

M I N U T E S
 FREEPORT TOWN COUNCIL MEETING #14-87 ON
 JUNE 16, 1987 @ 7:30 P.M./FREEPORT HIGH
 SCHOOL MEDIA CENTER

X Regular

 Special

Chairperson's Call to Order	Present	Absent	Excused
Edward Bonney, Chairperson, 21 Maple Avenue	<u>X</u>		
Robert Hartnett, Vice-Chairperson, Desert Road	<u>X</u>		
John Nelson, Church Street	<u>X</u>		
Vaughndella Curtis, Pine Street	<u>X</u>		
Hugh Phelps, Porters Landing	<u>X</u>		
William Ormsby, Lower Mast Landing	<u>X</u>		
William Grady, Elm Street Extension	<u>X</u>		

Moved and Seconded - To waive the reading of the Minutes of Meeting
 #13-87 held June 2, 1987, and accept the Minutes as printed.
 (Councilors Hartnett & Curtis) (7 Ayes) (0 Nays)

Moved and Seconded - That the Council adjourn and the Licensing Board convene.

(Councilors Ormsby & Curtis) (7 Ayes) (0 Nays)

Roll Call of Members

	Present	Absent	Excused
Edward Bonney	X		
Robert Hartnett	X		
Vaughndella Curtis	X		
Hugh Phelps	X		
John Nelson	X		
William Ormsby	X		
William Grady	X		
Mary Wescott	X		
Dale Olmstead	X		

Moved and Seconded - That the following applications for Victualer Licenses be subject to Public Hearing:

1. David Bruno, d/b/a Ben & Jerry's Ice Cream, 83 Main Street;
2. Jason Daniel, d/b/a Sumo's Place, Main Street (Bartol Library Site);
3. James W Williamson, d/b/a McWill's Southern Specialties, 17 School St.;
4. Sherwood Hamill, d/b/a The Hungry Fisherman, South U.S. Route #1.

(Members Ormsby & Hartnett) (9 Yes) (0 No)

Moved and Seconded - That the Public Hearing be closed.

(Members Ormsby & Curtis) (9 Yes) (0 No)

ITEM #134-87

Be It Ordered - That the above named applications for Victualer Licenses be approved.

(Members Ormsby & Curtis) (9 Yes) (0 No)

Moved and Seconded - That the Licensing Board adjourn and the Council reconvene.

(Members Ormsby & Curtis) (9 Yes) (0 No)

Moved and Seconded - That the language be changed in the Proposed Amendments to the Rules for Winslow Park to reflect in Sentence 1 - 8th word - from eg to i.e. (Reference WP-4)

(Councilors Phelps & Hartnett) (7 Ayes) (0 Nays)

Moved and Seconded - That the proposed Amendments to the Winslow Park Rules & Regulations be subject to Public Hearing.

(Councilors Curtis & Hartnett) (7 Ayes) (0 Nays)

Moved and Seconded - That the Public Hearing be closed.

(Councilors Curtis & Hartnett) (7 Ayes) (0 Nays)

Moved and Seconded - That the proposed Amendments to the Winslow Park Rules & Regulations be tabled until July 7, 1987.

(Councilors Curtis & Hartnett) (7 Ayes) (0 Nays)

Moved and Seconded - That the proposed Appropriation Ordinance for \$31,000.00 to provide for the Purchase of a School Bus be subject to Public Hearing.

(Councilors Nelson & Curtis) (7 Ayes) (0 Nays)

Moved and Seconded - That the Public Hearing be closed.

(Councilors Nelson & Curtis) (7 Ayes) (0 Nays)

Moved and Seconded - That the proposed Appropriation Ordinance for \$31,000.00 to provide for the Purchase of a School Bus be tabled until July 7, 1987.

(Councilors Nelson & Curtis) (7 Ayes) (0 Nays)

Moved and Seconded - That the proposed Appropriation Ordinance for \$30,000.00 to provide for the Purchase of a Fire Alarm Panel be subject to Public Hearing.

(Councilors Grady & Curtis) (7 Ayes) (0 Nays)

Mr. George Allen from R.B. Allen Company demonstrated the fire alarm panel.

Moved and Seconded - That the Public Hearing be closed.

(Councilors Grady & Curtis) (7 Ayes) (0 Nays)

Moved and Seconded - That the proposed Appropriation Ordinance for \$30,000.00 to provide for the Purchase of a Fire Alarm Panel be tabled until July 7, 1987.

(Councilors Grady & Curtis) (7 Ayes) (0 Nays)

ITEM #138-87

Be It Ordered - That a Public Hearing be scheduled for July 7, 1987 at 7:30 P.M. in the High School Media Center to discuss proposed Amendments to the Harbor Regulations.

Be It Further Ordered - That 30 copies be printed and distributed equally between the Town Clerk's Office and the B.H. Bartol Library for inspection by citizens.

