

Mary

**TOWN COUNCIL MEETING #13-98
AUGUST 11, 1998 - 7:00 P.M.
TOWN COUNCIL CHAMBERS**

SUMMARY AGENDA

- ITEM #176-98** To consider action relative to a proposed amendment to the Traffic and Parking Ordinance concerning parking on Harraseeket Road (Chapter 48). (Public Hearing).
- ITEM #177-98** To consider action relative to an amendment to the Administrative Code concerning Board and Commission Attendance Requirements (Chapter 2). (Public Hearing).
- ITEM #178-98** To consider action relative to a Re-Appointment to the Economic Development Corporation.
- ITEM #179-98** To consider action relative to a Re-Appointment to the Economic Development Corporation.
- ITEM #180-98** To consider action relative to a Re-Appointment to the Economic Development Corporation.
- ITEM #181-98** To consider action relative to an Appointment to the Cable T.V. Regulatory Board.
- ITEM #182-98** To consider action relative to an Appointment to the Cable T.V. Regulatory Board.
- ITEM #183-98** To consider action relative to an Appointment to the Planning Board.
- ITEM #184-98** To consider action relative to an Appointment to Coastal Waters Commission.
- ITEM #185-98** To consider action relative to an Appointment to the Board of Appeals.
- ITEM #186-98** To consider action relative to an Appointment to the Shellfish Commission.
- ITEM #187-98** To consider action relative to a proposed Zoning Map Change rezoning 56 acres off U.S. Route 1 South from RR-I to C-II (Winston Hill).
- ITEM #188-98** To consider action relative to the acceptance of donations for the Restoration of the 1939 Fire Truck.
- ITEM #157-98** Tabled July 22, 1998.

To consider action relative to an amendment to the Zoning Ordinance concerning parking requirements in Commercial Districts I, II and IV and the Local Business District (Chapter 21).

ITEM #158-98 Tabled July 22, 1998.

To consider action relative to an amendment to the Zoning Ordinance concerning the definition of Retail Trade (Chapter 21).

ITEM #159-98 Tabled July 22, 1998.

To consider action relative to amendments to the Public Peddlers Ordinance concerning Public Property Peddlers (Chapter 43).

ITEM #160-98 Tabled July 22, 1998.

To consider action relative to amendments to the Zoning Ordinance concerning Private Property Peddlers (Chapter 21).

ITEM #161-98 Tabled July 22, 1998.

To consider action relative to an amendment to the Zoning Ordinance concerning the Local Business District (Chapter 21).

OTHER BUSINESS:

1. Report on activities of the Recreation Committee.
2. Updates on Train Service and Natural Gas Lines.

COMMITTEE REPORTS:

Adjourn.

AGENDA
FREEPORT TOWN COUNCIL MEETING #13-98
TOWN HALL COUNCIL CHAMBERS
AUGUST 11, 1998 - 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: Genie Beaulieu, Chairperson, Larue Drive
David Soley, Vice Chairperson, Arnold Road
Edward Campbell, Gay Drive
Alan Hindley, Wardtown Road
Kenneth Mann, Mann Road
Stafford Soule, Arnold Road
Gloria Fogg DeGrandpre, Wolf Neck Road

FIRST ORDER OF BUSINESS: To waive the reading of the Minutes of #12-98 July 22, 1998 Meeting and accept the Minutes as printed.

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

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

COUNCIL MEETING #13-98
AUGUST 11, 1998

ITEM #176-98 To consider action relative to a proposed amendment to the Traffic and Parking Ordinance concerning parking on Harraseeket Road (Chapter 48). (Public Hearing).

MOTION: That the Public Hearing be opened.

MOTION: That the Public Hearing be closed.

MOTION: That Item #157-98 be tabled until August 25, 1998.

ITEM #177-98 To consider action relative to an amendment to the Administrative Code concerning Board and Commission Attendance Requirements (Chapter 2). (Public Hearing).

MOTION: That the Public Hearing be opened.

MOTION: That the Public Hearing be closed.

MOTION: That Item #177-98 be tabled until August 25, 1998.

ITEM #178-98 To consider action relative to a Re-Appointment to the Economic Development Corporation.

BE IT ORDERED: That Genie Beaulieu be re-appointed, effective immediately, to serve as a member of the Economic Development Corporation until June 1, 2001.

BE IT FURTHER ORDERED: That Ms. Beaulieu qualify by swearing an oath of office before the Town Clerk by August 21, 1998.

ITEM #179-98 To consider action relative to a Re-Appointment to the Economic Development Corporation.

BE IT ORDERED: That Edward Bonney be re-appointed, effective immediately, to serve as a member of the Economic Development Corporation until June 1, 2001.

BE IT FURTHER ORDERED: That Mr. Bonney qualify by swearing an oath of office before the Town Clerk by August 21, 1998.

ITEM #180-98 To consider action relative to a Re-Appointment to the Economic Development Corporation.

BE IT ORDERED: That Edgar Leighton be re-appointed, effective immediately, to serve as a member of the Economic Development Corporation until June 1, 2001.

BE IT FURTHER ORDERED: That Mr. Leighton qualify by swearing an oath of office before the Town Clerk by August 21, 1998.

COUNCIL MEETING #13-98
AUGUST 11, 1998

ITEM #181-98 To consider action relative to an Appointment to the Cable T.V. Regulatory Board.

BE IT ORDERED: That David Whitten be appointed, effective immediately, to serve as a member of the Cable T.V. Regulatory Board until October 1, 2000.

BE IT FURTHER ORDERED: That Mr. Whitten qualify by swearing an oath of office before the Town Clerk by August 21, 1998.

ITEM #182-98 To consider action relative to an Appointment to the Cable T.V. Regulatory Board.

BE IT ORDERED: That Lola Lee be appointed, effective immediately, to serve as a member of the Cable T.V. Regulatory Board until October 1, 2000.

BE IT FURTHER ORDERED: That Ms. Lee qualify by swearing an oath of office before the Town Clerk by August 21, 1998.

ITEM #183-98 To consider action relative to an Appointment to the Planning Board.

BE IT ORDERED: That _____ be appointed, effective immediately, to serve as a member of the Planning Board until May 1, 2001.

BE IT FURTHER ORDERED: That _____ qualify by swearing an oath of office before the Town Clerk by August 21, 1998.

ITEM #184-98 To consider action relative to an Appointment to Coastal Waters Commission.

BE IT ORDERED: That Roy Pierce be appointed, effective immediately, to serve as a member of the Coastal Waters Commission until April 1, 1999.

BE IT FURTHER ORDERED: That Mr. Pierce qualify by swearing an oath of office before the Town Clerk by August 21, 1998.

ITEM #185-98 To consider action relative to an Appointment to the Board of Appeals.

BE IT ORDERED: That Paul Lowe be appointed, effective immediately, to serve as a member of the Board of Appeals until July 1, 2001.

BE IT FURTHER ORDERED: That Mr. Lowe qualify by swearing an oath of office before the Town Clerk by August 21, 1998.

ITEM #186-98 To consider action relative to an Appointment to the Shellfish Commission.

BE IT ORDERED: That Carter Becker be appointed, effective immediately, to serve as a member of the Shellfish Commission until July 1, 2001.

BE IT FURTHER ORDERED: That Mr. Becker qualify by swearing an oath of office before the Town Clerk by August 21, 1998.

COUNCIL MEETING #13-98
AUGUST 11, 1998

ITEM #187-98 To consider action relative to a proposed Zoning Map Change rezoning 56 acres off U.S. Route 1 South from RR-I to C-II (Winston Hill).

BE IT ORDERED: That a Public Hearing be scheduled for August 25, 1998 at 7:00 p.m. in the Town Hall Council Chambers to discuss a proposed amendment to the Zoning Map.

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.

