

**TOWN COUNCIL MEETING #9-99  
MAY 18, 1999 - 7:00 P.M.  
TOWN COUNCIL CHAMBERS**

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**SUMMARY AGENDA**

- ITEM #124-99** To consider action relative to the approval of the May 18, 1999 Consent Agenda Items #114-99 through #123-99.
- ITEM #125-99** To consider action relative to accepting a bid on the purchase of a pickup truck for Winslow Park.
- ITEM #126-99** To consider action relative to a Settlement Agreement between the Town of Freeport and S.W. Cole Engineering, Inc.
- ITEM #127-99** To consider action relative to a proposed amendment to the Peddler Ordinance concerning the use of the space located on Map 11, Lot 107 (Chapter 43).
- ITEM #108-99** Tabled May 4, 1999.
- To consider action relative to the adoption of an ordinance concerning Special Amusement Permits (Chapter 50).
- ITEM #109-99** Tabled May 4, 1999.
- To consider action relative to the adoption of a new Street Excavation Ordinance (Chapter 15).

**OTHER BUSINESS:**

**COMMITTEE REPORTS:**

Adjourn.



**AGENDA**  
**FREEPORT TOWN COUNCIL MEETING #9-99**  
**TOWN HALL COUNCIL CHAMBERS**  
**MAY 18, 1999 - 7:00 P.M.**

**SPECIAL NOTE:** This agenda is a working agenda that includes background information and is for distribution to Council members only.

**FROM:** Dale C. Olmstead, Jr.

**TO:** David Soley, Chairperson, Arnold Road  
Genie Beaulieu, Vice Chairperson, Larue Drive  
Edward Campbell, Gay Drive  
Kenneth Mann, Mann Road  
Stafford Soule, Arnold Road  
Gloria Fogg DeGrandpre, Wolf Neck Road  
John Arsenault, Prout Road

**FIRST ORDER OF BUSINESS:** To waive the reading of the Minutes of #8-99, May 4, 1999 Meeting and accept the Minutes as printed.

**SECOND ORDER OF BUSINESS:** Public Comment Period - 30 Minutes  
(Non-Agenda Items Only)

- Presentation of the Citizen of the Year Award.
- Recognition of the Mast Landing School Odyssey of the Mind Team.

**NOTE:** After the close of the Public Comment Period, the following motion should be read.

**MOTION:** That \$1,000 be expended for the Fiscal Year 1999 Miscellaneous and Contingency Account to provide for the Odyssey of the Mind Team participation in the 1999 World Finals at the University of Tennessee/Knoxville.

**NOTE:** There will be a brief reception for the Citizen of the Year Award.

**THIRD ORDER OF BUSINESS:** To take action on the following items of business as read by the Council Chairperson.

**COUNCIL MEETING #9-99  
MAY 18, 1999**

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**ITEM #124-99** To consider action relative to the approval of the May 18, 1999 Consent Agenda, Items #114-99 through #123-99.

**BE IT ORDERED:** That the May 18, 1999 Consent Agenda be approved.

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**ITEM #125-99** To consider action relative to accepting a bid on the purchase of a pickup truck for Winslow Park.

**MOTION:** That the Town Manager report on bids received.

**BE IT ORDERED:** That the bid from Rowe Ford in the amount of \$13,376 be accepted.

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**ITEM #126-99** To consider action relative to a Settlement Agreement between the Town of Freeport and S.W. Cole Engineering, Inc.

**BE IT ORDERED:** That the Settlement Agreement and General Release between the Town of Freeport and S.W. Cole Engineering, Inc. dated May 18, 1999, be approved.

**BE IT FURTHER ORDERED:** That the Town Manager be authorized to sign the Agreement on behalf of the Town of Freeport.

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**ITEM #127-99** To consider action relative to a proposed amendment to the Peddler Ordinance concerning the use of the space located on Map 11, Lot 107 (Chapter 43).

**BE IT ORDERED:** That a Public Hearing be scheduled for June 1, 1999 at 7:00 p.m. in the Town Hall Council Chambers to discuss a proposed amendment to the Peddlers Ordinance.

**BE IT FURTHER ORDERED:** That 30 copies be distributed equally between the Town Clerk's office and the Freeport Community Library for inspection by citizens.

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**ITEM #108-99** Tabled May 4, 1999.

To consider action relative to the adoption of an ordinance concerning Special Amusement Permits (Chapter 50).

**BE IT ORDERED:** That the proposed ordinance concerning Special Amusement Permits, as submitted to Public Hearing on May 4, 1999, be approved.

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**ITEM #109-99** Tabled May 4, 1999.

To consider action relative to the adoption of a new Street Excavation Ordinance (Chapter 15).

**BE IT ORDERED:** That the new Street Excavation Ordinance, as submitted to Public Hearing on May 4, 1999, be adopted.

**COUNCIL MEETING #9-99  
MAY 18, 1999**

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**BE IT FURTHER ORDERED:** That the existing Street Excavation Ordinance be vacated on the effective date on the new ordinance.

**MOTION:** To amend Item #109-99 as follows:

Article 2.A. Last sentence add:

culvert replacements

Article 3.C. Add #7:

7. In cases of emergency as defined in Section 1.B.4. above, the Director shall have the authority to wave the provisions of this ordinance.

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**OTHER BUSINESS:**

**COMMITTEE REPORTS:**

Adjourn.



**MINUTES**  
**FREEPORT TOWN COUNCIL MEETING #9-99**  
**May 18, 1999 - 7 P.M.**

<b><u>CHAIRPERSON'S CALL TO ORDER:</u></b>	<b><u>Present</u></b>	<b><u>Absent</u></b>	<b><u>Excused</u></b>
Genie Beaulieu, Vice Chair Larue Drive	X		
David Soley, Chairperson Arnold Road	X		
Edward Campbell Gay Drive			X
John Arsenault Prout Road	X		
Kenneth Mann Mann Road	X		
Gloria DeGrandpre Wolf Neck Road	X		
Stafford Soule Arnold Road	X		

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**FIRST ORDER OF BUSINESS:** TO WAIVE THE READING OF THE MINUTES OF MEETING #8-99 HELD ON MAY 4, 1999 AND ACCEPT THE MINUTES AS PRINTED.

**MOVED AND SECONDED:** TO WAIVE THE READING OF THE MINUTES OF MEETING #8-99 HELD ON MAY 4, 1999 AND ACCEPT THE MINUTES AS PRINTED.  
(Councilors Beaulieu & Arsenault) (6 Ayes) (1-Excused-Campbell)

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**CITIZEN OF THE YEAR AWARD:** Councilor DeGrandpre introduced Frank Small as this year's winner of the Citizen of the Year Award. Edgar Leighton, Ed Bonney, Vickie Lowe, Shawn Riley and John Davis recognized Mr. Small's contributions to the town and shared some of their fond memories. Mr. Small graciously accepted the award.

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**MAST LANDING SCHOOL ODYSSEY OF THE MIND TEAM:** Chair Soley introduced the team and their teacher and presented them with pins to wear at the international competition in Knoxville, Tennessee.

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**MOVED AND SECONDED:** To temporarily postpone the public comment period.  
(Councilors Mann & Soule) (6 Ayes) (1-Excused-Campbell)

Refreshments were served.