(Councilors Phelps & Curtis) (7 Ayes) (0 Nays)

ITEM #139-87

Be It Ordered - That up to \$1,800.00 be transferred from the Miscellaneous and Contingency Account and applied to the Renovation of the Winslow Park Boat Ramp.

(Councilors Curtis & Hartnett) (7 Ayes) (0 Nays)

Moved and Seconded - That the Town Manager read the Bids for Tax Anticipation Borrowing.

(Councilors Hartnett & Curtis) (7 Ayes) (0 Nays)

Mr. Olmstead reported that 5 bids had been received for \$500,000 with a "no checking" requirement. The bids are as follows:

1. Casco Bank - 4.83% - with interest due of \$24,382.90
2. Maine National Bank - 4.6% - with interest due of \$22,936.00
3. Key Bank - 4.4% - with interest due of \$21,500.00 (min. balance required)
4. Norstar Bank - 4.88% - with interest due of \$24,400.00
5. Merrill Trust - 4.76% - with interest due of \$23,733.89

ITEM #140-87 Be It Ordered - That under and pursuant to Title 30, Section 5151 of the Maine Revised Statutes, as amended and supplemented, there be and hereby is authorized the issuance of Five-Hundred Thousand Dollars (\$500,000.00) principal amount of Tax Anticipation Notes of the Town in anticipation of the receipt of taxes for the Municipal Fiscal Year which commences July 1, 1987 and ends June 30, 1988.

Be It Further Ordered - That said Notes shall be dated July 1, 1987, shall mature on June 30, 1988, shall be signed by the Chairman of the Town Council, shall bear interest at the rate of 4.6% per annum, shall be payable at Maine National Bank, and otherwise be in such form and bear such details as the signers may determine.

Be It Further Ordered - That said Notes are hereby sold and awarded to Maine National Bank.

Be It Further Ordered - That all things heretofore done and all action heretofore taken by the Town, its Municipal Officers and Agents in the authorization of said Notes are hereby ratified, approved and confirmed, and the Treasurer and Chairman of the Town Council are each hereby authorized to take any and all action necessary or convenient to carry out the provisions of this voting, including delivering said Notes against payment therefor.

(Councilors Hartnett & Curtis)
(7 Ayes) (0 Nays)

ITEM #141-87 Be It Ordered - That the Regional Vocational Budget as approved by the Cooperative Board for the Year 1987-1988 be approved in the amount of \$1,222,338.00.
(Councilors Curtis & Hartnett) (7 Ayes) (0 Nays)

ITEM #142-87 Be It Ordered - That the Regional Vocational Budget as approved by the Cooperative Board for Adult Education be approved in the amount of \$30,509.00.
(Councilors Nelson & Curtis) (7 Ayes) (0 Nays)

ITEM #143-87 Be It Ordered - That \$3,710,100.00 be appropriated from the Foundation Allocation for School Purposes, and that \$2,443,541.00 be appropriated as Freeport's Local Share of the Foundation Allocation.
(Councilors Ormsby & Curtis) (7 Ayes) (0 Nays)

ITEM #144-87 Be It Ordered - That \$584,828.00 be appropriated from the Debt Service Allocation for School Purposes, and that \$141,460.00 be appropriated as the Local Share of Debt Service.
(Councilors Phelps & Curtis) (7 Ayes) (0 Nays)

ITEM #145-87 Be It Ordered - That 960,031.00 be appropriated for Additional Local Funds for School Purposes under the provisions of 20-A MRSA.
(Councilors Grady & Curtis) (7 Ayes) (0 Nays)

ITEM #146-87 Be It Ordered - That the School Committee be authorized to expend \$4,860,578.00 for Fiscal Year beginning July 1, 1987 and ending June 30, 1988 from the Foundation Allocation, Debt Service Allocations, Unexpended Balances, Tuition Receipts, Local Appropriations, State Subsidy, and other Receipts for the Support of Schools.
(Councilors Nelson & Curtis) (5 Ayes) (2 Nays, Councilors Grady & Ormsby)

ITEM #147-87 Be It Ordered - That \$57,449.00 be appropriated for Adult Education, and that \$22,449.00 be appropriated for the Town of Freeport's Local Share.
(Councilors Curtis & Hartnett) (7 Ayes) (0 Nays)

Moved and Seconded - To amend Item #148-87 to reflect the corrections as follows:

Line entitled "EDUCATION" from \$1,504,868 to \$1,534,868; *
Line entitled "TOTAL ESTIMATED REVENUES" from \$2,450,268 to \$2,480,268; *
Line entitled "AMOUNT TO BE RAISED BY TAXATION" from \$5,185,757 to \$5,155,757. *

(Councilors Nelson & Phelps) (7 Ayes) (0 Nays)

ITEM #148-87 Be It Ordered - That the following Appropriations be made to the several departments or purposes named, that the following revenue estimates be adopted, and that the following amounts be raised by taxation, said action for the Fiscal Year July 1, 1987 to June 30, 1988 Municipal Budget, as amended.