ITEM #188-98 To consider action relative to the acceptance of donations for the Restoration of the 1939 Fire Truck.

BE IT ORDERED: That the following donations for the restoration of the 1939 Fire Truck be accepted.

<u>NAME</u>	<u>DONATED AMOUNT</u>
Arthur Jordon	\$50.00
George St. Pierre	\$100.00
Bill Reynolds	\$35.00
Harraseeket Inn	\$100.00
Berenice Blanchard	\$10.00
Kim Worthington	\$100.00
Jay Enterprises	\$35.00
Goldenrod Garage	\$35.00
Wilburs of Maine	\$25.00
Lioness Club	\$200.00
Fred Tambellin	\$35.00
Frederick K. Bull, II	\$100.00
Gladys Moon	\$35.00
Edith Sweeney	\$25.00

ITEM #157-98 Tabled July 22, 1998.

To consider action relative to an amendment to the Zoning Ordinance concerning parking requirements in Commercial Districts I, II and IV and the Local Business District (Chapter 21).

BE IT ORDERED: That the proposed amendment to the Zoning Ordinance, as submitted to Public Hearing on July 22, 1998, be approved.

ITEM #158-98 Tabled July 22, 1998.

To consider action relative to an amendment to the Zoning Ordinance concerning the definition of Retail Trade (Chapter 21).

BE IT ORDERED: That the proposed amendment to the Zoning Ordinance, as submitted to Public Hearing on July 22, 1998, be approved.

**COUNCIL MEETING #13-98
AUGUST 11, 1998**

ITEM #159-98 Tabled July 22, 1998.

To consider action relative to amendments to the Public Peddlers Ordinance concerning Public Property Peddlers (Chapter 43).

BE IT ORDERED: That the proposed amendments to the Public Peddlers Ordinance, as submitted to Public Hearing on July 22, 1998, be approved.

ITEM #160-98 Tabled July 22, 1998.

To consider action relative to amendments to the Zoning Ordinance concerning Private Property Peddlers (Chapter 21).

BE IT ORDERED: That the proposed amendments to the Zoning Ordinance, as submitted to Public Hearing on July 22, 1998, be approved.

ITEM #161-98 Tabled July 22, 1998.

To consider action relative to an amendment to the Zoning Ordinance concerning the Local Business District (Chapter 21).

BE IT ORDERED: That the proposed amendment to the Zoning Ordinance, as submitted to Public Hearing on July 22, 1998, be approved.

OTHER BUSINESS:

1. Report on activities of the Recreation Committee.
2. Updates on Train Service and Natural Gas Lines.

COMMITTEE REPORTS:

Adjourn.

MINUTES
FREEPORT TOWN COUNCIL MEETING #13-98
AUGUST 11, 1998 – 7:00 P.M.

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

FIRST ORDER OF BUSINESS: TO WAIVE THE READING OF THE MINUTES OF MEETING #12-98 HELD ON JULY 22, 1998 AND ACCEPT THE MINUTES AS PRINTED.

MOVED AND SECONDED: TO WAIVE THE READING OF THE MINUTES OF MEETING #12-98 HELD ON JULY 22, 1998 AND ACCEPT THE MINUTES AS PRINTED.
(Councilors Campbell & Soule)

MOVED AND SECONDED: TO AMEND THE MINUTES ON PAGE 5, ITEM #162-98 TO REFLECT THAT THE ITEM WAS TABLED (UNANIMOUS VOTE) DUE TO THE FACT THAT MANAGER OLMSTEAD HAD TO GATHER FURTHER INFORMATION. THE ITEM WAS BROUGHT BACK ON THE AGENDA AND APPROVED WITH A UNANIMOUS VOTE OF APPROVAL (noted on page 6).
(Councilors Beaulieu & Soley) (7 Ayes) (0 Nays)

MOVED AND SECONDED: TO AMEND THE MINUTES ON PAGE 9, THIRD PARAGRAPH, TO CHANGE THE WORDING TO "MR. JAMES WAS ASKED...".
(Councilors Beaulieu & Campbell) (7 Ayes) (0 Nays)

MOVED AND SECONDED: TO AMEND THE MINUTES ON PAGE 10, SIXTH

PARAGRAPH, TO REMOVE THE LAST SENTENCE, "HE SUPPORTS THIS ORDINANCE". (Councilors Mann & Campbell) (7 Ayes) (0 Nays)

MOVED AND SECONDED: TO APPROVE THE MINUTES AS AMENDED. (Councilors Campbell & Soley) (7 Ayes) (0 Nays)

SECOND ORDER OF BUSINESS: PUBLIC COMMENT PERIOD.

(There were no public comments this evening.)

MOVED AND SECONDED: THAT THE PUBLIC COMMENT PERIOD BE CLOSED. (Councilors Campbell & Soley) (7 Ayes) (0 Nays)

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

ITEM #176-98 To consider action relative to a proposed amendment to the Traffic and Parking Ordinance concerning parking on Harraseeket Road (Chapter 48). (Public Hearing).

MOVED AND SECONDED: That the Public Hearing be opened. (Councilors Soley & Campbell) (7 Ayes) (0 Nays)

Chairperson Beaulieu stated that a letter supporting this ordinance amendment had been received from Marjorie Eno.

Mary Eliza Wengren stated that she lives adjacent to the road in question; she requested that the Council pass this ordinance amendment.

MOVED AND SECONDED: That the Public Hearing be closed. (Councilors Soley & Campbell) (7 Ayes) (0 Nays)

MOVED AND SECONDED: That Item #157-98 be tabled until August 25, 1998. (Councilors Soley & Campbell) (7 Ayes) (0 Nays)

ITEM #177-98 To consider action relative to an amendment to the Administrative Code concerning Board and Commission Attendance Requirements (Chapter 2). (Public Hearing).

MOVED AND SECONDED: That the Public Hearing be opened. (Councilors Campbell & Soule) (7 Ayes) (0 Nays)

Councilor Campbell explained the reasons that this item had been brought forward, adding that this was an effort to revitalize attendance.

Councilor Mann asked if this applied to councilors who serve on boards and committees.

Discussion followed re: difficulty for boards and committees having quorums, attendance rules as to what applies for voting members, MMA, COG, etc., attendance addressed in respective groups' rules, date this would come into effect, clarification of voting members VS. liaisons, etc.

MOVED AND SECONDED: That the Public Hearing be closed. (Councilors Campbell & Soule) (7 Ayes) (0 Nays)

MOVED AND SECONDED: That Item #177-98 be tabled until August 25, 1998. (Councilors Campbell & Soule) (7 Ayes) (0 Nays)

ITEM #178-98 To consider action relative to a Re-Appointment to the Economic Development Corporation.

BE IT ORDERED: That Genie Beaulieu be re-appointed, effective immediately, to serve as a member of the Economic Development Corporation until June 1, 2001. **BALLOT VOTE** (Councilors Hindley & Campbell)

Discussion followed re council appointments, Economic Development Corporation by-laws, etc.

BALLOT VOTE (7 Ayes) (0 Nays)

BE IT FURTHER ORDERED: That Ms. Beaulieu qualify by swearing an oath of office before the Town Clerk by August 21, 1998. **ROLL CALL VOTE** (Councilors Hindley & Campbell) (7 Ayes) (0 Nays)

ITEM #179-98 To consider action relative to a Re-Appointment to the Economic Development Corporation.

BE IT ORDERED: That Edward Bonney be re-appointed, effective immediately, to serve as a member of the Economic Development Corporation until June 1, 2001. **BALLOT VOTE** (Councilors Soule & Campbell) (7 Ayes) (0 Nays)

BE IT FURTHER ORDERED: That Mr. Bonney qualify by swearing an oath of office before the Town Clerk by August 21, 1998. **ROLL CALL VOTE** (Councilors Soule & Campbell) (7 Ayes) (0 Nays)

ITEM #180-98 To consider action relative to a Re-Appointment to the Economic Development Corporation.