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**MOVED AND SECONDED:** To reopen the public comment period. (Councilors Beaulieu & Arsenault) (6 Ayes) (1-Excused-Campbell)

Councilor Mann went to the podium and noted that a group of people came to the Council a few months ago with a simple request to appoint a committee to review the tax-acquired policy and come back with recommendations. It was also requested to have a review of the acquisition of the property at 2 Main Street as well as other properties. There has been no movement on the part of the Council to appoint such a committee. As a citizen, he feels he can form a committee himself and bring a report back to the Town Council. He will be doing this and is requesting access to public information and perhaps an opportunity to interview some Town employees. He also is requesting access to Town Attorney records.

Mr. Olmstead pointed out that Mr. Ring has filed a new motion with the Court. Since the matter is still under litigation, the information will not be available. He advised Mr. Mann to make specific requests regarding Town documents, and it will be determined whether or not they can be made available. He mentioned that employees can be interviewed only if they are not uncomfortable.

Laura Vitelli thanked the Council for their assistance in permitting her to opt out of the browntail moth spraying while providing her neighbors, who want to be sprayed, with the opportunity to have their properties ground sprayed. with the cost to be picked up by the Town

**MOVED AND SECONDED:** To close the public comment period. (Councilors Beaulieu & DeGrandpre) (6 Ayes) (1-Excused-Campbell)

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**MOVED AND SECONDED:** That \$1,000 be expended from the Fiscal Year 1999 Miscellaneous and Contingency Account to provide for the Odyssey of the Mind Team participation in the 1999 World Finals at the University of Tennessee/Knoxville. (Councilors Beaulieu & Arsenault) **ROLL CALL VOTE:** (6 Ayes) (1 Excused-Campbell)

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**THIRD ORDER OF BUSINESS:** TO TAKE ACTION ON THE FOLLOWING ITEMS OF BUSINESS AS READ BY THE COUNCIL CHAIRPERSON:

**ITEM #124-99** To consider action relative to the approval of the May 18, 1999 Consent Agenda, Items #114-99 through #123-99.

**BE IT ORDERED:** That the May 18, 1999 Consent Agenda be approved. (Councilors DeGrandpre & Arsenault)

**MOVED AND SECONDED:** That the Council remove Item #118-99: To consider action relative to Scholarship Trust Funds. (Councilors Beaulieu & Arsenault) (6 Ayes) (1-Excused-Campbell)

**BE IT ORDERED:** That the following funds be made available for scholarship awards.



**COUNCIL MEETING #9-99  
MAY 18, 1999**

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<u>FUND</u>	<u>AMOUNT</u>
Fitts Award	\$ 150.00
Salomon Plummer	300.00
Wallace True	200.00
Millard Crooker	1,000.00
Alice Pollack	250.00
Auldis Foster	70.00
Kenneth Thompson	250.00
Total	\$2,220.00

(Councilors Beaulieu & DeGrandpre) **ROLL CALL VOTE:** (6 Ayes) (1 Excused-Campbell)

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Councilor Mann pointed out that the disbursement of Cemetery Trust Funds is included in the Consent Agenda and he would like the monies mailed out earlier in the year. He indicated that he heard from on cemetery association that would like to receive their money earlier. Mr. Olmstead suggested that the cemetery associations contact the Town if this is a real problem..

**The Vote on Item 124-99: ROLL CALL VOTE:** (6 Ayes) (1 Excused-Campbell)

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**ITEM #125-99** To consider action relative to accepting a bid on the purchase of a pickup truck for Winslow Park.

**MOVED AND SECONDED:** That the Town Manager report on bids received.(Councilors Mann & Beaulieu) (6 Ayes) (1 Excused-Campbell)

Mr. Olmstead reported on the bids that were received.

**BE IT ORDERED:** That the bid from Rowe Ford in the amount of \$13,376 be accepted. (Councilors Mann & Beaulieu) **ROLL CALL VOTE:** (6 Ayes) (1 Excused-Campbell)

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**ITEM #126-99** To consider action relative to a Settlement Agreement between the Town of Freeport and S.W. Cole Engineering, Inc.

**BE IT ORDERED:** That the Settlement Agreement and General Release between the Town of Freeport and S.W. Cole Engineering, Inc. dated May 18, 1999, be approved.

**BE IT FURTHER ORDERED:** That the Town Manager be authorized to sign the Agreement on behalf of the Town of Freeport. (Councilors Beaulieu & Arsenault ) **ROLL CALL VOTE:** (6 Ayes) (1 Excused-Campbell)

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**ITEM #127-99** To consider action relative to a proposed amendment to the Peddler Ordinance concerning the use of the space located on Map 11, Lot 107 (Chapter 43).

---

**BE IT ORDERED:** That a Public Hearing be scheduled for June 1, 1999 at 7:00 p.m. in the Town Hall Council Chambers to discuss a proposed amendment to the Peddlers Ordinance.

**BE IT FURTHER ORDERED:** That 30 copies be distributed equally between the Town Clerk's office and the Freeport Community Library for inspection by citizens.

Mr. Olmstead explained that this addresses an Administrative problem that currently exists.

(Councilors Soule & Beaulieu) **ROLL CALL VOTE:** (6 Ayes) (1 Excused-Campbell)

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**ITEM #108-99** Tabled May 4, 1999.

To consider action relative to the adoption of an ordinance concerning Special Amusement Permits (Chapter 50).

**BE IT ORDERED:** That the proposed ordinance concerning Special Amusement Permits, as submitted to Public Hearing on May 4, 1999, be approved. (Councilors Arsenault & Soule) **ROLL CALL VOTE:** (6 Ayes) (1 Excused-Campbell)

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**ITEM #109-99** Tabled May 4, 1999.

To consider action relative to the adoption of a new Street Excavation Ordinance (Chapter 15).

**BE IT ORDERED:** That the new Street Excavation Ordinance, as submitted to Public Hearing on May 4, 1999, be adopted.

**BE IT FURTHER ORDERED:** That the existing Street Excavation Ordinance be vacated on the effective date on the new ordinance. (Councilors DeGrandpre & Arsenault)

**MOVED AND SECONDED:** To amend Item #109-99 as follows:

Article 2.A. Last sentence add:

culvert replacements (Councilors Mann & Beaulieu) (6 Ayes) (1-Excused-Campbell)

Article 3.C. Add #7:

7. In cases of emergency as defined in Section 1.B.4. above, or in cases of minor alterations, the Director shall have the authority to waive the provisions of this ordinance. (Councilors Mann & Soule) (6 Ayes) (1 Excused-Campbell).

The vote on the motion was a **ROLL CALL VOTE:** (6 Ayes) (1-Excused-Campbell)

**MOVED AND SECONDED:** To Adjourn at 8:35 p.m. (Councilors Beaulieu & DeGrandpre) (6 Ayes) (1 Excused-Campbell)

Respectfully submitted,

*Sharon Coffin*

Sharon Coffin  
Recorder



**TOWN COUNCIL**

**CONSENT AGENDA**

**MAY 18, 1999 - #9-99**

**ITEM #114-99** To consider action relative to applications for victualer licenses for William Joynt, Loretta/Alan Bradley, F. Carolyn Dobson, Alan/Vera Rogers, John/Karen Nappi, John Stiles, Nancy Gray, Thomas/Anita Willett, Marc/Susan Trottier, John Lewis, Beth Finlayson, Steve Goble, Tamantha Wilson, Phillip Libby, Richard Wagner, Cynthia Wellito, Bob Pottle, Michael Marino, Loren Goodridge, Thomas Ring, Lewis Corliss, David Coffin, Paul Kelley, Jean/Eldon Macleod, Joseph Yilmaz, Mary Ann Anthony, and Aileen LaBrie/Chris Holt.

