

FREEPORT TOWN COUNCIL SUMMARY AGENDA

MEETING #4-91

FEBRUARY 5, 1991 - 7:30 P.M. - COUNCIL CHAMBERS

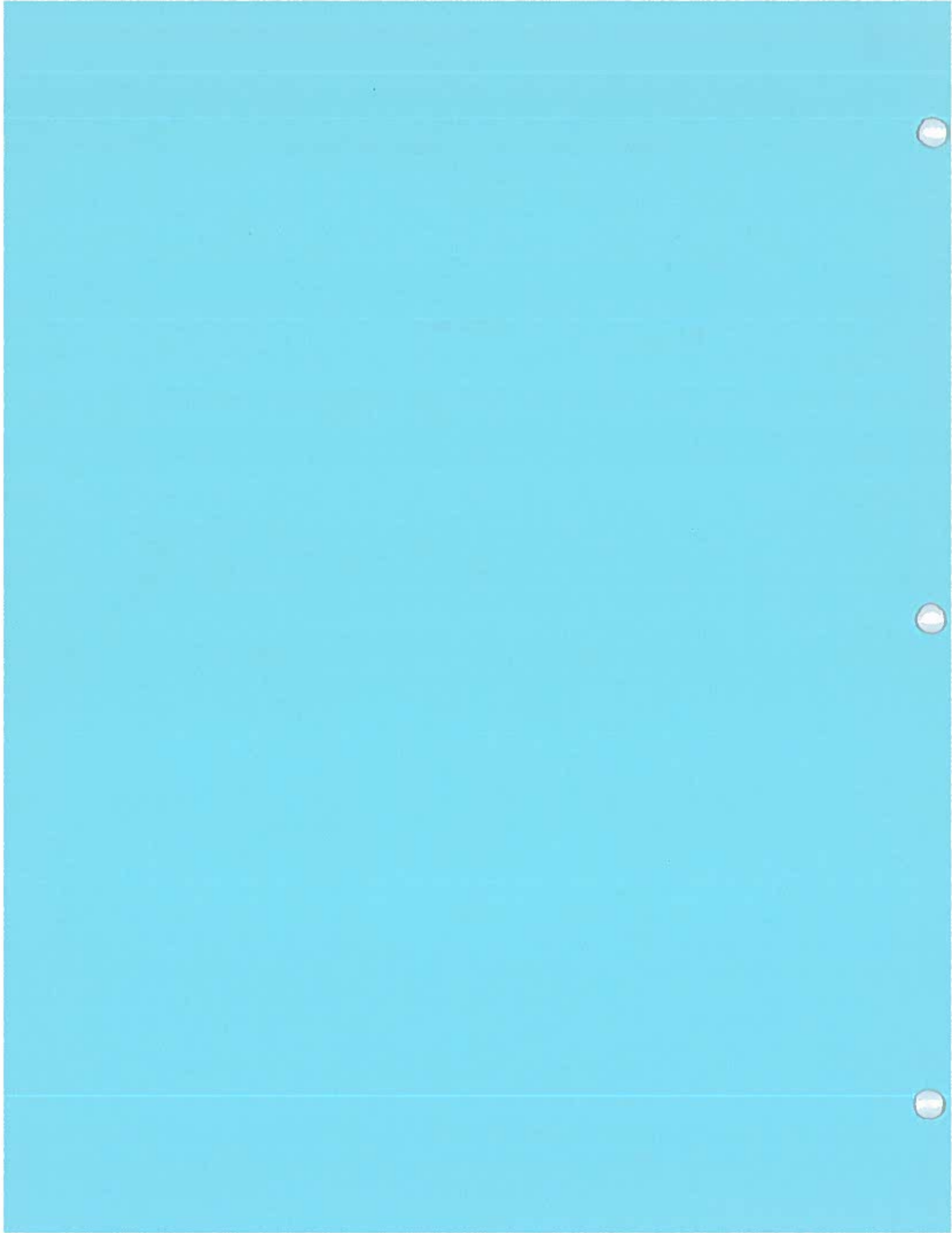
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- ITEM #23-91      TO CONSIDER ACTION RELATIVE TO THE ASSIGNMENT OF  
PARKING SPACES.
- ITEM #24-91      TO CONSIDER ACTION RELATIVE TO PROPOSED AMENDMENTS TO  
THE RULES FOR WINSLOW PARK. (CHAPTER 34)
- ITEM #25-91      TO CONSIDER ACTION RELATIVE TO THE APPOINTMENT  
OF A BOARD OF VOTER REGISTRATION.
- ITEM #9-91        TABLED JANUARY 22, 1991.  
TO CONSIDER ACTION RELATIVE TO PROPOSED AMENDMENTS  
TO THE ZONING ORDINANCE PERTAINING TO GRAVEL PITS,  
FILLING AND ADMINISTRATIVE PROVISIONS. (CHAPTER 21)
- ITEM #21-91      TABLED JANUARY 29, 1991.  
TO CONSIDER ACTION RELATIVE TO THE FORMATION OF A  
BUDGET REVIEW COMMITTEE.