BE IT ORDERED: That Edgar Leighton be re-appointed, effective immediately, to serve as a member of the Economic Development Corporation until June 1, 2001. **BALLOT VOTE** (Councilors Mann & Campbell) (7 Ayes) (0 Nays)

BE IT FURTHER ORDERED: That Mr. Leighton qualify by swearing an oath of office before the Town Clerk by August 21, 1998. **ROLL CALL VOTE** (Councilors Mann & Campbell) (7 Ayes) (0 Nays)

ITEM #181-98 To consider action relative to an Appointment to the Cable T.V. Regulatory Board.

BE IT ORDERED: That David Whitten be appointed, effective immediately, to serve as a member of the Cable T.V. Regulatory Board until October 1, 2000. **BALLOT VOTE** (Councilors DeGrandpre & Campbell) (7 Ayes) (0 Nays)

BE IT FURTHER ORDERED: That Mr. Whitten qualify by swearing an oath of office before the Town Clerk by August 21, 1998. **ROLL CALL VOTE** (Councilors DeGrandpre & Campbell) (7 Ayes) (0 Nays)

ITEM #182-98 To consider action relative to an Appointment to the Cable T.V. Regulatory Board.

BE IT ORDERED: That Lola Lea be appointed, effective immediately, to serve as a member of the Cable T.V. Regulatory Board until October 1, 2000. **BALLOT VOTE** (Councilors Soley & Soule) (7 Ayes) (0 Nays)

BE IT FURTHER ORDERED: That Ms. Lea qualify by swearing an oath of office before the Town Clerk by August 21, 1998. **ROLL CALL VOTE** (Councilors Soley & Campbell) (7 Ayes) (0 Nays)

ITEM #183-98 To consider action relative to an Appointment to the Planning Board.

MOVED AND SECONDED: That Item #183-98 be tabled until the next regular meeting August 25, 1998. (Councilors Soley & Campbell)

Councilor Mann asked for clarification on this item.

Chairperson Beaulieu stated that the term has expired, but the person has remained in the position, as has been the policy.

VOTE (6 Ayes) (1 Nay-Mann)

ITEM #184-98 To consider action relative to an Appointment to Coastal Waters Commission.

BE IT ORDERED: That Roy Pierce be appointed, effective immediately, to serve as a member of the Coastal Waters Commission until April 1, 1999. **BALLOT VOTE** (Councilors Campbell & Soule) (7 Ayes) (0 Nays)

BE IT FURTHER ORDERED: That Mr. Pierce qualify by swearing an oath of office before the Town Clerk by August 21, 1998. **ROLL CALL VOTE** (Councilors Campbell & Soule) (7 Ayes) (0 Nays)

ITEM #185-98 To consider action relative to an Appointment to the Board of Appeals.

BE IT ORDERED: That Paul Lowe be appointed, effective immediately, to serve as a member of the Board of Appeals until July 1, 2001. **BALLOT VOTE** (Councilors Hindley & Campbell) (7 Ayes) (0 Nays)

BE IT FURTHER ORDERED: That Mr. Lowe qualify by swearing an oath of office before the Town Clerk by August 21, 1998. **ROLL CALL VOTE** (Councilors Hindley & Soule) (7 Ayes) (0 Nays)

ITEM #186-98 To consider action relative to an Appointment to the Shellfish Commission.

BE IT ORDERED: That Carter Becker be appointed, effective immediately, to serve as a member of the Shellfish Commission until July 1, 2001. **BALLOT VOTE** (Councilors Soule & Campbell) (7 Ayes) (0 Nays)

BE IT FURTHER ORDERED: That Mr. Becker qualify by swearing an oath of office before the Town Clerk by August 21, 1998. **ROLL CALL VOTE** (Councilors Soule & Campbell) (7 Ayes) (0 Nays)

ITEM #187-98 To consider action relative to a proposed Zoning Map Change rezoning 56 acres off U.S. Route 1 South from RR-I to C-II (Winston Hill).

BE IT ORDERED: That a Public Hearing be scheduled for August 25, 1998 at 7:00 p.m. in the Town Hall Council Chambers to discuss a proposed amendment to the Zoning Map.

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. **ROLL CALL VOTE** (Councilors Mann & DeGrandpre) (6 Ayes) (0 Nays) (1 Recuse-Soley)

ITEM #188-98 To consider action relative to the acceptance of donations for the Restoration of the 1939 Fire Truck.

BE IT ORDERED: That the following donations for the restoration of the 1939 Fire Truck be accepted.

<u>NAME</u>	<u>DONATED AMOUNT</u>
Arthur Jordan	\$50.00
George St. Pierre	\$100.00
Bill Reynolds	\$35.00
Harraseeket Inn	\$100.00
Berenice Blanchard	\$10.00
Kim Worthington	\$100.00
Jay Enterprises	\$35.00
Goldenrod Garage	\$35.00
Wilburs of Maine	\$25.00
Lioness Club	\$200.00
Fred Tambellin	\$35.00
Frederick K. Bull, II	\$100.00
Gladys Moon	\$35.00
Edith Sweeney	\$25.00

ROLL CALL VOTE (Councilors DeGrandpre & Campbell) (7 Ayes) (0 Nays)

ITEM #157-98 Tabled July 22, 1998.

To consider action relative to an amendment to the Zoning Ordinance concerning parking requirements in Commercial Districts I, II and IV and the Local Business District (Chapter 21).

BE IT ORDERED: That the proposed amendment to the Zoning Ordinance, as submitted to Public Hearing on July 22, 1998, be approved. **ROLL CALL VOTE** (Councilors Soley & Campbell) (7 Ayes) (0 Nays)

ITEM #158-98 Tabled July 22, 1998.

To consider action relative to an amendment to the Zoning Ordinance concerning the definition of Retail Trade (Chapter 21).

BE IT ORDERED: That the proposed amendment to the Zoning Ordinance, as submitted to Public Hearing on July 22, 1998, be approved. **ROLL CALL VOTE** (Councilors Campbell & Soule) (7 Ayes) (0 Nays)

ITEM #159-98 Tabled July 22, 1998.

To consider action relative to amendments to the Public Peddlers Ordinance concerning Public Property Peddlers (Chapter 43).

BE IT ORDERED: That the proposed amendments to the Public Peddlers Ordinance, as submitted to Public Hearing on July 22, 1998, be approved. **ROLL CALL VOTE** (Councilors Hindley & Campbell)

Town Planner Cohen explained the proposed changes: regarding Public Peddlers, this was proposed to eliminate "packaged goods" VS. food that would be eaten in the vicinity of the cart where item was purchased. Regarding the date that refers to grandfathering, the purpose was that if there were anyone who held a victular license from July 1986 to April 6, 1993, that peddler was grandfathered.

Councilor Mann requested clarification.

Planner Cohen stated that this is on the books now, and is not a change.

Chairperson Beaulieu stated that we need to add to 526A that any cart in existence as of May 6, 1998 is grandfathered.

MOVED AND SECONDED: To amend Item #159-98 Public Peddlers by deleting the words from Section 43-201, "in the vicinity of the cart". (Councilors Soley & Mann) (6 Ayes) (1 Excused-Campbell)

VOTE AS AMENDED (6 Ayes) (1 Excused-Campbell)

ITEM #160-98 Tabled July 22, 1998.

To consider action relative to amendments to the Zoning Ordinance concerning Private Property Peddlers (Chapter 21).