(CONTINUED NEXT PAGE)

ITEM #148-87 Continued -

APPROPRIATIONS

GENERAL GOVERNMENT	\$ 636,020.00
PROTECTION AND ENFORCEMENT	693,036.00
HEALTH AND WELFARE	50,418.00
PUBLIC WORKS	617,815.00
LIBRARY	80,309.00
UNCLASSIFIED	171,532.00
EDUCATION	4,860,578.00
DEBT SERVICE	490,400.00
COUNTY TAX	133,532.00
HUMAN SERVICE AGENCIES	32,385.00
ABATEMENTS	25,000.00
TOTAL APPROPRIATIONS:	\$7,791,025.00

ESTIMATED REVENUES

NON-PROPERTY TAX/TAX PENALTIES	494,300.00
INTERGOVERNMENTAL	313,600.00
CHARGES FOR SERVICES	24,400.00
LICENSES AND PERMITS	91,200.00
FINES AND FORFEITURES	6,900.00
MISCELLANEOUS	15,000.00
EDUCATION	1,504,868.00 (Amended)*
TOTAL ESTIMATED REVENUES:	\$2,450,268.00 (Amended)*
AMOUNT TRANSFERRED FROM UNDESIGNATED FUNDS	155,000.00
AMOUNT TO BE RAISED BY TAXATION	5,185,757.00 (Amended)*
TOTAL REVENUES:	\$7,791,025.00

Be It Further Ordered - That the Federal Revenue Sharing Funds be allocated in Fiscal Year 1987-1988 Municipal Budget for Public Safety Salaries.

(Councilors Nelson & Curtis) (6 Ayes) (1 Nay, Councilor Grady)

Moved and Seconded - That the Tax Rate be changed from \$14.40 per \$1,000.00 of valuation to \$14.30 per \$1,000.00 of valuation. *

(Councilors Ormsby & Curtis) (7 Ayes) (0 Nays)

ITEM #149-87 Be It Ordered - That the Tax Rate of \$14.40 per \$1,000.00 of valuation as set by the Town Assessor for Fiscal Year July 1, 1987 through June 30, 1988 be confirmed, as amended.*

Be It Further Ordered - That one-half of the Fiscal Year 1988 Committed Taxes for Real Estate be payable on November 16, 1987, with interest at the rate of .917% per month or 11% per annum, to be charged from October 1, 1987 on any first-half balance remaining unpaid after November 16, 1987; and that the second-half of the Fiscal Year 1988 Committed Taxes for Real Estate be payable on May 16, 1988, with interest at the rate of .917% per month or 11% per annum, to be charged from April 1, 1988 on any second-half balance remaining unpaid after May 16, 1988.

(Continued -)

ITEM #149-87 Continued -

Be It Further Ordered - That the Fiscal Year 1988 Committed Taxes for Personal Property be payable on September 15, 1987, with interest at the rate of .917% per month or 11% per annum, to be charged from August 1, 1987 on any balance remaining unpaid after September 15, 1987.
(Councilors Curtis & Hartnett) (7 Ayes) (0 Nays)

ITEM #150-87 Be It Ordered - That \$30,000.00 be transferred from the Fund Balance Account and applied to the Equipment Reserve Account.
(Councilors Ormsby & Curtis) (7 Ayes) (0 Nays)

ITEM #151-87 Be It Ordered - That \$5,000.00 be transferred from the Fund Balance Account and applied to the Revaluation Reserve Account.
(Councilors Phelps & Ormsby) (7 Ayes) (0 Nays)

ITEM #152-87 Be It Ordered - That \$5,000.00 be transferred from the Fund Balance Account for the purpose of establishing a Community Attitude Survey Reserve Account.
(Councilors Hartnett & Curtis) (7 Ayes) (0 Nays)

Councilor Nelson discussed the Land Bank Trust - he would like to see in the future monies that are currently in reserve be geared toward the Land Bank Trust Account and felt that perhaps this intention had been an oversight; as a result of Freeport's establishing a Land Bank, other towns were following the lead, for example, Cape Elizabeth has set up a \$30,000.00 account and Yarmouth has allocated from \$40,000.00 to \$50,000.00 for their account. Mr. Nelson stressed that monies received from a sale of land should be committed to the Land Bank; Mr. Nelson was assured it would be.

ITEM #153-87 Be It Ordered - That a Public Hearing be scheduled for July 7, 1987 at 7:30 P.M. at the High School Media Center to discuss a proposed Ordinance to Revise and Codify the Ordinances of the Town of Freeport.