**BE IT ORDERED:** That the applications issued to the following applicants be approved.

William Joynt d/b/a Ben & Jerry's of Freeport, 83 Main Street  
Loretta/Alan Bradley d/b/a Capt. Josiah Mitchell House B&B, 188 Main Street  
F. Carolyn Dobson d/b/a Desert of Maine, 95 Desert Road  
Alan/Vera Rogers d/b/a Florida Lake Campground, 82 Wardtown Road  
John/Karen Nappi d/b/a Bow Street Market, 79 Bow Street  
John Stiles d/b/a Jameson Tavern, 115 Main Street  
Nancy Gray d/b/a Harraseeket Inn, 162 Main Street  
Thomas/Anita Willett d/b/a Cottage Street Inn, 13 Cottage Street  
Marc/Susan Trottier d/b/a Holbrook Inn, 7 Holbrook Street  
John Lewis d/b/a Blue Onion Restaurant, 193 Lower Main Street  
Beth Finlayson/Rotary Hot Dog Stand (peddler), L.L. Bean Lot, Morse Street  
Steve Goble d/b/a McDonald's Restaurant, 11 Mallet Drive  
Tamantha Wilson d/b/a Harraseeket Grange #9, 13 Elm Street  
Phillip Libby d/b/a Sam's Italian Foods, 7 Main Street  
Richard Wagner d/b/a DeRosier's Market, 120 Main Street  
Cynthia Wellito d/b/a Isaac Randall House B&B, 10 Independence Drive  
Bob Pottle d/b/a Cindy's Fish & Chips, 292 U.S. Route 1  
Michael Marino d/b/a The Lobster Cooker, 39 Main Street  
Loren Goodridge d/b/a Subway, 475 U.S. Route 1  
Thomas Ring d/b/a Atlantic Seal B&B, 25 Main Street, So. Freeport  
Lewis Corliss d/b/a The Village Inn, 186 Main Street  
David Coffin d/b/a Harraseeket Lunch, Main Street, So. Freeport  
Paul Kelley for Freeport Merchants Association (peddler), 23 Depot Street  
Jean/Eldon Macleod d/b/a Ocean Farm Restaurant, 23 Main Street  
Joseph Yilmaz d/b/a Freeport Hot Dog Co. (peddler), 34 Main Street  
Mary Ann Anthony d/b/a "4" Kids Hot Dog & Ice Cream, 150 U.S. Route 1  
Aileen LaBrie/Chris Holt d/b/a Mister Bagel, 15 Depot Street

**BE IT FURTHER ORDERED:** That the license of Jean/Eldon Macleod d/b/a Ocean Farm Restaurant, 23 Main Street, not be issued until all taxes are paid.

**ITEM #115-99** To consider action relative to the re-issuance of a peddler license for Map 11, Lot 107 for the Freeport Boosters Club.

**BE IT ORDERED:** That the re-application of a peddler license for Map 11, Lot 107 for the Freeport Booster Club be approved.

**ITEM #116-99** To consider action relative to the acceptance of Cemetery Perpetual Care Funds.

**BE IT ORDERED:** That the following Cemetery Perpetual Care Funds be accepted by the Town of Freeport for investment with the interest used for cemetery care.

<u>CEMETERY</u>	<u>LOT</u>	<u>AMOUNT</u>	
<b><u>BURR</u></b>			
Fred & Denise Cass	21B	\$200.00	
Fred Dalrymple	127	\$200.00	
Percy & Harriet Davis	170A	\$200.00	
Stanwood Davis	92 G 5/6	\$400.00	
Perley Fickett		\$200.00	
Henrietta Pheffer	87C	\$200.00	
Joan M. Plourde	181 G 5/6	\$400.00	
Doris Ritter	194B	\$200.00	
Delorah Schaedler	218 G 1,2,3	\$600.00	
Timothy Simpson	178 G2	\$200.00	
Emma Wilson	16A	\$200.00	
			\$3000.00
<b><u>GROVE AT PLEASANT HILL</u></b>			
Francis & Barbara Carignan	30 Backside	\$200.00	
Julie Hilton	88	\$200.00	
			\$400.00
<b><u>FLYING POINT</u></b>			
Alice & Gerald Mason	81	\$200.00	
			\$200.00
<b><u>SOUTH FREEPORT</u></b>			
Jeremiah G. & Amanda Baker	37A	\$200.00	
Walton & Joyce Baker	37B	\$200.00	
Sidney W. & Beatrice H. Darrah	35B	\$200.00	
Robert W. & Ilene Nielsen	44A	\$200.00	
Annalee Pease	29	\$200.00	
Robert L. & Winifred Tozier	39A & B	\$200.00	
Ronald & Pamela Tozier	38A	\$200.00	
			\$1,400.00

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**ITEM #117-99** To consider action relative to the disbursement of Cemetery Trust Funds.

**BE IT ORDERED:** That the following amounts be disbursed from the Cemetery Trust Fund.

<u>CEMETERY</u>	<u>AMOUNT</u>	<u>VETERANS'</u>
BURR	\$2,838.39	\$ 768.00
WOODLAWN	\$ 480.09	\$ 312.00
WEBSTER	\$ 329.88	\$ 200.00
SOUTH FREEPORT	\$ 883.75	\$ 228.00
GROVE AT PLEASANT HILL	\$ 930.89	\$ 296.00
FLYING POINT	\$ 206.85	\$ 44.00
PORTER'S	\$ 25.09	\$ 4.00
LANE	\$ 7.61	\$ -
WARDTOWN	\$ 1.75	\$ -
BENNETT	\$ 7.00	\$ -
OLD MEETING HOUSE	\$ 3.50	\$ -
WOLF'S NECK	\$ 14.00	\$ -
 <u>OTHER</u>		
A.O. WOODARD	\$ 350.00	\$ -

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**ITEM #118-99** To consider action relative to Scholarship Trust Funds.

**BE IT ORDERED:** That the following funds be made available for scholarship awards.

<u>FUND</u>	<u>AMOUNT</u>
Fitts Award	\$ 150.00
Salomon Plummer	\$ 300.00
Wallace True	\$ 200.00
Millard Crooker	\$1,000.00
Alice Pollack	\$ 250.00
Auldis Foster	\$ 70.00
Kenneth Thompson	\$ 250.00
 TOTAL:	 \$2,220.00

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**ITEM #119-99** To consider action relative to the acceptance of property for Fire Training Purposes.

**BE IT ORDERED:** That a single family residence located at 49 Pleasant Hill Road be accepted for the purpose of fire training.

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**ITEM #120-99** To consider action relative to the approval of a Fire Department Fundraiser to provide for thermal imaging cameras.

**BE IT ORDERED:** That the Fire Department be authorized to conduct fundraising to provide for the purchase of two thermal imaging cameras.

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**ITEM #121-99** To consider action relative to a request for the use of Town Property.

**BE IT ORDERED:** That the Freeport Fire Company be authorized to use the parking lot of the Public Safety Building on July 3, 1999 for a dance and related activities.