BE IT ORDERED: That the proposed amendments to the Zoning Ordinance, as submitted to Public Hearing on July 22, 1998, be approved. **ROLL CALL VOTE** (Councilors Soule & DeGrandpre)

MOVED AND SECONDED: To amend Item #160-98 by deleting the words, "...in the vicinity of the cart..." in Section 526 D-1. (Councilors Soley & DeGrandpre) (6 Ayes) (1 Excused-Campbell)

MOVED AND SECONDED: To amend Item #160-98 by deleting the third paragraph of Section 526A, on page 131, by removing the language, "...the location of any peddler on private property who has held a victular license continuously from prior to July 1986 to April 6, 1993 is grandfathered". (Councilors Soley & Soule) (5 Ayes) (1 Nay-Mann) (1 Excused-Campbell)

MOVED AND SECONDED: To amend Item #160-98 to add the following language to Section 526A, "...the location of any peddler on private property who held a permit issued by the Code Enforcement Officer as of May 6, 1998 is grandfathered". (Councilors Soley & Soule)

Councilor Mann requested clarification on this amendment.

Town Planner Cohen stated that anyone who wishes to operate as a peddler has to get a license from the Code Enforcement Officer. Persons who sell, for example, corn, are exempt from the ordinance.

VOTE ON AMENDMENT (7 Ayes) (0 Nays)

VOTE ON ITEM #160-98 AS AMENDED (7 Ayes) (0 Nays)

ITEM #161-98 Tabled July 22, 1998.

To consider action relative to an amendment to the Zoning Ordinance concerning the Local Business District (Chapter 21).

BE IT ORDERED: That the proposed amendment to the Zoning Ordinance, as submitted to Public Hearing on July 22, 1998, be approved. **ROLL CALL VOTE** (Councilors Mann & Campbell) (7 Ayes) (0 Nays)

OTHER BUSINESS:

1. Report on activities of the Recreation Committee.

Horace Gower, Committee Chair stated that we have a signed option on the Flanders Property; a wetland survey has been completed and out of the 42 acres, approximately 10 acres are wet. The Committee voted 4 to 1 to pursue purchase of the property.

Councilor Mann reviewed the history of the Mast Landing pursuit; it would be prudent to keep in mind the lessons we have learned. He stated that the next step would be to engage a firm to see what can be built on this property what is desired.

Councilor Campbell stated that as we develop plans, we need to engage the right people; to aid in the focus this, we need to authorize the Recreation Committee to pursue this.

Miscellaneous discussion followed re: potential costs involved, date of November 1, 1998 to exercise the option, authorizing the Town Manager to solicit proposals for project design, question of what the responsibility of the Committee, procedure to follow, etc.

MOVED AND SECONDED: To move an item not on the printed agenda.
(Councilors Mann & Soley) (7 Ayes) (0 Nays)

Councilor Hindley that they proceed with caution, regarding this item.

Councilor Campbell stated that it is important to empower the Recreation Committee to pursue this.

MOVED AND SECONDED: That the Recreation Committee/Building Committee work with the Town Manager and bring to the Town Council a proposal to engage a consultant for designing and engineering and making sure that the site is acceptable, and bring that proposal back to the Town Council.
(Councilors Mann & Campbell)

Discussion followed re: if this would include prices, i.e., cost estimates, description of the property, looking at the whole picture of the project over time, need to define duties, etc.

VOTE (7 Ayes) (0 Nays)

Mr. Gower stated that we also need to meet with the Council, the Recycling Committee and the Recreation Committee in a workshop setting.

Councilor Soley stated that he would like to discuss the purpose of the Recreation Committee, i.e., global entity, overseeing and maintaining all Town recreation areas, etc. He suggested that the Recreation Committee make a proposal to the Council.

Councilor Mann stated that he hates to see this committee have too much to do.

Councilor Soley stated that he would like to see a workshop set including the Freeport Community Education and all groups involved in Town recreation. He hopes that this would save Town dollars by combining maintenance tasks.

Chairperson Beaulieu stated that she agreed with this suggestion.

2. Updates on Train Service and Natural Gas Lines.

Chairperson Beaulieu stated that she had attended a stakeholders' meeting for towns that have a train station and things are progressing; there are monies

available for a train platform; Freeport already has dollars available; we have copies of draft agreements to be signed; the target date will be in the fall of 1999.

Discussion followed re: definition of a "train station", overall plan is to run as far as Brunswick, etc.

Chairperson Beaulieu reported on natural gas line activities to date; the PUC hearings, CMP is vigorously talking with various towns; we need to review our open street ordinances; we have succeeded in staying within the budget in this effort.

Councilor Mann asked when CMP might start work in Freeport.

Manager Olmstead stated that as soon as they sign a contract with one of the anchors, i.e., BIW, BNAS or Bowdoin College, then we would see a very quick extension from Cousins Island and then coming north to Freeport.

Miscellaneous discussion followed re: "war of the trenches", dual lines, both companies are having on-going discussions with major users, etc.

3. Councilor Campbell reported on the Facilities Committee item, the steps at Town Hall. He has received a quote to repair these with granite steps at a cost of \$2,800, not including handrails.

Councilor Hindley suggested glazing.

Councilor Campbell stated that the quote includes the removal of the steps and replacing them with 3 seven-foot granite steps, repaving of the front of the walk.

Chairperson stated that the deck should be redone as well.

MOVED AND SECONDED: To enter an item not on the printed agenda. (Councilors Campbell & Soule) (7 Ayes) (0 Nays)

MOVED AND SECONDED: To authorize the Town Manager to expend up to \$3,200 from the Miscellaneous and Contingency account, to replace and repair the steps at the entrance to the building with granite steps and associated handrails. (Councilors Campbell & Soule) (7 Ayes) (0 Nays)

COMMITTEE REPORTS: (There were no reports this evening.)

MOVED AND SECONDED: That the meeting be adjourned at 8:55 P.M. (Councilors Hindley & Soley) (7 Ayes) (0 Nays)

Respectfully submitted,

Pat Goodwin, Recording Secretary

Dear Mrs. Beaulieu,

Aug. 7, 1998

Town Council Chairman,

I am writing to you regarding an issue before the Traffic + Parking Committee. I fully support the "no parking for 208'" along Hamaeekot Road, So. Freeport. We live at 3 Hamaeekot Road -- directly next to this proposed no parking area. We have small children and pets and it's impossible to see on coming cars as we pull out of our driveway if there are cars parked on the hill. The street is just too narrow and parking along this side creates real hazards when we leave our home on foot, bike, or in the car. We support this no parking measure.

Thank you for considering our perspective.

Sincerely,

ENG
Majoni B. Guo
3 Hamaeekot Road
So. Freeport

* I have sent a copy of this letter to you at the Town Council meeting.

*Approved August 11, 1998
Meeting #13-98; item #157-98
P.H. Meeting #12-98 (7-22-98)*

Adopted
PROPOSED AMENDMENT

**ZONING ORDINANCE
(CHAPTER 21)**

Section 514. Off-Street Parking and Loading.

A. Off-Street Parking.

**5. Retail Trade, Ship
Chandlery, Commercial
Sales and Service,
Commercial Fishery:**

1 parking space for each 150 square feet, except in Commercial Districts I, II and IV and the Local Business District the requirement shall be 1 parking space for each 200 square feet, or major fraction thereof, of gross floor area, plus 1 parking space for each employee, based on the highest expected average employment. For retail trade and commercial sales and service, the number of employees shall be calculated using the formula of minimum of one employee per 1,000 square feet or major fraction thereof of gross floor area of building. For uses with less than 1,000 square feet of gross floor area of buildings, a minimum of one employee parking space is required.

Approved August 11, 1998
Meeting #13-98; item #158-98
P.H. Metz #12-98 (7/22/98)

adopted
PROPOSED AMENDMENTS
FREEPORT ZONING ORDINANCE
CHAPTER 21

Article I - Title, Purpose and Definitions.

Section 104. Definitions

Retail Trade: Any business engaged primarily in the sale, rental or lease of goods and/or services individually or in small quantities to the ultimate consumer for direct consumption and/or use, and not for resale. The term Retail Trade shall not include auto service stations, auto repair service garage, and all types of restaurants.