Be It Further Ordered - That a copy will be available at the Town Clerk's Office and the B.H. Bartol Library for inspection by citizens.
(Councilors Grady & Curtis) (7 Ayes) (0 Nays)

ITEM #154-87 Be It Ordered - That an Emergency Amendment to the Traffic and Parking Ordinance be adopted allowing the Chief of Police to make trial changes in traffic flows, parking, signage, and pedestrian flows in the Design Review District.

Be It Further Ordered - That this Emergency Ordinance take effect on July 6, 1987 and expire on September 5, 1987, unless the Town Council deems that further extensions are warranted to insure the safety of motorists and pedestrians.
(Councilors Grady & Curtis) (7 Ayes) (0 Nays)

ITEM #155-87 Be It Ordered - That the Town Manager be authorized to sign and execute an Agreement between the Town of Freeport and T. Y. Lin International/Hunter-Ballew Associates for a Freeport Traffic Circulation, Parking, Access Study. (Councilors Grady & Nelson) (6 Ayes) (1 Nay, Councilor Hartnett)

ITEM #156-87 Be It Ordered - That the following individuals receive the stated assistance from the Dr. Gould Trust Fund:

Madeline Baker	\$ 250.00
Mary Baker	250.00
Christine Brown	250.00
Patricia Currier	69.00
Pamela Farley	250.00
Arvilla Fernald	74.62
Sylvia Galarneau	250.00
Elizabeth Johnson	250.00
Josephine Kelley	250.00
James Lavallee	250.00
Philip Mello	137.77
Linda Rundle	207.50
Miriam Schneider	250.00
Judith Wilbur	161.11
	<hr/>
	\$2,900.00

(Councilors Curtis & Hartnett) (7 Ayes) (0 Nays)

ITEM #157-87 Be It Ordered - That Sarah Verville be appointed, effective immediately, to serve as a member of the Planning Board until May 1, 1990.

Be It Further Ordered - That Ms. Verville qualify by swearing an oath of office before the Town Clerk by June 26, 1987.

(Councilors Curtis & Hartnett) (7 Ayes) (0 Nays)

Mr. Caleb Clapp, Assistant Vice-President of Renwood Companies, explained they were considering setting up a free standing structure in the parking lot of Freeport Village Square, with public restrooms, and would serve as an information center. There would be a small newspaper stand where they would be selling some food. This was also to be a drop off point for all touring buses. The office would be open during business hours and secured at other times.

ITEM #108-87 Be It Ordered - That up to \$5,000.00 be transferred from the Miscellaneous and Contingency Account and contributed to the Public Facilities Project being proposed by Renwood Companies/Freeport Village Square. (Councilors Ormsby & Curtis) (5 Ayes) (2 Nays, Councilors Hartnett & Nelson)

Moved and Seconded - To amend Item #127-87 as follows:*

Section 6.21 - change the date of the closing from July 1, 1987 to July 14, 1987, and

Section 6.22 - change the date of the closing from July 1, 1987 to July 14, 1987.

(Councilors Hartnett & Curtis) (7 Ayes) (0 Nays)

ITEM #127-87 Be It Ordered - That the proposed amendments to the Shellfish Conservation Ordinance, as submitted to Public Hearing on June 2, 1987, be approved, as amended.*
(Councilors Ormsby & Curtis) (7 Ayes) (0 Nays)

ITEM #128-87 Be It Ordered - That the proposed Flood Plain Management Ordinance, as submitted to Public Hearing on June 2, 1987, be approved.
(Councilors Hartnett & Curtis) (7 Ayes) (0 Nays)

Moved and Seconded - To amend Item #129-87 - Article III, #57, to read:

"No parking on either side of the street from the Goddard Driveway (Map 20, Lot 39) Easterly to the end of the street."

(Councilors Ormsby & Bonney) (2 Ayes) (5 Nays, Councilors Grady, Curtis, Hartnett & Nelson) (This motion is defeated due to a lack of a majority vote in the affirmative)

Moved and Seconded - To amend Item #129-87 - Article III, #57, to strike out the language completely.*

(Councilors Hartnett & Curtis) (5 Ayes) (2 Nays, Councilors Ormsby & Bonney)

ITEM #129-87 Be It Ordered - That the proposed amendments to the Traffic and Parking Ordinance, as submitted to Public Hearing on June 2, 1987, be approved, as amended.*
(Councilors Hartnett & Ormsby) (6 Ayes) (1 Nay, Councilor Ormsby)

Other Business:

1. Chairperson Bonney reminded councilors that if they were still interested in attending COG's Banquet on June 23 to please let the Town Manager know.

Councilor Ormsby wished to be excused at 10:13 P.M.

2. Chairperson Bonney mentioned a letter he was responding to regarding the Grove Cemetery and hoped councilors had read it and would get back to him before sending the answer out, if they had any comments to make.

Moved and Seconded - That the Council adjourn at 10:23 P.M.