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**ITEM #122-99** To consider action relative to a request for the use of Town Property.

**BE IT ORDERED:** That the Freeport Merchants Association be authorized to use the Town Hall Parking Lot on June 26, 1999 to provide parking for a dance to be held in the parking lot located next to the Freeport Merchants Association office building.

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**ITEM #123-99** To consider action relative to the acceptance of donations to the Town of Freeport.

**BE IT ORDERED:** That the following donations providing funds for activities of the Residential Growth Committee be accepted.

Orcutt Associates	\$500.00
Ben & Jerry's	\$500.00

End of Consent Agenda



*approved May 18, 1999  
Meeting # 9-99; item # 108-99  
P.H. mtg # 8-99 (5-4-99)*

*Adopted*  
**PROPOSED**

## **CHARTER 50**

### **SPECIAL AMUSEMENT PERMITS**

#### **Article I. Purpose.**

The purpose of this article is to regulate the issuance of special amusement permits for music, dancing, or entertainment in facilities licensed by the state to sell liquor as authorized by 28-A M.R.S.A. § 1054.

#### **Article II. Definition.**

For the purposes of this article, the word "entertainment" means any amusement, performance, exhibition, or diversion for customers of the licensed premises whether provided by professional entertainers or by employees of the operator of the licensed premises.

#### **Article III. Permit required.**

(a) A licensee for the sale of liquor to be consumed on the licensed premises shall not permit any live music, dancing, or entertainment of any kind on the premises until he has first obtained a special amusement permit issued by the Town Clerk.

(b) He must file a written application for the permit with the town council including the name, date and place of birth, and residence address of the applicant; the name, address and nature of the business; and any additional information required by the council necessary to the processing of the application.

#### **Article IV. Inspection.**

As soon as an application for a special amusement permit has been received by the town council, the codes enforcement officer shall inspect the licensed premises to determine whether they are in compliance with all pertinent law. He shall make a written report to the town council with his findings in that regard.

#### **Article V. Public hearing.**

Before granting a permit, and after seven (7) days notice published in a newspaper having general circulation in the town, the town council shall hold a public hearing to determine whether issuance of the permit would be detrimental to the health, safety, or general welfare of the public, or would be in violation of any provision of this Code or town ordinance. After the hearing, the council shall issue the permit unless it finds that to do so would be detrimental to the health, safety, or general welfare of the public, or would be in violation of a municipal ordinance.

#### **Article VI. Denial of permit.**

If the application for a special amusement permit is denied, the town council shall give the applicant a written statement of the reasons for the denial.

#### **Article VII. Conditional issuance.**

The town council may attach conditions to any special amusement permit which are necessary for the protection of the health, safety, or general welfare of the public.

#### **Article VIII. Permit fee.**

The fee for a special amusement application permit is one hundred dollars (\$100.00) which is nonrefundable if the application for the permit is denied.

#### **Article IX. Term of permit.**

The permit is valid for one year from the date of issuance.

#### **Article X. Periodic inspection.**

Whenever an inspection of the premises used for the operation of a business by the holder of a special amusement permit is provided for by law, or is reasonably necessary in order to determine whether there is compliance with any pertinent law, the licensee shall permit the health officer or any official or employee of the codes enforcement office to make the inspection at any reasonable time, on written request.

#### **Article XI. Suspension or revocation of a permit.**

After seven (7) days notice published in a newspaper having general circulation in the town, and public hearing, the town council may suspend or revoke a special amusement permit if it determines that the music, dancing, or entertainment being provided at the licensed premises constitutes a detriment to the public health, safety, or welfare; or violates any law; or if the health officer or any official or employee of the codes enforcement office has been refused admission to make an inspection of the premises after written request.

#### **Article XII. Penalty.**

A person who violates any of the provisions of this article shall be punished by a fine of not more than five hundred dollars (\$500.00).

#### **Article XIII. Qualifications.**

In order to be eligible for any license, an applicant shall meet any qualifications established by law and shall pay any arrearages for taxes, fees, or any other obligation to the town.

*Approved & adopted May 18, 1999  
Meeting # 9-99; item # 109-99  
P.H. mtg. #8-99 (5-4-99)*

## **STREET EXCAVATION ORDINANCE CHAPTER 15**

### **TOWN OF FREEPORT AN ORDINANCE RELATING TO ENTRANCES, UTILITY EXCAVATION AND CONSTRUCTION, HEAVY LOADS, AND CONTRACTOR APPROVAL IN THE PUBLIC RIGHT-OF-WAY**

#### **Article 1. General**

##### **A. Purpose**

This Ordinance has been enacted by the Town Council to regulate the use of public rights-of-way in the interest of public safety and convenience, and to protect public infrastructure. Excavation and restoration standards, control of access, and regulation of vehicle loads are required to preserve the integrity, operational safety, and function of the public right-of-way.

##### **B. Definitions**

1. Town shall mean the Town of Freeport and/or its Public Works Authority.
2. Director shall mean the Director of Public Works and/or his designee.
3. Contractor shall mean anyone licensed by the Town of Freeport to work in the public right-of-way.
4. Emergency shall mean any event, which may threaten public health or safety, where action is necessary to prevent personal injury, death or the loss or disruption of a private or public utility or service. The burden of proof of such emergency rests with the applicant.
5. Excavation shall mean any operation in which earth, rock, paving or like material, on, or below the surface of the ground, is moved, displaced, dug, trenched, tunneled or in any similar manner disturbed, except the agricultural tilling of soil or gardening.
6. Applicant shall mean a person applying for a permit required by this Ordinance.
7. Permit Holder shall mean a person who has obtained a permit as required by this Ordinance. A applicant may be any natural or corporate "person", business association or other business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.
8. Public right-of-way shall mean the entire width between property lines of every way and place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of traffic, except for private roads and private ways. The definition shall include the area on, above and below the public right-of-way, dedicated to public use, and any dedicated, but unaccepted street or way. The definition shall also include any publicly owned space or park. A right-

of-way does not include the airwaves above a right-of-way with regard to cellular or other non-wire telecommunications or broadcast service.

9. **Entrance** shall mean direct vehicular access to property abutting the public right-of-way.
10. **M.D.O.T** shall mean the Maine Department of Transportation.
11. **Technical and Design Standards** shall mean the standards cited herein and adopted by the Town of Freeport including the Maine Department of Transportation (MDOT) Standards and Specifications for Highways and Bridges, latest edition.
12. **Utility** shall mean a public utility, as defined in 35-A M.R.S.A. § 102 as it may be hereinafter amended and shall specifically include the non-regulated activities of such a utility.