The term Retail Trade shall include Furniture/Large Appliance Showrooms which are retail trade establishments where the major activity is display area for furniture such as but not limited to tables, chairs, bureaus and sofas, and/or large appliances such as but not limited to refrigerators, stoves, washers and dryers. The furniture and large appliances are large pieces which are placed on the floor for customers to view. Specific parking requirements for this type of retail trade are listed in Section 514.4. below.

TOWN OF FREEPORT

Municipal Offices
(207) 865-4743
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MEMO

TO: Freeport Town Council
FROM: Freeport Planning Board
SUBJECT: ZONING AMENDMENT
DATE: May 7, 1998

On May 6, 1998, the Freeport Planning Board held a public hearing on a proposed amendment to the Freeport Zoning Ordinance, Section 104. The Board voted unanimously to recommend the following motion to the Council:

"Move to recommend to the Town Council the proposed amendment to Section 104 for the following reasons.

1. This amendment will clarify that this use is a subset of "Retail Trade" but has a different parking requirement.
2. Minor amendments to the Zoning Ordinance are consistent with the Freeport Comprehensive Plan."

adopted
PROPOSED AMENDMENTS
PUBLIC PEDDLERS' ORDINANCE

*Approved August 11, 1998
Meeting #13-98; item #154-98
P.H. mtg. #12-98 (7-22-98)*

CHAPTER 43

ARTICLE I, TITLE, PURPOSE AND DEFINITIONS

Section 43-101 Title

This Ordinance shall be known and may be cited as the Public Peddler's Ordinance of the Town of Freeport

Section 43-102 Purpose

The purpose of this Ordinance is to define, regulate and license peddlers.

Section 43-103 Definitions

1. The word "person" as used herein shall include the singular and and the plural, and shall also mean and include any person, firm or corporation, association, club, partnership or society, excepting bonafide charitable, service, religious, municipal organizations or agencies, or organizations sponsored by the 4th of July committee or its successor.
2. The word "peddler" as used herein shall include any person selling or offering for sale tangible commodities from any public street or other public place within the Town of Freeport, and where delivery is made at the time of sale. The word "peddler" shall include the words "hawker" and "huckster".
3. The word "town" shall mean the Town of Freeport, Maine.
4. The word "resident" shall mean a person whose domicile is in Freeport.
5. The words "Licensing Board" shall mean the Town Council or its designee.

ARTICLE II GENERAL PROVISIONS

Section 43-201 License Required

It shall be unlawful for any person to engage in the business of peddler as defined in Article I of this Ordinance within the corporate limits of the Town of Freeport without first obtaining a license therefore as provided herein. Peddlers' licenses shall be issued for the sale of food items only and those food items shall be primarily intended to be consumed ~~in the vicinity of the cart at the time of purchase.~~ Any distribution of free product samples shall be limited to samples of food for sale at that cart. Peddlers' licenses and shall be limited to one per person.

*removed
per
council
vote
8/11/98*

Section 43-202 Application Requirements and Licensing Procedures

1. Applications for peddler licenses shall be accepted only on municipal business days, within each category, according to the following schedule.

Renewal applications by residents - January 2 through 7.
Renewal applications by non-residents - January 8 through 15.
New applications by residents - January 16 through 23.
New applications by non-residents - January 24 through 31.

2. Applications for licenses under this Ordinance must be made by the owner or lessor of the cart. The applicant shall file with the Town Clerk a sworn application in writing on a form to be furnished by the Town Clerk, which shall require the following information:
 - a. Name and description of the applicant including company, corporation, DBA, etc.;
 - b. Address - local and legal address for receipt of notices. In the event of change of either address, the applicant is obligated to notify the Town Clerk so that the application may be revised;
 - c. A brief description of the types of food and/or beverages to be sold;
 - d. If a vehicle is to be used to transport the cart, a description of the same, together with license number or other means of identification;
 - e. A photograph of the applicant, taken within 60 days immediately prior to the date of the filing of the application, which picture shall be 2"x2" showing the head and shoulders of the applicant in a clear and distinguishing manner;
 - f. The names of at least two (2) reliable property owners of the Town who will certify as to the applicant's good character and business responsibility, or, in lieu of the names of references, any other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility;
 - g. A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefore;

- h. A sketch, drawn to scale, and, if available, a photograph of the cart to be used in the operation of the business labeling all aspects including, but not limited to, materials, measurements, appurtenances, signs, awnings, umbrellas, fuel, refrigeration, off-cart items, water supply and colors to indicate compliance with the performance standards listed in Section 43-204 below. Specific measurements, designs and locations of the cart and all appurtenances, including all off-cart items, shall be submitted.

Following the assignment of the location, a sketch, drawn to scale, showing the proposed operations location, and its measurements the location of the cart and all appurtenances, all off-cart items, and the relationship of all of the above features to all site features of the immediate area including, but not limited to, sidewalks, driveways, buildings, landscaping, paths, signs and utilities, to show compliance with the requirements of this Ordinance shall be submitted to the Town Clerk.

3. A non-refundable application fee of Fifty Dollars (\$50.00) for residents and One Hundred Dollars (\$100.00) for non-residents shall accompany each application. A non-refundable license fee of Four Hundred and Fifty Dollars (\$450.00) for residents and Six Hundred and Fifty Dollars (\$650.00) for non-residents shall be paid at the time the license is issued;
4. a. Upon receipt of such application, the original shall be referred to the Chief of Police, who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good.
- b. If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his recommendation for non-issuance and his reasons for same and return said application to the Town Clerk, who shall notify the applicant that his application is disapproved.
- c. If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police shall endorse on the application his recommendation for approval and return said application to the Town Clerk, who shall forward the application to the Licensing Board for final action.
5. a. At its first meeting after January 7, the Licensing Board shall grant renewal licenses to qualified residents who have satisfied all provisions of this Ordinance.

- b. At its first meeting after January 15, the Licensing Board shall grant renewal licenses to qualified non-residents who have satisfied all provisions of this Ordinance.
- c. At its first meeting after January 23, the Licensing Board shall by lottery grant new licenses to qualified residents who have satisfied all provisions of this Ordinance.
- d. At its first meeting after January 31, the Licensing Board shall by lottery grant new licenses to qualified non-residents who have satisfied all provisions of this Ordinance.
- e. After the commercial licenses have been granted, the Town Clerk may issue them but not until the licensee has submitted to the Town Clerk:
 - 1. A copy of the required certificate of insurance required by Section 43-203(5);
 - 2. The location of the parking space required by Section 43-203(4) and a copy of the lease agreement or other instrument under which the parking space will be available to the applicant.
 - 3. A valid victualers license. The peddler cart may operate only while such license is in effect.
 - 4. A valid license issued by the State of Maine Department of Human Services for food service. The peddler cart may operate only while such license is in effect.
- f. After the Licensing Board has granted all five licenses, the Board or its designee shall conduct a lottery to assign peddler locations. At least 14 days before the lottery, the Licensing Board or its designee shall mail written notice of the time and place of the lottery to each licensed peddler and shall post and publish public notice. Those licensed peddlers who are present at the lottery in person or by agent acting under written authority may select their own locations in the order in which their names are drawn. Licensed peddlers who are not so present will be assigned locations at random by the Licensing Board or its designee. Issued licenses shall contain the signature and seal of the issuing officer and shall show the name, address and photograph of said licensee, the kind of goods to be sold thereunder, the date of issuance, and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such peddling. The Town Clerk shall keep a permanent record of all licenses issued.

- g. Any person who has held a peddler's license under this Ordinance for four consecutive renewal terms shall not be issued a fifth renewal license but may apply as a new applicant. Renewals prior to January 1995 shall not be considered when calculating renewal terms.