(Councilors Hartnett & Curtis) (7 Ayes) (0 Nays)

The foregoing was recorded by: *Mary D. Wescott*
Mary D. Wescott,
Council Secretary

Distribution: Council, Town Attorney, Auditor, Town Clerk, Library, Police, Fire, Codes, Welfare, Planner, Rescue, Finance, Highway

Approved
REVISED

~~PROPOSED~~

AMENDMENTS TO THE SHELLFISH CONSERVATION ORDINANCE

5. Licensing

- D.3. The Town Clerk shall issue commercial licenses to residents and non-residents during the first 90 days of issuance until June 30; and ten percent of the total number of commercial licenses will be retained for non-residents during the period of issuance. ~~until June 30 after which licenses shall be issued to residents and non-residents on a first come first serve basis~~

The Freeport Shellfish Commission will allocate a specific number of resident commercial shellfish licenses. If that number of licenses has not been purchased as of June 30 of each year, the remaining number of licenses will become unavailable. The number of resident licenses issued the following year will be based on the number of permits issued the previous year. If a survey indicates that more licenses can be issued due to increased shellfish population, the Shellfish Commission can raise the number of licenses that can be issued.

6. Opening and closing of flats:

- 6.21 From the period of July 14, 1987 to June 30, 1988 it shall be unlawful to dig, take or possess shellfish from the shores, flats and waters from the boat landing ramp at Winslow Park south westerly to the State closure line in the Cousins River. At the present time the State closed area begins at Fogg Point on the Cousins River. If the State re-opens the Cousins River, this conservation area will include the newly opened area.
- 6.22 From the period of July 14, 1987 until the results of a survey shows that the shellfish have reached marketable size, it shall be unlawful to dig, take or possess shellfish from the shores, flats and waters from the State closed line at Weston Point, westerly to the large rock on Sandy Beach. From the rock on Sandy Beach there will be an imaginary line drawn in an easterly direction to a marker on the west point of the main channel, then southwesterly along said channel until the State closed area is reached. Seed clams will be planted in this area which now has no shellfish.

Approved Council Meeting #14-87, June 16, 1987
Attest, a true copy, Mary D. Prescott
Town Clerk

Approved
REVISED

~~PROPOSED~~

AMENDMENTS TO THE SHELLFISH CONSERVATION ORDINANCE

5. Licensing

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6. Opening and closing of flats:

- 6.21 From the period of July 14, 1987 to June 30, 1988 it shall be unlawful to dig, take or possess shellfish from the shores, flats and waters from the boat landing ramp at Winslow Park south westerly to the State closure line in the Cousins River. At the present time the State closed area begins at Fogg Point on the Cousins River. If the State re-opens the Cousins River, this conservation area will include the newly opened area.
- 6.22 From the period of July 14, 1987 until the results of a survey shows that the shellfish have reached marketable size, it shall be unlawful to dig, take or possess shellfish from the shores, flats and waters from the State closed line at Weston Point, westerly to the large rock on Sandy Beach. From the rock on Sandy Beach there will be an imaginary line drawn in an easterly direction to a marker on the west point of the main channel, then southwesterly along said channel until the State closed area is reached. Seed clams will be planted in this area which now has no shellfish.

CHAPTER 16
FLOODPLAIN MANAGEMENT ORDINANCE

ARTICLE I - ESTABLISHMENT

The Town of Freeport, Maine elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended). The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Freeport, Maine.

The areas of special flood hazard, Zones A, A1-A30, AO, AH, V1-30, and V, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - Town of Freeport, Maine, Cumberland County," dated January 17, 1985, with accompanying "Flood Insurance Rate Map" and "Flood Boundary and Floodway Map," is hereby adopted by reference and declared to be part of this Ordinance.

ARTICLE II - PERMIT REQUIRED

Before any construction or other development (as defined in Article XIII), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Codes Enforcement Officer. This permit shall be in addition to any other building permits which may be required pursuant to the codes and ordinances of the Town of Freeport, Maine.

ARTICLE III - APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Codes Enforcement Officer and shall include:

- A. The name and address of the applicant;
- B. An address and a map indicating the location of the construction site;
- C. A site plan showing location of existing and/or proposed structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and the dimensions of the lot;
- D. A statement of the intended use of the structure;
- E. A statement as to the type of sewage system proposed;
- F. Specification of dimensions of the proposed structure;