### **C. Administration**

1. The Director is the responsible authority for the enforcement of this ordinance.
2. A Highway Opening and/or Entrance permit is required prior to the commencement of any excavation in the right-of-way. It shall be unlawful for any person to excavate, or to place, deposit or leave upon any street any earth or other material, equipment or structure tending to interfere with the free use of the street, unless such person shall first have obtained a permit.
3. All Federal and State requirements for safe operation within the right-of-way shall be followed, including, but not limited to, OSHA and the Manual of Uniform Traffic Control Devices (MUTCD).
4. The permit holder shall hold harmless the Town of Freeport and its duly authorized agents and employees against any action for personal injury or property damage sustained by reason of the exercise of any permits issued under this ordinance.
5. Only contractors and Public Utilities with a valid license are permitted to work in the public right-of-way. Refer to Article 5 – Approved Contractors.
6. Environmental Considerations
  - a) In the course of any work in the right-of-way, the permit holder shall not remove any trees or shrubs which exist in the street area without first obtaining the approval of the Director.
  - b) Best Management Practices (BMP's) as defined in the Maine Department of Transportation Practices for Erosion and Sedimentation Control, dated September 1997 shall be followed for all construction in the public right-of-way.
7. The Public Works Director or his/her designee shall make such inspections as are necessary in the enforcement of this ordinance.
8. Permit holders shall maintain accurate drawings, including plans, and profiles showing the location and character of all underground structures including abandoned installations proximate to their work. Corrected as-built plans shall be filed with the Director within sixty (60) days after new installations, changes or replacements are completed.

9. **Performance Guarantee.** Prior to the issuance of any permit for highway opening, the Applicant shall secure surety in the form of cash bond or irrevocable letter of credit equal to the estimated cost of restoring the highway to the pre-construction condition. Said surety shall be set aside in an escrow account with the Finance Director – Town of Freeport or designee listed as the only authorized signature for withdrawal or release of funds as approved by the Director said surety shall be held in non-interest bearing account to secure the completion of all work approved under any permit issued under this ordinance an amount equal to fifteen percent (15%) of the opening fee shall be in cash ten percent (10%) of which shall be non refundable.
10. **Penalty.** Any person, firm or corporation who shall violate any provision of this Ordinance shall be subject to a fine in an amount established by order of the Town Council. Each day of continued violation, and every violation of a provision of this Ordinance shall constitute a new and separate offense.
11. If any work performed under any permit issued under this ordinance is not completed in compliance with the terms of this ordinance, the Town may cause such work to be repaired and deduct the costs of such work from the performance guarantee or surety. In the event such repair was undertaken without a permit, the Town shall prepare a bill for the cost of the repair, plus an additional amount of fifty (50) percent to be paid by the person doing the work. The Town shall issue no further permits to any person who has performed such work until the Town receives payment from the person for the repair work.
12. **Working Hours:** Except for emergency repairs or as approved by the director, working hours shall be between the hours of 7:00 a.m. and 6:00 p.m., prevailing time. Starting or warming up equipment prior to 7:00 a.m. is prohibited. Work on the weekend or legal holidays is prohibited unless specifically authorized by the director.

## **Article 2. Entrances to Public Right-of-Ways**

### **A. Purpose**

This Article provides for the review, of any entrance onto a public way for compliance with sound construction and design practices, to ensure that traffic safety, drainage and public improvements are not adversely affected. A permit is not required for paving, sealing, or repairs to any existing access.

*or culvert replacements (see item # 109-99)*

### **B. Permit Required.**

No person shall construct, cause or permit to be constructed, alter or relocate, any driveway, entrance, or approach or other improvement within the right-of-way of such road or extending from such road onto his property except in accordance with an entrance permit. This Ordinance applies to all proposed entrances or substantive changes to existing entrances to public roads after the effective date of the Ordinance.

### **C. Administration**

1. A permit will be issued upon application to the Director for the purpose of securing access to private property.
2. An entrance permit does not authorize parking or servicing vehicles within such right-of-way.
3. A permit fee established by order of the [Town Council] shall be paid for each permit.
4. The Director may establish a review fee for staff or consultant review of the application. This fee shall be based on the estimated time for review and be placed in a cash escrow account with the Town prior to issuance of a permit.
5. The Application on standard form available at the Town Office or Public Works garage shall be filed with the Director together with an application fee. The applicant shall furnish a copy of plans or sketches showing the following information:
  - (a) location(s), width, and arrangement;
  - (b) distance between existing entrances within 100 feet of the proposed entrance(s);
  - (c) distance(s) from the centerline of the traveled way to any structures, gasoline pumps, or other obstructions within 100 feet of the proposed entrance(s) etc.;
  - (d) property lines and easements;
  - (e) length, size and location of existing pipes, culverts, catch basins or manholes, curbing, curb and gutter, and/or sidewalks, and above ground utilities within 100' of the proposed entrance(s); and
  - (f) The proposed location of new pipes, culverts, catch basins or manholes, curbing, etc.
6. The entrance permit shall be valid for a period of twelve months from the date of original issue.
7. A contractor, licensed with the Town, must complete all work within the right-of-way.
8. The Director must approve any variances from the Entrance Standards contained in the permit.

**TOWN OF FREEPORT  
PUBLIC WORKS DEPARTMENT  
APPLICATION FOR ENTRANCE**

Application/Permit No. \_\_\_\_\_ Date \_\_\_\_\_

Return to:

PUBLIC WORKS DEPARTMENT  
HUNTER ROAD  
FREEPORT, ME 04032

Owner Information:

Name \_\_\_\_\_  
Street & No. \_\_\_\_\_  
City \_\_\_\_\_  
State & Zip \_\_\_\_\_  
Telephone (\_\_\_\_) \_\_\_\_\_

In accordance with Title 23, Revised Statutes Annotated, Application is hereby made to construct an entrance to my property on the (North) (South) (East) (West) side of Town Road/Highway Rte. No. \_\_\_\_\_  
(Circle Appropriate Direction)

\_\_\_\_\_ in the Town of Freeport a point about \_\_\_\_\_  
ft. (North) (South) (East) (West) from \_\_\_\_\_  
(Circle Appropriate Direction) (Town Line, Road, or other)  
\_\_\_\_\_ for the following purpose:

Residential ☐, Commercial ☐, Industrial ☐, Or Other Land Use ☐  
description \_\_\_\_\_

**INFORMATION REGARDING TO THE LOCATION OF THE REQUESTED ENTRANCE(S):**

1. Frontage of lot along highway \_\_\_\_\_ ft. 2. Depth of Lot \_\_\_\_\_ ft. 3. Number of Entrances requested \_\_\_\_\_
4. Proposed width of Entrance(s) \_\_\_\_\_
5. Setback from center of Highway: (A) to Buildings \_\_\_\_\_ ft. (B) to Other Structures \_\_\_\_\_ ft.
6. The surface on the proposed driveway is to be \_\_\_\_\_
7. Construction desired to commence on \_\_\_\_\_ 19\_\_\_\_ and to be completed on \_\_\_\_\_ 19\_\_\_\_.
8. Is this entrance part of a project/development requiring a D.E.P. Site Location Permit? Yes \_\_\_ No \_\_\_

**THE PERMIT HOLDER HEREBY AGREES:**

- (1) To provide, erect and maintain all necessary barricades, lights, warning signs and other devices to safeguard traffic properly while to work is in progress.
- (2) That the highway will at no time be closed to traffic.
- (3) The entrance will be located and constructed in accordance with the entrance standards included herein.
- (4) To Notify the Public Works Department at least 24 hours before starting work on the entrance.
- (5) To maintain said entrance and approach in accordance with this permit.
- (6) **FURTHER CONDITION OF THE PERMIT:** the permit holder shall well and truly pay all damages, fines, and penalties for which he shall become liable, and shall indemnify and save harmless said Town against all suits, claims, damages and proceedings of every kind arising out of the construction and maintenance of said entrance and approach, including snow removal.
- (7) To limit work days in the hours between 7:00 A.M. and 6:00 P.M. (See Article 1.C.12)
- (8) The Applicant holds Utility Location Permit No. \_\_\_\_\_  
(Dig Safe)