Section 43-203 General Provisions

1. The number of peddler licenses issued annually shall not exceed five (5) commercial licenses and the two (2) non-commercial licenses provided in Section 43-203 (2&3). The Traffic and Parking Committee will designate commercial peddler locations for each calendar year no later than November 30 of the preceding year. Safety concerns shall be a major criteria when designating locations. The Traffic and Parking Committee shall have the authority to relocate existing commercial peddler locations if the Police Chief determines that they are safety hazards.
2. The sidewalk in front of Map 11, Lot 107 shall be reserved for use by a Freeport school group during the period from Memorial Day through Labor Day. Each year a license shall be granted to a qualified Freeport school organization during this period by the Licensing Board. Revenues raised during this period shall be used for school related purposes. During the period from the day after Labor Day to Memorial Day, a license to use the space shall be issued to a qualified Freeport public service, school or municipal group on a first-come-first serve weekly basis by the Town Clerk. The licensee must follow all provisions of the Ordinance except no fees or proof of insurance shall be required.
3. The right of way at the southerly corner of Mill Street and Depot Street, Map 10, Lot 24, shall be reserved for use by a Freeport school group during the period from Memorial Day through Labor Day. Each year a license shall be granted to a qualified Freeport school organization during this period by the Licensing Board. Revenues raised during this period shall be used for school related purposes. During the period from the day after Labor Day to Memorial Day, a license to use the space shall be issued to a qualified Freeport public service, school or municipal group on a first-come-first serve weekly basis by the Town Clerk. The Licensee must follow all provisions of the Ordinance except no fees or proof of insurance shall be required.

4. **Parking:** Each licensee must provide one parking space per care in compliance with the requirements of Section 5.14 A.5 of the Freeport Zoning Ordinance for retail trade operations. The licensee must have control and possession of the parking space for each month of operation of the cart by written lease agreement or other legal instrument. In lieu of providing one additional parking space, a peddler may pay a per-month fee to the Town based on the highest rental of the Town owned Oak Street parking lot.
5. Peddlers shall maintain in full force and effect at all times a policy of comprehensive public liability insurance with limits of not less than \$300,000, naming the Town of Freeport as additional insured. A certificate of insurance must be provided before a peddler's license is issued.
6. All Freeport municipal, school and public service groups using the locations described in Sections 2&3 above shall provide the Town Clerk's Office with a complete financial report of activities conducted at these locations by December 31 of each year. Failure to comply with this provision may result in forfeiture of the right to use either location during the following calendar year.
7. Licenses for locations described in Sections 2&3 above for Memorial Day through Labor Day shall be granted by the Licensing Board at its first meeting in May of each year. Application for licenses must be submitted to the Town Clerk's Office no later than April 15. Should more than one application be received for one or both of the locations, the Licensing Board shall grant licenses based on the drawing of lots.
8. A license issued by the State of Maine Department of Human Services for food service and a victualers license issued by the Freeport Town Council must be obtained before peddler cart operation commences and the peddler cart may operate only while such licenses are in effect.

Section 43-204 Performance Standards

1. Location. The cart shall not be operated in a way that would restrict or interfere with ingress to or egress from any building, abutting parcel or public place or obstruct adequate access by fire, police or sanitation vehicles. The cart shall not interfere with pedestrian flow on the sidewalk.
2. All utility connections shall be secured and safe.
3. The operations area shall be kept clean and free of litter. At least one trash receptacle shall be provided. Public trash receptacles on the street shall not be used by the operation. All trash shall be disposed of in conformance with Town regulations.
4. Cart design shall conform to the following requirements except that permitted non-conforming carts existing before January 1, 1995 shall be permitted to operate for a period of three years from January 1, 1995 to December 31, 1997. After December 31, 1997, all carts shall conform to these requirements.
 - a. Materials: Carts may be commercial construction or individually constructed. All carts shall be made of solid, durable materials.
 - b. Color: Neon and fluorescent colors are prohibited. Permitted colors shall be shades of the following: red, white, gray, black, yellow, maroon, green, blue, brown, beige and stainless steel.
 - c. Shape: "Theme" carts, such as one in the shape of hot dogs are prohibited.
 - d. Size: Maximum dimensions of a peddler's cart or unit shall be no greater than 38 inches in width and 8 feet in length and must be removed from sidewalks at the end of each day. Maximum height of the cart shall be six (6) feet from the top of the cart body, excluding umbrella or awning, to the bottom of the cart where it (or the wheels) touches the ground. Maximum height from the bottom of the cart (or the wheels) to the uppermost top of any umbrella or awning attached to the cart shall be eight (8) feet. The bottom of the canopy of the umbrella or awning shall be at least 80" off the ground.
5. Awnings and umbrellas shall be constructed of a non-rigid fabric such as, but not limited to, canvas, ripstop nylon or soft plastic.

6. The hitch shall be visually identified for safety purposes with a wrapper, bicycle type flag or other similar unobtrusive identifying device which does not obstruct the clear area and which meets the requirements of the Federal Americans with Disabilities Act.
7. Cart shall not be motorized.
8. Peddler carts are allowed the following signs subject to the following requirements.
 - a. No more than two (2) signs, excluding lettering on an umbrella or awning, are permitted on each cart. Lettering on an umbrella or awning is permitted in addition to the two signs. In addition, one menu board is permitted and shall be no larger than six (6) square feet. A menu board is not considered a sign.
 - b. Each sign shall be secured to the cart at a maximum height no higher than the bottom edge of the umbrella or awning material.
 - c. The maximum size of each sign shall be four (4) square feet.
 - d. Each sign face shall be counted as one sign.
 - e. Free standing signs are prohibited.
 - f. Sign design shall meet the following requirements:
 1. One or both signs may be preprinted, movable letter signs or chalk boards;
 2. Any other type of sign shall be included as part of the approval process.
9. Cart lighting shall conform to the following requirements:
 - a. Lighting shall not increase the light level at the perimeter of the operations area by more than 5 foot candles above the ambient light level. However, total maximum lighting at the perimeter of the operations area shall not exceed fifteen (15) foot candles.
 - b. Light sources shall be aimed or shielded so that the light projects downward and in no case shall the angle be less than 20 degrees below horizontal.
10. Generators are prohibited.
11. Cart operators shall dress in a neat and clean manner.

12. Off-cart items, except for ones located on ~~or under~~ the cart, are limited to the following items: one trash receptacle, one recycling receptacle, two coolers and one chair. These items shall be located immediately adjacent to or under the cart.
13. No animals shall be attached to the cart except for guide animals.
14. Amplified sound shall not exceed 75 decibels during the day and 55 decibels at night.
15. All applicable local, state and federal requirements shall be met.
16. A flame resistive shield surrounding the cooking elements shall be installed to protect the customer from open flame and hot surfaces. The cooking elements shall be approved listed (i.e., U.L. Factory Mutual, etc.) permanently attached to the cart and not in or on separate facilities. An ABC extinguisher shall be mounted to the cart. The peddler cart shall meet all local, state and national fire codes. Before a permit is issued, the peddler cart containing cooking elements shall be inspected by the Fire Department. An inspection fee in the amount set by the Town Council shall be paid to the Fire Department by the owner of the cart prior to its use.
- ~~17. A license issued by the State of Maine Department of Human Services for food service shall be obtained before a license is issued by the Town Clerk or his/her designee.~~
18. Each cart shall display the its valid State and local food service and victualers licenses in a visible location.

Section 43-205 Transfer

No license issued under the provisions of this Ordinance shall be used at any time by any person other than the one to whom it was issued.

Section 43-206 Exhibition of License

Peddlers are required to exhibit their licenses at the request of any citizen.