- G. The elevation in relation to Mean Sea Level, or to a locally established datum in Zone A only, of the:
1. base flood at the proposed site of all new or substantially improved structures, which is determined:
 - a. in Zones A1-30, AO, AH, V1-30, and V from data contained in the "Flood Insurance Study - Town of Freeport, Maine," as described in Article I; or,
 - b. in Zone A, to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building;
 2. highest and lowest grades at the site adjacent to the walls of the proposed building;
 3. lowest floor, including basement; and whether or not such structures contain a basement; and,
 4. level, in the case of non-residential structures only, to which the structure will be floodproofed;
- H. A description of a base flood elevation reference point established on the site of all new or substantially improved structures;
- I. A written certification by a registered land surveyor that the elevations shown on the application are accurate;
- J. Certification by a registered professional engineer or architect that floodproofing methods for any:
1. non-residential structures will meet the floodproofing criteria of Article III, paragraph G.4; Article VI, paragraph G; and other applicable standards in Article VI; and,
 2. construction in coastal high hazard areas, Zones V1-30 and V, will meet the floodproofing criteria of Article VI, paragraph K; and other applicable standards in Article VI.
- K. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- L. A statement or construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

A non-refundable application fee of \$75.00 shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Codes Enforcement Officer and/or Board of Appeals needs the assistance of a professional engineer or other expert. The fee shall be estimated by the expert and paid by the applicant into an escrow account established by the Town of Freeport for this purpose. The applicant is responsible for full payment of the estimated fee into the escrow account.

ARTICLE V - REVIEW OF FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Codes Enforcement Officer shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed building sites are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications, the base flood data contained in the "Flood Insurance Study - Town of Freeport, Maine", as described in Article I. In special flood hazard areas where base flood elevation data are not provided, the Codes Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other sources, including information obtained pursuant to Article III, paragraph G.1.b; Article VI, paragraph I; and Article VIII, paragraph D, in order to administer Article VI of this Ordinance;
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;
- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine State Planning Office prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
- F. Issue a two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Codes Enforcement Officer with an application for Part II of

the Flood Hazard Development Permit and shall include an Elevation Certificate satisfactorily completed by a registered Maine surveyor for compliance with the elevation requirements of Article VI, paragraphs F, G, H, and K. Following review of the application, which review shall take place within ten working days of receipt of the application, the Codes Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; and

- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permits issued and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article IX of this Ordinance, and copies of Elevation Certificates and Certificates of Compliance required under the provisions of Article VII of this Ordinance.

ARTICLE VI - DEVELOPMENT STANDARDS

All developments in areas of special flood hazard shall meet the following applicable standards;

- A. New construction or substantial improvement of any structure shall:
1. be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 2. use construction materials that are resistant to flood damage;
 3. use construction methods and practices that will minimize flood damage; and,
 4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- B. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters in the systems.
- C. All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the systems into flood waters.
- D. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during

flooding.

- E. All development shall be constructed and maintained in such manner that no reduction occurs in the flood carrying capacity of any water course.
- F. New construction or substantial improvement of any residential structure located within:
 - 1. Zones A1-30 and AH shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
 - 2. Zones AO and AH shall have adequate drainage paths around structures on slopes to guide floodwaters away from the proposed structures.
 - 3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
 - a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
 - b. at least three feet if no depth number is specified.
 - 4. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III, paragraph G.1.b.; Article V, paragraph B; or Article VIII, paragraph D.
 - 5. Zones V1-30 and V shall meet the requirements of Article VI, paragraph K.
- G. New construction or substantial improvement of any non-residential structure located within:
 - 1. Zones A1-30 and AH shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
 - a. be floodproofed to at least one foot above the base flood level so that below that elevation the structure is watertight with walls substantially impermeable to passage of water;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyance; and,
 - c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article

III, paragraph J and shall include a record of the elevation above mean sea level of the lowest floor including basement.

2. Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide floodwaters away from the proposed structures.
 3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
 - a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
 - b. at least three feet if no depth number is specified; or,
 - c. together with attendant utility and sanitary facilities be floodproofed to meet the elevation requirements of this section and floodproofing standards of Article VI, paragraph G.1.
 4. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III, paragraph G.1.b.; Article V, paragraph B; or Article VIII, paragraph D.
 5. Zones V1-30 and V shall meet the requirements of Article VI, paragraph K.
- H. New or substantially improved manufactured homes located within:
1. Zones A1-30 or AH shall:
 - a. be elevated on a permanent foundation such that the lowest floor is at least one foot above the base flood elevation; and,
 - b. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 - (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
 - (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).

- (3) All components of the anchoring system described in Article VI, paragraph H.1.b.(1)(2) shall be capable of carrying a force of 4800 pounds.
2. Zones AO and AH shall have adequate drainage paths around structures on slopes, to guide floodwaters away from the proposed structures.
3. Zone AO shall have the lowest floor (including basement) elevated above the highest adjacent grade:
 - a. at least one foot higher than the depth specified in feet on the community's Flood Insurance Rate Map; or,
 - b. at least three feet if no depth number is specified; and,
 - c. meet the requirements of Article VI, paragraph H.1.(a)(b).
4. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III, paragraph G.1.b.; Article V, paragraph B; or Article VIII, paragraph D.
5. Zones VI-30 and V shall meet the requirements of Article VI, paragraph K.