\_\_\_\_\_  
DATE

(OVER)

\_\_\_\_\_  
SIGNATURE OF OWNER

**Sketch or blueprint is required as a part of the application. Blueprints must be furnished in duplicate.**

**(Show description from town line, road intersection or other identifying landmark.)**

**SKETCH**

**INSTRUCTIONS**

**For securing a Permit**

**The owner of the property desiring to construct an entrance(s) connecting with any Public Way, State or State Aid Highway should forward the completed application and permit fee to the Freeport Public Works Department.**

**ENTRANCE PERMIT**

**Page 2 of 4**

**frpt//entrance application.doc**



## **A. Entrance Standards**

### **1. Sight Distance Criteria:**

- a) All entrances shall be so located such that vehicles approaching or using the entrance will be able to obtain adequate sight distance in both directions along the public way and to maneuver safely and without interference with traffic. Unobstructed sight distance both ways for an exiting vehicle shall be in accordance with the following schedule:

<b>Posted Highway Speed (MPH)</b>	<b>Minimum Sight Distance (in feet)</b>
25	250
30	300
35	350
40	400
45	450
50	500
55	550

Minimum sight distance shall be increased by 50% for industrial use.

- b) Unobstructed sight distance shall be that distance of clear sight measured from a point 10' from the edge of pavement or curb line at a height of 3.5 feet to an object in an approaching lane with a height of 2.0 feet.
- c) Clearing, limbing and removal of other obstructions within the right-of-way necessary to provide the required sight distance shall be the responsibility of the permit holder and require the approval of the Director.

### **2. Geometry**

- a) The entrance shall be designed such that the grade within the right-of-way does not exceed 10%.
- b) In rural sections the entrance grade shall match the edge of the existing shoulder and slope away from the road surface at a rate of one half inch per foot, for a distance of ten (10) feet from the edge of pavement.
- c) In curbed sections, the entrance grade shall match the existing gutter line and slope up at a rate of one inch per foot for a distance of not less than six (6) feet from the curb line.
- d) The entrance should intersect the traveled way at a horizontal angle of 90 degrees but in no case shall the horizontal angle be less than 75 degrees.
- e) No part of the entrance shall extend beyond the property lot frontage for the lot being served.
- f) The entrance shall not be located closer than 50 feet from an intersection.
- g) Not more than two entrances (or exits) shall be allowed on any parcel of property for which the frontage is less than two hundred (200) feet. Additional entrances for parcels of property having a frontage in excess of two hundred (200) feet shall be permitted only after showing of necessity. When frontage is fifty (50) feet or less, only one entrance is permitted, the width of which shall not exceed thirty (30) feet.

### **3. Drainage**

- a) Existing roadside drainage in gutter or ditch lines shall not be altered or impeded by the entrance. The permit holder shall provide suitable and approved drainage structures/culverts at all entrances.**
- b) Surface drainage shall be provided so that all surface water on the areas adjacent to the road shall be carried away from the roadway.**
- c) Where a drainage culvert is required to maintain roadside drainage the Director must approve the pipe diameter, length and material type prior to installation. Minimum pipe size shall be 12 inch diameter.**

### **4. Construction Standards**

- a) The Permit Holder is responsible for all construction and restoration of disturbed areas for the entrance within the limits of the Right of Way.**
- b) The entire portion of any entrance within the limits of the Right of Way shall be stripped of all organics. The base for the entrance shall be constructed with a minimum 15-inch well-graded gravel base course conforming to MDOT Standard Specifications, Section 703.**
- c) If the entrance grade within the Right of Way exceeds five (5%) percent slope then the entrance shall have a paved surface within the limits of the Right of Way.**
- d) Where culverts are not required or where they are continuous between multiple entrances, an island raised not less than six (6) inches above the surface of the adjacent drives shall be provided. The island shall be curbed, loamed and seeded, or paved. If an open swale is used between entrances, the raised island is not necessary.**
- e) When sidewalk, curbing or curb and gutter is to be removed, it shall be replaced in kind at the transition points of the entrance. All curbing at the side of entrance shall be rounded with a radius of not less than five (5) feet.**

### **5. Curb and Sidewalk**

- a) When sidewalk or curb exists at the proposed entrance the permit holder shall remove and replace such materials at the permit holder's expense. Any granite curb to be removed by the permit holder will remain the property of the Town.**
- b) Curb transitions shall be provided at each side of a new entrance.**
- c) Where sidewalk is removed to accommodate a new entrance, a new walk surface of equal type construction is to be provided. The sidewalk area at all entrances shall meet handicap accessibility requirements and conform to the American with Disabilities Act guidelines.**

**In general sidewalks shall meet the following:**

- 1) The maximum sidewalk longitudinal transition slope is not to exceed 1 vertical to 12 horizontal.**
- 2) The maximum sidewalk cross-slope is not to exceed 2%.**
- 3) No abrupt changes in grade are permitted and the maximum curb reveal crossing a walkway is ½ inch or less.**

### **Article 3 Excavation and Utility Installation in public Right-of-Way**

#### **A. Purpose**

The purpose of this Article is the regulation of the use of public right-of-ways in the interest of public safety and convenience, and the operation and protection of public works infrastructure. Excavation and restoration standards are required to preserve the integrity, operational safety, and function of the public right-of-way.

#### **B. Highway Opening Permit Required.**

- ∴ No person, except utilities performing emergency excavations, shall make any excavation in any public right-of-way without first obtaining a Highway Opening permit from the Director. All such excavations are governed by 23 M.R.S.A., Sec. 3381 et seq. as amended from time to time, and this Ordinance.

#### **C. Administration**

1. A permit will be issued upon application to the Director for the purpose of excavation and utility construction within the public right-of-way.
2. A application fee established by order of the (*Town Council*) shall be paid for each permit.
3. The Director may establish a consultant review fee for staff or consultant review of the application. This fee shall be based on the estimated time for consultant review and be placed in cash escrow account with the Town prior to issuance of the permit.
4. No person shall be granted a permit to excavate or open any street or sidewalk from November 15 of each year to March 31 of the following year, unless an emergency or special condition exists and permission is obtained in writing from the Director. Any person wishing to obtain a Highway Opening permit between these aforementioned dates shall first explain fully in writing the emergency or special condition to the Director before issuance is granted. If a hazardous condition which could endanger life and/or property exists, excavation work shall not be delayed by this section of this Ordinance; however, a written explanation shall be delivered to the Director within two (2) working days, and a Highway opening permit obtained for the work.
5. The Application on standard form available at the Town Office or Public Works garage shall be filed with the Director together with the Application review and opening fee (if applicable) and plans and specifications of the work including property lines and easements.
6. Upon review for completeness and submission of all fees the Director will issue the Highway Opening Permit.

#### **Article 3.C. Add #7:**

7. In cases of emergency as defined in Section 1.B.4. above, or in cases of minor alterations, the Director shall have the authority to waive the provisions of this ordinance. (Councilors Mann & Soule) (6 Ayes) (1 Excused-Campbell).