Section 43-207 Revocation of License

1. Licenses issued under the provisions of this Ordinance may be revoked by the Licensing Board after notice and hearing for any of the following causes:

- a. Fraud, misrepresentation or false statement contained in the application for license;
 - b. Fraud, misrepresentation, or false statement made in the course of carrying on his business as a peddler;
 - c. Any violation of this Ordinance;
 - d. Conviction of any crime or misdemeanor involving moral turpitude;
 - e. Conducting the business of peddling in any unlawful manner or in such a manner as to constitute a menace to the health, safety, or general welfare of the public.
2. Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at the licensee's legal address at least five (5) days prior to the date set for hearing.

Section 43-208 Expiration of License

All licenses issued under the provisions of this Ordinance shall expire at 11:59 p.m. on December 31 of the year of issuance.

ARTICLE III APPEAL AND PENALTY

Section 43-301 Appeal

Any person aggrieved by the action of the Chief of Police or the Town Clerk in the disapproval of an application as provided in Article II of this Ordinance shall have the right of appeal to the Town Council. Such appeal shall be taken by filing with the Town Council within fourteen (14) days after notice of the action complained of has been mailed to such person's legal address, a written statement setting forth fully the grounds for the appeal. The Town Council shall set a time and place for a hearing on such appeal, and notice of such hearing shall be given to the appellant in the same manner as provided in Article II of this Ordinance for notice of hearing on revocation. The decision and order of the Town Council on such appeal shall be final and conclusive. Any person aggrieved by the action of the Licensing Board shall have the right to appeal to Superior Court.

ARTICLE IV ENFORCEMENT AND PENALTY

Section 43-401

1. This Ordinance shall be enforced by the Town's Codes Enforcement Officer.
2. Any person aggrieved by a decision of the Codes Enforcement Officer shall have the right to appeal that decision to the Board of Appeals. An appeal must be filed in writing with the CEO within ten (10) days after the "date of issuance" inscribed by the Codes Enforcement Officer on a written notice of decision sent to the alleged violator.
3. Any person violating this ordinance shall commit a civil violation, punished by:
 - a. For the first offense, a civil penalty of \$100 per day per occurrence;
 - b. For the second violation, revocation of the license by the Licensing Board.

TOWN OF FREEPORT

Municipal Offices
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MEMO

TO: Freeport Town Council
FROM: Freeport Planning Board
SUBJECT: ZONING AMENDMENT
DATE: May 7, 1998

On May 6, 1998, the Freeport Planning Board held a public hearing on amendments to the Public Peddlers' Ordinance and the Freeport Zoning Ordinance, Section 526 (Peddlers on Private Property). The Board voted unanimously to recommend the following motion to the Council:

"Move to recommend to the Town Council the adoption of proposed amendments to Chapter 43 - Public Peddlers' Ordinance and to Chapter 21, Freeport Zoning Ordinance, Section 526 (Peddlers on Private Property) for the following reasons:

1. The amendments will increase the uniformity of regulations on public and private peddlers.
2. The amendments provide for increased emphasis on safety issues when reviewing cart locations.
3. Cart locations will be reviewed by the Planning Board when they are proposed in approved site plans or site plan-eligible properties to assure that the locations will be in conformance with approved site plans.
4. These are minor adjustments to the Zoning Ordinance which are consistent with the Freeport Comprehensive Plan."

Approved August 11, 1998
Meeting #13-98; item #160-98
P.H. Mtg #12-98 (7-22-98)

Adopted

PROPOSED AMENDMENTS

PEDDLERS ON PRIVATE PROPERTY
ZONING ORDINANCE
CHAPTER 21

Section 526 Peddlers on Private Property

A. Findings and Purpose

It is found and declared that:

The current ordinances regulate peddlers on the public street and place under Chapter 43 of the Town of Freeport Codified Ordinance, but peddlers on private property are not permitted uses;

The location of any peddler on private property who ~~has~~ held a permit ~~viator's~~ license continuously from prior to July of 1986 to issued by the Code Enforcement Officer April 6, 1993 is grandfathered;

Reasonable regulation of peddlers on private property is necessary to protect the public health, safety and welfare of citizens and visitors to the Town;

Peddlers operate mainly on a seasonal basis out of mobile temporary carts and their potential impact is greatest during times of increased commercial activity;

Peddlers on private property, individually and cumulatively, have an impact similar to small, permanent structures and other uses regulated by zoning and other ordinances and need to be regulated to achieve conformity with the objectives and purposes of the Comprehensive Plan, Zoning Ordinance and Design Review Ordinance;

In order to permit the Town to monitor peddler number, density, location, safety and general conformity with overall Town planning goals and to enact future amendments as necessary, no peddler granted a permit under this Section will acquire any future rights to a permit renewal beyond the date of expiration of that permit.

B. Exemptions

The following activities are exempt from the provisions of this section of the Ordinance.

1. Peddlers regulated by Chapter 43 "Peddlers' Ordinance" of the Town of Freeport Codes;
2. Peddler activities conducted by organizations sponsored by the 4th of July Committee or its successor.

C. Administration

1. Permits Required

After May 6, 1993, no peddler on private property shall engage in this activity without first obtaining a permit from the Codes Enforcement Officer. If the peddler cart will be located on a parcel containing a use subject to site plan review or on a parcel which has an approved site plan, site plan approval from the Planning Board shall be obtained before application for a permit is made to the Codes Enforcement Officer. Peddler carts in the Design Review District are exempt from review by the Design Review Board.

2. Permit Application

- a. The applicant for CEO approval shall be the owner of the property on which the peddler cart will be located;
 - b. Every applicant shall pay the fee set by the Town Council and submit to the CEO a written application on a form provided by the Town substantiating that the activity meets the requirements of this Section. The property owner and the peddler shall sign the application.
3. The CEO shall approve the permit application if a determination is made that the activity will be in conformance with the requirements of this Section.
 4. Any change in the operation as approved by the CEO shall require reapproval by the CEO and by the Freeport Planning Board if the peddler operation requires site plan approval under Section 526.C.1 above.
 5. Application Information
 - a. Name, home and business address and telephone number of the property owner (applicant) and name, home and business address and telephone number of the peddler cart owner or cart operator, if different from the applicant;

- b. A description of the types of food and/or beverages to be sold.
- c. A sketch, drawn to scale, showing the proposed operations location and its measurements, the location of the cart and all appurtenances, all off-cart items, and the relationship of all of the above features to all site features of the entire parcel including, but not limited to, sidewalks, driveways, buildings, landscaping, paths, signs and utilities, to show compliance with the performance standards of this Section;
- d. Length of time, to maximum of one year, that the activity will take place;
- e. A sketch, drawn to scale, and, if available, a ~~or~~ photograph of the cart to be used in the operation of the business, labeling all aspects including, but not limited to, materials, measurements, appurtenances, signs, awnings, umbrellas, fuel, refrigeration, off-cart items, water supply, colors, to indicate compliance with the performance standards. Specific measurements, designs and locations of all appurtenance, including all off-cart items, shall be submitted;
- f. Identification of the zoning district and location of the buffer zone, if any, on the property;
- g. Fee as set by the Town Council.

D Performance Standards

1. Sale of non-food items is prohibited. Sale of food items shall be primarily intended to be consumed in the vicinity of the cart at the time of purchase. Any distribution of free product samples shall be limited to samples of food for sale at that cart.

*delete
Per
Council
Vote
8/11/98
Mtg # 13-98
Item # 160-98*

2. Location

- a. A maximum operations area of one hundred twenty-eight (128) square feet shall be assigned to the cart and its operation. This shall include the cart, customer waiting area, trash receptacle locations, coolers and any other related cart activities. The cart shall be located a minimum of 3' from all outside edges of the operations area. In this clear area, only the area to the rear of the cart may be used for off-cart items. The other three sides must be vacant and used only as customer waiting area. Minor overhang of the hitch, umbrella or awning into the clear area is permitted;
- b. The operations area shall not be located in a way that would restrict or interfere with ingress to and egress from any building or use within the parcel or on abutting parcels, or obstruct adequate access by fire, police or sanitation vehicles or interfere with pedestrian flow on the public sidewalk.

