Project Review Board. These standards shall not be regarded as inflexible requirements. They are not intended to discourage creativity, invention and innovation. The Project Review Board may waive the criteria presented in this section upon a determination by the Project Review Board that the criteria are not applicable to the proposed action or upon a determination by the Project Review Board that the application of this criteria are not necessary to carry out the intent of this Ordinance. The Project Review Board shall approve the site plan unless the plan does not reasonably meet the intent of one or more of the following criteria provided that the criteria were not first waived by the Project Review Board.

a. **Preservation of Landscape:** The landscape shall be developed in such a manner as to be in keeping with the character of the surrounding neighborhoods and in accordance with good development practice by minimizing tree and soil removal, retaining existing vegetation where desirable, and keeping any grade changes in character with the general appearance of neighboring areas. If a site includes a ridge or ridges above the surrounding areas and provides scenic vistas for surrounding areas, special attempts shall be made to preserve the natural environment of the skyline of the ridge. Existing vegetation and buffering landscaping are potential methods of preserving the scenic vista.

b. **Relation of Proposed Buildings to the Environment:** The design and layout of the buildings and/or other development areas shall encourage safety, including fire protection. Proposed structures shall be related harmoniously to the terrain and to existing buildings and land uses in the vicinity which have a visual relationship to the proposed buildings. Visual compatibility, not uniformity with the surrounding area, shall be emphasized. Special attention shall be paid to the scale (mass), height and bulk, proportions of the proposed buildings, the nature of the open spaces (setbacks, landscaping) around the buildings, the design of the buildings (including roof style, facade openings, architectural style and details), building materials and signs.

If the structure is in the Design Review District, the Project Review Board shall incorporate the findings of the standards or the Design Review Ordinance in its Site Plan Review findings.

c. **Vehicular Access:** The proposed layout of access points shall be designed so as to avoid unnecessary adverse impacts on existing vehicular and pedestrian traffic patterns. Special consideration shall be given to the location, number, and control of access points, adequacy of adjacent streets, traffic flow, sight distances, turning lanes, and existing or proposed traffic signalization and pedestrian-vehicular contacts. The entrance to the site shall meet the minimum sight distance according to MDOT standards to the greatest extent possible

- d. **Parking and Circulation:** The layout and design of all means of vehicular and pedestrian circulation, including walkways, interior drives, and parking areas shall be safe and convenient and, insofar as practical, shall not detract from the proposed buildings and neighboring properties. General interior circulation, separation of pedestrian and vehicular traffic, service traffic, drive-up facilities, loading areas, and the arrangement and use of parking areas shall be considered.
- e. **Surface Water Drainage:** Adequate provisions shall be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, down-stream conditions, or the public storm drainage system. The increase in rate of runoff in the post development condition shall be held to a zero or less percent of the predevelopment condition unless an engineering study has been performed as described in Section 529.2 above. On-site absorption shall be utilized to minimize discharges whenever possible. All drainage calculations shall be based on a two year, ten year and twenty-five year storm frequency. Emphasis shall be placed on the protection of floodplains; reservation of stream corridors; establishment of drainage rights-of-way and the adequacy of the existing system; and the need for improvements, both on-site and off-site, to adequately control the rate, volume and velocity of storm drainage and the quality of the stormwater leaving the site. Maintenance responsibilities shall be reviewed to determine their adequacy.
- f. **Utilities:** All utilities included in the site plan shall be reviewed as to their adequacy, safety, and impact on the property under review and surrounding properties. The site plan shall show what provisions are being proposed for water supply, wastewater, solid waste disposal and storm drainage. Whenever feasible, as determined by the Project Review Board, all electric, telephone and other utility lines shall be installed underground. Any utility installations above ground shall be located so as to have a harmonious relationship with neighboring properties and the site.
- g. **Advertising Features:** The size, location, texture and lighting of all exterior signs and outdoor advertising structures or features shall not detract from the layout of the property and the design of proposed buildings and structures and the surrounding properties, and shall not constitute hazards to vehicles and pedestrians.
- h. **Special Features:** Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures, similar accessory areas and structures, shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and the surrounding properties.
- i. **Exterior Lighting:** All exterior lighting shall be designed to encourage energy efficiency, to ensure safe movement of people and vehicles, and to minimize

adverse impact on neighboring properties and public ways. Adverse impact is to be judged in terms of hazards to people and vehicular traffic and potential damage to the value of adjacent properties. Lighting shall be arranged to minimize glare and reflection on adjacent properties and the traveling public. For all proposed lighting, the source of the light shall be shielded and the light should be directed to the ground, except in the case of ground sign lighting. In the Village Commercial 1 and 2 Districts, lighting for pedestrian walkways and adjacent public sidewalks shall also be provided.

- j. **Emergency Vehicle Access:** Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.
- k. **Landscaping:** Landscaping shall be designed and installed to define, soften, or screen the appearance of off-street parking areas from the public right(s)-of-way and abutting properties, to enhance the physical design of the building(s) and site, and to minimize the encroachment of the proposed use on neighboring land uses. Particular attention should be paid to the use of planting to break up parking areas. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, retaining existing vegetation where desirable, and keeping any grade changes in character with the general appearance of neighboring areas. Landscaping shall be provided as part of the overall site plan design and integrated into building arrangements, topography, parking and buffering requirements. Landscaping may include trees, bushes, shrubs, ground cover, perennials, annuals, plants, grading and the use of building and paving materials in an imaginative manner.
- l. **Environmental Considerations:** A site plan shall not be approved unless it meets the following criteria:
  - (1) The project will not result in water pollution, erosion or sedimentation to surface waters;
  - (2) The project will not result in damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat;
  - (3) The project will conserve shoreland vegetation;
  - (4) The project will conserve points of public access to waters;
  - (5) The project will adequately provide for the disposal of all wastewater;
  - (6) The project will protect archaeological and historic resources;
  - (7) The project will not adversely affect existing commercial fishing or maritime activities in the Marine Waterfront District.

H. **Project Review Board Appeals.**

Any appeals from the decisions of the Project Review Board shall be taken only directly to Superior Court.