**TOWN OF FREEPORT  
PUBLIC WORKS DEPARTMENT  
HIGHWAY OPENING PERMIT**

Application/Permit No. \_\_\_\_\_ Date \_\_\_\_\_

**Return to:**

**PUBLIC WORKS DEPARTMENT  
HUNTER ROAD  
FREEPORT, ME 04032**

**Owner Information:**

Name \_\_\_\_\_  
Street & No. \_\_\_\_\_  
City \_\_\_\_\_  
State & Zip \_\_\_\_\_  
Telephone (\_\_\_\_) \_\_\_\_\_

Permission is granted the applicant, \_\_\_\_\_ to open Town Road/Highway Rte No. \_\_\_\_\_ in the Town of Freeport at the location shown in the application, for the purpose of \_\_\_\_\_

The work shall be performed between the dates of \_\_\_\_\_ and \_\_\_\_\_.

**ESTIMATED SQUARE YARDAGE TO BE OPENED**

	Cost/S.Y.	S.Y.	Amount
Bituminous concrete surface, shoulder or sidewalk	\$50		
Bituminous concrete surface, over PCC concrete base	\$75.		
Gravel surface or shoulder	\$7.50		
PCC sidewalk	\$45.		
Brick sidewalk	\$75.		
Turf slopes and ditches	\$1.00		
Plowed-in buried cable (per lin. ft.)	\$0.25		
Other			
Subtotal – Opening Fee			
Application Fee			
Consultant Review Fee			
<b>TOTAL – ESTIMATED FEE*</b>			

\*Minimum fee \$50.00

1. Actual square yards opened or disturbed will be measured by the Public Works Department's representative and the permittee will be billed for the difference between estimated fee paid and the final fee as determined by measurement of the opening. Additional costs to the Public Works Department as outlined in Highway Opening Permits, may be billed.
2. This permit fee is based on estimated areas to be opened in the various surface types and shall be deposited into an escrow account as surety. (see Article 1.C.9)

Upon satisfactory completion of the restoration work in accordance with the terms and condition stipulated herein, the Permit Holder will be credited for the areas permanently and satisfactorily restored, except that the Town will retain an amount to provide for future maintenance. Said amount to be computed at the rate of 10% of the final opening fee.

Upon request of the Permit Holder, the Town may consider making a partial release to the permit holder for portions of the work satisfactorily completed

3. The permit is issued in accordance with Title 23, Sec. 54, Title 35-1, Sec. 2507, 2508, and 2510 and Title 23, Sec. 3351 to 3360, M.R.S.A. and is subject to the following conditions.

The Permit Holder hereby agrees:

1. To abide by the rules, regulations and policies of this Highway Opening permit. Conditions pertaining to performance of work, are included herein.
2. To provide, erect, and maintain all necessary barricades, lights, warning signs, traffic officers and other devices to safeguard vehicular and pedestrian traffic while the work is in progress. All traffic control devices shall be in accordance with the manual on Traffic Control Devices for Streets and Highways (MUTCD).
3. To notify the Public Works, Police and Fire Departments at least 24 hours before starting work.
4. The permit holder shall well and truly pay all damages, fines, and penalties for which he shall become liable, and shall indemnify and save harmless said Town against all suits, claims, damages and proceedings of every kind arising out of the construction and maintenance of said opening, including snow removal.
5. Final restoration of the affected area shall be completed to the satisfaction of the Director of Public Works Department.

The Applicant holds Utility Location Permit (Dig Safe) No. \_\_\_\_\_

**FREEPORT PUBLIC WORKS**

By: \_\_\_\_\_

Title \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE OF APPLICANT

(OVER)

## **1. General Policy and Construction Standards**

### **A. Protection and Restoration of Highway Items and Protection of the Traveling Public.**

#### **1. Maintenance**

The permit holder/contractor shall be responsible for maintaining the excavated/ construction area in a safe, passable condition satisfactory to the Director until the project is accepted. A temporary bituminous patch shall be placed on all trenches that cannot be permanently patched within 48 hours of initial disturbance. Permanent restoration of the pavement structure including hot bituminous base and surface shall be made within 15 days.

One lane of traffic shall be maintained at all times, unless traffic has been detoured. The permit holder/contractor shall provide traffic control officers, barricades, lights, warning signs and other devices to safeguard traffic and pedestrian while the work is in progress.

Two-way traffic shall be maintained during all non-working hours, unless approved by the Director. In the event that two-way traffic cannot be maintained during these hours, the permit holder/contractor shall install and maintain barriers and lights, as specified in the MUTCD until a permanent surfacing has been installed.

All equipment, and materials shall be removed and located off the highway during non-working hours.

A highway opening permit does not authorized parking or servicing vehicles within such right-of-way.

#### **2. Removal and Protection of Utilities**

The permit holder/contractor shall not interfere with any existing utility other than their own facilities without the written consent of the utility company or person owning the utility. If it becomes necessary to remove an existing utility, this shall be done by its owner. No utility owned by the Town shall be moved to accommodate the permit holder unless the cost of such work be borne by the permit holder/contractor. The cost of moving privately owned utilities shall be borne by the permit holder unless he makes other arrangements with the utility owner. The permit holder/contractor shall support and protect all pipes, conduits, poles, wire or other apparatus which may be in any way affected by the excavation work. In case any of said pipes, conduits poles, wire or apparatus should be damaged, they shall be repaired by the utility or person owning them and the expense of such repairs shall be charged to the permit holder/contractor. The permit holder/contractor shall be responsible for any damage done to any public or private property by reason of the damage any water, sewer, gas pipe, electric conduit or other utility. Permit holder/contractor shall inform itself as to existence and location of all underground utilities and protect the same against damage. Above ground utilities abandoned as a result of relocation or replacement shall be removed in its entirety.

#### **3. Protection of Adjoining Property**

The permit holder/contractor shall at all times and at his own expense preserve and protect from damage any adjoining property by providing proper protection and taking other measures necessary for the purpose. Where- the protection of such property is

necessary to enter upon private property for the purpose of taking appropriate protective measures, the permit holder/contractor shall obtain a release from the owner of such private property. The permit holder/contractor shall, at its own expense shore up and protect all buildings, walls, fences or other property likely to be damaged during the progress of the excavation work and shall be responsible for all damage to public or private property resulting from its failure properly to protect said work facilities.

#### **4. Restoration and Replacement**

The Permit Holder/Contractor shall be responsible for permanently restoring or replacing roadway items damaged as a consequence of any construction operations. These items are to be permanently replaced in kind, in the same thickness and to the same grade as originally found and shall include, but not be limited to, the following items:

- a) Bituminous pavement;
- b) Portland Cement Concrete Pavement, including that displaced by blasting, undermined, or broken by construction equipment. Concrete pavement under, bituminous pavement shall be replaced with a digable concrete fill of equal thickness;
- c) Bituminous, concrete and brick sidewalks;
- d) Aggregate base and subbase material under roadways, shoulders, and walks;
- e) Curbing, all types
- f) Gravel surfacing and shoulders;
- g) Turf slopes and ditches;
- h) Drainage pipes, structures, and ditches;
- i) Guard rail and fencing;
- j) Property and other survey monuments

The contractor shall guarantee the restoration/ replacement against defects in material and workmanship for a period of one (1) year from the date of acceptance, and shall replace any defective work at the written directive of the Director. Failure to replace any defective work shall be cause for the Director to revoke the contractor's license and remove his firm from the list of approved contractors.