- c. The operations area shall not include the public way and shall not interfere with pedestrian and vehicle flow on the parcel and pedestrian and vehicle access to the parcel or adjoining parcels. The cart shall not obstruct corner clearance as regulated in Section 513 above;
- d. The operations area shall not be located in a parking space(s) unless a substitute parking space(s) is provided and meets the parking requirements of this Ordinance;
- e. The front face of the cart shall be at least 3' back from any public sidewalk;
- f. Peddler carts shall not be located in buffer zones as described in Section 506.

3. Parking

One additional parking space, as calculated according to the employee parking requirement for Retail Trade in Sec. 514.A.5, per cart shall be provided either on the site or leased according to the requirements of this Ordinance. Each space shall be provided for each month of operation.

- 4. All utility connections shall be secured and safe.
- 5. The operations area shall be kept clean and free of litter. At least one trash receptacle shall be provided. Public trash receptacles on the street shall not be used by the operation. All trash shall be disposed of in conformance with Town regulations.
- 6. Only one cart shall be located on a lot.
- 7. Cart design shall conform to the following requirements except that permitted non-conforming carts existing before January 1, 1993, shall be permitted to operate for a period of three years from January 1, 1993 to December 31, 1995. After December 31, 1995, all carts shall conform to these requirements.
 - a. Materials: Carts may be commercial construction or individually constructed. All carts shall be made of solid, durable materials.
 - b. Color: Neon and fluorescent colors are prohibited. Permitted colors shall be shades of the following: red, white, gray, black, yellow, maroon, green, blue, brown, beige and stainless steel.
 - c. Shape: "Theme" carts, such as ones in the shape of hot dogs, are prohibited.
 - d. ~~Size: Height:~~ Maximum dimensions of a peddler's cart or unit shall be no greater than 38 inches in width and 8 feet in length. Maximum height of the cart shall be six (6) feet from the top of the cart body, excluding umbrella or awning, to the bottom of the cart where it (or the

wheels) touches the ground. Maximum height from the bottom of the cart (or the wheels) to the uppermost top of any umbrella or awning attached to the cart shall be eight (8) feet. The bottom of the canopy of the umbrella or awning shall be at least 80" off the ground.

- e. Awnings and umbrellas shall be constructed of a non-rigid fabric such as, but not limited to, canvas, ripstop nylon or soft plastic.
 - f. The hitch shall be visually identified for safety purposes with a wrapper, bicycle type flag or other similar unobtrusive identifying device which does not obstruct the clear area and which meets the requirements of the federal Americans with Disabilities Act.
 - g. Carts shall not be motorized.
8. In addition to signs allowed for the principal use of the property, peddler carts are allowed the following signs subject to the following requirements:
- a. No more than two (2) signs, excluding lettering on an umbrella or awning, are permitted on each cart. Lettering on an umbrella or awning is permitted in addition to the two signs. In addition, one menu board is permitted and shall be no larger than six (6) square feet. A menu board is not considered a sign.
 - b. Each sign shall be secured to the cart at a maximum height no higher than the bottom edge of the umbrella or awning material.
 - c. The maximum size of each sign shall be four (4) square feet.
 - d. Each sign face shall be counted as one sign.
 - e. Free standing signs are prohibited.
 - f. Sign design shall meet the following requirements:
 - (1) One or both signs may be preprinted, movable letter signs or chalk boards.
 - (2) Any other type of sign shall be included as part of the CEO approval process.

9. Cart lighting shall conform to the following requirements:
 - a. Lighting shall not increase the light level at the perimeter of the operations area by more than 5 foot candles above the ambient light level. However, total maximum lighting at the perimeter of the operations area shall not exceed fifteen (15) foot candles.
 - b. Light sources shall be aimed or shielded so that the light projects downward and in no case shall the angle be less than 20 degrees below horizontal.
10. Generators are prohibited.
11. Cart operators shall dress in a neat and clean manner.
12. The cart operation or location shall not modify an approved site plan without Planning Board approval.
13. Off-cart items, except for ones located on or under the cart, are limited to the following items: one trash receptacle, one recycling receptacle, two coolers and one chair.
14. No animals shall be attached to the cart except for guide animals.
15. Amplified sound shall not exceed 75 decibels during the day and 55 decibels at night.
16. All applicable local, state and federal requirements shall be met.
17. A flame resistive shield surrounding the cooking elements shall be installed to protect the customer from open flame and hot surfaces. The cooking elements shall be approved/listed (i.e., U.L., Factory Mutual, etc.), permanently attached to the cart and not in or on separate facilities. An ABC extinguisher shall be mounted to the cart. The peddler cart shall meet all local, state and national fire codes. Before a permit is issued, the peddler cart containing cooking elements shall be inspected by the Fire Department. An inspection fee in the amount set by the Town Council shall be paid to the Fire Department by the owner of the cart prior to its use.
18. A permit shall be issued by the CEO before a victualers license is obtained from the Town of Freeport. The peddler cart may operate only while such license is in effect.
19. A license issued by the State of Maine Department of Human Services for food service shall be obtained before a permit is issued by the Codes Enforcement Officer. The peddler cart may operate only while such license is in effect.

Permit Duration

The permit issued by the CEO under this Section 526.C.1 shall ~~Permits~~ be issued for a specific time period up to a maximum of one year and shall expire at the end of that time period.

Display of Permits

Each cart shall display the valid permits in a visible location.

Transfer of Permits

No permit issued under this Section shall be used at any time by any person other than the peddler for whom it was issued on the property for which it was issued.

Enforcement

Because of the transient nature of peddler activity, the Town may, in addition to pursuing any other remedies available under this Ordinance or pursuant to 30-A M.R.S.A., Sec. 4452, enforce the provisions of this Section 526 as follows:

1. When as a result of a complaint or his own investigation the CEO determines that a peddler on private property is in violation of the Rules or Standards of this Section, he shall provide written notice of the violation to the permit holder and the private property owner.
2. The notice shall contain the following information:
 - a. the specific facts or conditions which constitute the violation;
 - b. an order to correct the violation by taking specified actions;
 - c. the amount of the penalty to the permit holder and landowner if the violation continues;
 - d. a warning that a failure to correct the violation will result in a suspension of the permit and fines for the property owner and permit holder;
 - e. a statement that the permit holder and the property owner have the right to appeal the notice pursuant to Section 601(G) (4) (a) of this Ordinance and that failure to appeal could preclude the permit holder and property owner from challenging the Codes Enforcement Officer's determination in subsequent proceedings, but that filing an appeal does not stop the accrual of penalties.
3. Penalties - when a violation is not corrected within five (5) business days after the date of notice of violation, both the peddler and the private property owner shall be subject to the following penalties:
 - a. Suspension of permit and of the ability to apply for a new permit, for up to two (2) years;
 - b. Fifty dollars (\$50.00) for each day of violation after the date of notice;
 - c. One hundred dollars (\$100.00) for each day of operation while under suspension.

4. Appeal - any peddler or property owner adversely affected by decision of the CEO may appeal in accordance with the provisions of this Ordinance.

Adopted
CHAPTER 21
DRAFT AMENDMENT
FREEPORT ZONING ORDINANCE

*approved August 11, 1998
meeting #13-98; Item #161-98
P.H. Mtg. #12-98 (7-22-98)*

Section 416. Local Business District "LB"

B. Permitted Uses:

8. Timber framing millwork and
cabinetry ~~with no outdoor storage~~
~~permitted. "Outdoor storage" is not~~
~~to be construed to include~~
~~registered vehicles used in the~~
~~daily conduct of business.~~

9. Warehouse and Storage Facility.