I. Floodways

1. In Zones A1-30 encroachments, including fill, new construction, substantial improvement and other development shall not be permitted in riverine areas, for which a regulatory floodway is designated on the community's "Flood Boundary and Floodway Map", unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. In Zones A1-30 riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
 - a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
 - b. is consistent with the technical criteria contained in Section 2-7 entitled "Hydraulic Analyses", Flood

Insurance Study - Guidelines and Specifications for Study Contractors, (FEMA 37/September, 1985, as amended).

3. In Zone A riverine areas, in which the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted unless a technical evaluation certified by a registered professional engineer is provided meeting the requirements of Article VI, paragraph I.2.
- J. New construction or substantial improvement of any structure in Zones A1-30, AO, AH, and A that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts", or crawlspaces less than three feet in height may be enclosed below the elevation requirements provided all the following criteria are met or exceeded:
1. Walls, with the exception of crawlspaces less than three feet in height, shall not be part of the structural support of the building; and,
 2. Enclosed areas are not "basements" as defined in Article XIII; and,
 3. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either:
 - a. be certified by a registered professional engineer or architect; or,
 - b. meet or exceed the following minimum criteria:
 - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
 - (2) the bottom of all openings shall be no higher than one foot above the lowest grade; and,
 - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means; and,
 4. The enclosed area shall not be used for human habitation;

and,

5. The enclosed area may be used for building maintenance, access, parking vehicles, or storing of articles and equipment used for maintenance of the building.

K. Coastal Floodplains

1. All new construction located within Zones VI-30 and V shall be located landward of the reach of the highest annual spring tide.
2. New construction or substantial improvement of any structure located within Zones VI-30 or V shall:
 - a. be prohibited unless the following criteria are met:
 - (1) the area is zoned Marine Waterfront.
 - (2) the area is designated as densely developed as defined in 38 M.R.S.A. Section 436, Sub-section 1B.
 - b. be elevated on posts or columns such that:
 - (1) the bottom of the lowest structural member of the lowest floor (excluding the pilings or columns) is elevated to one foot above the base flood level;
 - (2) the pile or column foundation and the elevated portion of the structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and,
 - (3) the wind and water loading values used to meet this criteria shall meet or exceed the design criteria of the 100-year recurrence interval for both wind and water.
 - c. have the space below the lowest floor:
 - (1) free of obstructions; or,
 - (2) constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns; or,
 - (3) constructed with non-supporting breakaway walls which have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.
3. A registered professional engineer or architect shall:

- a. develop or review the structural design, specifications, and plans for the construction, which must meet or exceed the technical criteria contained in the Coastal Construction Manual, (FEMA-55/February, 1986); and,
 - b. certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of Article VI, paragraph K.2.
4. The use of fill for structural support in Zones VI-30 and V is prohibited.
5. The enclosed areas may be used solely for parking vehicles, building access, and storage.

ARTICLE VII - CERTIFICATE OF COMPLIANCE

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Codes Enforcement Officer subject to the following provisions:

- A. The applicant shall submit an Elevation Certificate completed by:
 1. a registered Maine surveyor for compliance with Article VI, paragraphs F, G, H, or K; and,
 2. a registered professional engineer or architect, in the case of:
 - a. floodproofed non-residential structures, for compliance with Article VI, paragraph G; and,
 - b. construction of structures in the coastal floodplains for compliance with Article VI, paragraph K.3.
- B. The application for a Certificate of Compliance shall be submitted by the applicant in writing along with a completed Elevation Certificate to the Codes Enforcement Officer.
- C. The Codes Enforcement Officer shall review the application within 10 working days of receipt of the application and shall issue a Certificate of Compliance, provided the building conforms with the provisions of this Ordinance.

ARTICLE VIII - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations and all projects on 5 or

more acres with a portion in the flood plain or in the case of manufactured home subdivisions divided into three or more lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.
- D. All proposals include base flood elevation and, in a riverine floodplain, floodway data.
- E. Any proposed development plan shall include a statement that the developer will require that structures on lots in the development to be constructed in accordance with Article VI of this ordinance and that such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The statement shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board authority as part of the approval process.

ARTICLE IX - APPEALS AND VARIANCES

The Board of Appeals of the Town of Freeport may, upon written application of an aggrieved party, hear and decide appeals from determinations of the Codes Enforcement Officer in the administration of the provisions of this Ordinance. The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
 - 1. a showing of good and sufficient cause; and,
 - 2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws and ordinances; and,

located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

- G. The Board of Appeals shall submit to the Codes Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Codes Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.