#### **3. Emergency Coordination**

- a) The permit holder/contractor shall furnish the Director, local and State Police Departments with a list of names, addresses and telephone numbers of Contractor personnel who may be reached in case of emergency during hours when no work is being performed. On weekends and during storms the Permit Holder/Contractor shall assign certain personnel to stand-by duty and shall inform the Director of the arrangements.

#### **B. Construction Standards**

- 1. All excavations on paved street surfaces shall be precut in a neat straight line with pavement breakers or saws. Cutouts of the trench lines must be normal or parallel to the trench line. Pavement edges shall be trimmed to a vertical face and neatly aligned with the centerline of the trench. Unstable pavement over cave-ins shall be removed and aggregate bases restored. Jointed or broken pavement within one (1) foot of the restoration edge shall be removed. Prior to permanent surfacing the pavement shall be saw cut an additional six inches beyond the disturbed edge and removed.

2. When multiple openings are located with less than five (5) feet of original pavement remaining between adjacent openings, the permit holder/contractor shall neatly cut and remove the area of pavement between these adjacent areas and shall patch as one trench.
3. All previous sections shall also apply to sidewalks in all cases except concrete sidewalks. Concrete sidewalks shall be saw cut. Use of pavement breakers will not be allowed. On concrete sidewalks, all cuts shall be made to the nearest joint or score line on either side of the excavation. All sidewalk restorations shall be in accordance with the requirement of paragraph B4.
4. All backfilling of street openings shall be done in accordance with the following standards:
  - a). All work must be conducted in strict accordance with the latest regulations of OSHA for excavations, and other applicable safety regulations;
  - b) All work must be protected from freezing;
  - c) Whenever water is found standing in the excavation area, the water shall be removed by pump or other means before backfilling operations can commence.
  - d) Backfilling of excavations shall be performed by the Permit Holder/Contractor as soon as practicable so that the least possible subsequent settling will occur. Backfill material shall be spread in layers not exceeding eight (8") inches in loose depth and compacted to no less than 95% of the maximum dry density of the material as established by ASTM D1557. Rocks, broken pavement, or ledge particles larger than six (6) inches will be allowed in the backfill. The Permit Holder/contractor shall notify the Director, prior to beginning the backfilling operations to allowing adequate time for inspection.
  - e) Where the excavated material is primarily silt or rock, it shall be allowed for use as backfill only upon the express approval of the Director, with the intention of minimizing differential settling.
  - f) All remaining excavated material shall be removed from the job site and disposed of by the permit holder/contractor, in such a manner that will minimize interference with pedestrian and vehicular traffic. No material shall be left within the right-of-way once the repair and/or installation is complete.
5. Temporary resurfacing shall be provided on all arterial and connector type streets and when directed by the Director. Temporary resurfacing shall consist of a minimum of two (2) inches of compacted temporary bituminous surfacing. Such temporary material shall be cold-mix except that the permit holder under this article may use or the Town may require hot-mix. The temporary surface material shall be placed and compacted to provide smooth even surface for the safe passage of pedestrian traffic and safe vehicular travel at the legal posted speed. The permit holder/contractor shall maintain the temporary paving for a period not to exceed 15 calendar days. At such time, the permanent restoration shall be made.
6. Permanent restoration of the pavement structure shall consist of aggregate subbase and base and hot bituminous pavement base and surface conforming to the following:

<u>Layer</u>	<u>M.D.O.T. Specification</u>	<u>Minimum Compacted Thickness</u>
Subbase Course	Aggregate Subbase – 703.06 Type D	18"
Base Course	Aggregate Base – 703.06 Type A	4"
Pavement Base	19.0 MM Superpave	3"



- b) Aggregate material shall be spread in layers not exceeding eight (8") inches in loose depth and compacted to no less than 85% of the maximum dry density of the material as established by ASTM D1557.
  - c) The maximum dry density of the material to be used in the trench along with the corresponding moisture contents, in accordance with ASTM D1557, shall be filed at the time of application to obtain a permit. The Town reserves the right to verify maximum density and field density at any time.
  - d) Hot bituminous pavement (Superpave) shall be placed and compacted in accordance with the latest MDOT specification.
7. All Temporary resurfacing shall be maintained for the safety of pedestrian and vehicular traffic until the permanent restoration is made. The permit holder shall erect and maintain warning signs, barriers, lights, as specified in the MUTCD until a permanent surfacing has been installed.

#### **E. Excavations in reconstructed or repaved roads.**

- 1 After a public road has been reconstructed or repaved, a Highway Opening Permit shall not be granted for five (5) years unless an emergency condition exists or unless the necessity for making such installation could not have been reasonably foreseen at the time of the reconstruction or repaving. This section shall be void unless the Town shall have given sixty (60) days notice by registered and/or certified mail of the impending work to all public utilities serving the road.**

#### **Article 4. Regulation of Heavy Loads**

**Heavy Load Limits.** Upon the recommendation of the Director, and after seven (7) days' notice published once in a newspaper of general circulation in the community, the Town, may post registered gross vehicle weight limits on any town road or state highway within its jurisdiction.

#### **Article 5 – Approved Contractors**

##### **A. Purpose**

**The purpose of this Article is the regulation of Contractors and Utilities performing work in public rights-of-ways in the interest of public safety and protection of public works infrastructure.**

##### **B. License Required**

**No person, including utilities shall perform work in any public right-of-way without first obtaining license from the Director.**

##### **C. Administration**

- 1. A license will be issued upon written request to the Director accompanied by proof of insurance listed below and a license fee.**
  - A) The Director shall issue licenses annually to companies who have been identified as having the ability to perform work to Town standards in the right-of-way.**
  - B) The annual contractor license fee (*set by the Town Council*).**
  - C) Each license holder shall maintain at all times a minimum of \$300,000.00 public liability insurance coverage protecting himself, his agents and the Town from all such claims for damages or injuries and naming the Town of Freeport as an additional insured. Evidence of such coverage shall be a condition precedent to the issuance of any license hereunder and shall be submitted in a form satisfactory to the Director. Coverage shall be maintained throughout the**

period of work performed under this ordinance and shall not be less than the following amounts:

- 1) General liability including comprehensive form, premises/operations, underground explosion and collapse hazard, products/completed operations, contractual, independent contractors, broad form property damage and personal injury.  
    \$300,000 Bodily Injury and Property Damage Each Occurrence  
    \$500,000 Bodily Injury and Property Damage Aggregate  
    \$300,000 Personal Injury Aggregate
  - 2) Automobile liability including any vehicle, hired vehicle and non-owned vehicle- \$300,000 bodily injury and property damage combined.
  - 3) Workers' Compensation and Employers' Liability  
    \$100,000 each accident
- D) A license, issued to a contractor, may be revoked after notice and hearing, when the Licensee has willfully disobeyed any portion of this article.



## **TOWN OF FREEPORT**

### **SCHEDULE OF FEES**

**As of May, 1999**

- |   |          |
|---|----------|
| 1. Highway Entrance Permit<br>(Per Application) | \$35.00  |
| 2. Highway Opening Permit<br>(Per Application)  | \$50.00  |
| 3. Approved Contractor License<br>(Annual Fee)  | \$250.00 |
| 4. Winter Openings Permit                       | \$500.00 |

Contractor License fees are non-proratable or non-refundable and are issued on a calendar year basis.

...