ARTICLE X - ENFORCEMENT AND PENALTIES

- A. It shall be the duty of the Codes Enforcement Officer to enforce the provisions of this Ordinance pursuant to 30 M.R.S.A. Section 4966.
- B. The penalties contained in 30 M.R.S.A. Section 4966 shall apply to any violation of this Ordinance.
- C. In addition to any other actions, the Codes Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:
1. the name of the property owner and address or legal description of the property sufficient to confirm its identify or location;
 2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
 3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
 4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
 5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE XI - WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the Town of Freeport or by any officer

or employee thereof for any flood damages that result from reliance on this Ordinance of any administrative decision lawfully made thereunder.

ARTICLE XII - VALIDITY AND SEVERABILITY

If any section or provision of this Ordinance is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

ARTICLE XIII - CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

ARTICLE XIV - DEFINITIONS

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

1. "Adjacent Grade" - means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
2. "Area of a Shallow Flooding" - means a designated AO and AH zone on community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
3. "Area of Special Flood Hazard" - means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Article I of this Ordinance.
4. "Base Flood" - means the flood having a one percent chance of being equalled or exceeded in any given year, commonly called the 100-year flood.
5. "Basement" - means any area of the building having its floor subgrade (below ground level) on all sides.
6. "Breakaway Wall" - means a wall that is not part of the structural support of the building and is intended through its

design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

7. "Building" - see "structure".
8. "Certificate of Compliance" - A document signed by the Codes Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.
9. "Coastal High Hazard Area" - means the area subject to high velocity waters, including but not limited to hurricane wave wash or tsunamis. The area is designated on a FIRM as Zone VI-30 or V.
10. "Codes Enforcement Officer" - the person or board responsible for performing the inspection, licensing, and enforcement duties required by a particular statute or ordinance.
11. "Development" - means any change caused by individuals or entities to improved or unimproved real estate, including but not limited to the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation, or drilling operations; and the storage, deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities.
12. "Elevated Building" - means a non-basement building (i) built, in the case of a building in Zones A1-30, A, A99, AO, AH, B, C, or D to have the top of the elevated floor, or in the case of a building in Zones VI-30 or V to have the bottom of the lowest horizontal structural member of the elevated floor elevated above the ground level by means of pilings, columns, post, piers, or "stilts"; and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood. In the case of Zones A1-30, A, A99, AO, AH, B, C, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls less than three feet in height with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zone VI-30 or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of Article VI, paragraph K.2.c.
13. "Elevation Certificate" - An official form that (1) is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and, (2) is required as a condition for purchasing flood insurance.
14. "Flood" or "Flooding" - means:

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (1) The overflow of inland or tidal waters;
 - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
 - b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.(1) of this definition.
- 15. "Flood Elevation Study" - means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.
 - 16. "Flood Insurance Rate Map" (FIRM) - means an official map of a community, on which the Administrator of the Federal Insurance Administration has delineated both the special hazard areas and the risk premium zones applicable to the community.
 - 17. "Flood Insurance Study" see "Flood Elevation Study".
 - 18. "Floodplain" or "Flood-prone Area" - means any land area susceptible to being inundated by water from any source (see definition of "flooding").
 - 19. "Floodplain Management" - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.
 - 20. "Floodplain Management Regulations" - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provided standards for the purpose of flood damage prevention and reduction.
 - 21. "Flood Proofing" - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

22. "Floodway" - see "Regulatory Floodway".
23. "Floodway Encroachment Lines" - mean the lines marking the limits of floodways on federal, state, and local floodplain maps.
24. "Freeboard" - means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.
25. "Functionally Dependent Use" - means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.
26. "Locally Established Datum" - means, for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are references. This elevation is generally not referenced to the National Geodetic Vertical Datum (NFVD) or any other established datum and is used in areas where Mean Sea Level date is too far from a specific site to be practically used.
27. "Lowest Floor" - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements Article VI of this ordinance.
28. "Manufactured Home" - means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.
29. "Manufactured Home Subdivision" - means a parcel (or contiguous parcels) of land divided into three or more manufactured home lots for rent or sale.
30. "Mean Sea Level" - means, for the purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate map are references.

31. "New Construction" - means structures for which the "start of construction" commenced on or after the effective date of floodplain management regulations adopted by a community.
32. "100-year flood" see "Base Flood".
33. "Regulatory Floodway" - (1) means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and (2) in zone A is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.
34. "Riverine" - means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
35. "Start of Construction" - means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.
36. "Structure" - means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.
37. "Substantial Improvement" - means any repair, reconstruction, or improvement of a structure, the value of which equals or exceeds 50% of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For purposes of this definition "substantial improvement" is considered to occur at the time of the first alteration of any wall, ceiling, floor, or structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or (2) any alteration of a structure listed on

the National Register of Historic Places or a State Inventory of Historic Places.

38. "Variance" - means a grant of relief by the Board of Appeals from the terms of a floodplain management regulation.
39. "Violation" - means the failure of a structure or other development to fully comply with the floodplain management regulations or ordinance.

Approved June 16, 1987