OTHER BUSINESS:

- 1). DISCUSSION ON CASCO BAY STORMWATER MANAGEMENT  
PROJECT.
- 2). DISCUSSION ON REQUEST FOR USE OF BOW STREET  
PARK ON JULY 13, 1991.
- 3). UPDATE ON RESCUE UNIT REORGANIZATION.
- 4). REPORT ON AGENDA FOR FEBRUARY 12 WORKSHOP.
- 5). UPDATE ON THE HARBOR COMPREHENSIVE STUDY PLAN/  
WILLIAM PLOUFFE.

END OF AGENDA



**MINUTES**

FREEPORT TOWN COUNCIL MEETING #4-91  
FREEPORT TOWN HALL COUNCIL CHAMBERS  
FEBRUARY 5, 1991 - 7:30 P.M.

X REGULAR

   SPECIAL

<u>CHAIRMAN'S CALL TO ORDER</u>	<u>PRESENT</u>	<u>ABSENT</u>	<u>EXCUSED</u>
EDWARD BRADLEY, CHAIRMAN, FLYING POINT	X		
VAUGHNDELLA CURTIS, VICE-CHAIRMAN PINE STREET	X		
KIRK GODDARD, MAST LANDING	X		
ROBERT STEVENS, PORTERS LANDING	X		
EDWARD CAMPBELL, GAY DRIVE	X		
WILLIAM GRADY, ELM STREET EXTENSION	X		
ANDREW ARSENAULT, U.S. ROUTE #1	X		

MOVED AND SECONDED - TO WAIVE THE READING OF THE MINUTES OF MEETING  
#3-91 HELD JANUARY 19, 1991, AND ACCEPT THE MINUTES AS PRINTED.  
(COUNCILORS STEVENS & CURTIS) (7 AYES) (0 NAYS)

VICE-CHAIRMAN CURTIS WELCOMED BOY SCOUTS TROOP #4, PACK 45 TO THE  
MEETING AND PRESENTED THEM WITH A FREEPORT PIN ON BEHALF OF THE  
TOWN COUNCIL.



ITEM #23-91

BE IT ORDERED - THAT FOUR (4) PARKING SPACES IN THE MUNICIPAL PARKING LOT LOCATED AT THE OLD MIDDLE SCHOOL SITE AT THE END OF HOWARD PLACE ROAD BE ASSIGNED TO PAUL AND KEVIN KELLEY TO COMPENSATE FOR SPACES LOST IN CONNECTING PARKING LOTS LOCATED ON OAK STREET.  
(COUNCILORS GRADY & CURTIS) (7 AYES) (0 NAYS)

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ITEM #24-91

BE IT ORDERED - THAT A PUBLIC HEARING BE SCHEDULED FOR FEBRUARY 19, 1991 AT 7:30 P.M. IN THE TOWN HALL COUNCIL CHAMBERS TO DISCUSS PROPOSED AMENDMENTS TO THE RULES FOR WINSLOW PARK.

BE IT FURTHER ORDERED - THAT 30 COPIES BE MADE AND DISTRIBUTED EQUALLY BETWEEN THE TOWN CLERK'S OFFICE AND THE B.H. BARTOL LIBRARY FOR INSPECTION BY CITIZENS.  
(COUNCILORS STEVENS & CURTIS) (7 AYES) (0 NAYS)

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ITEM #25-91

BE IT ORDERED - THAT A BOARD OF VOTER REGISTRATION BE HEREBY APPOINTED PURSUANT TO TITLE 21, SECTION 43 OF THE MAINE REVISED STATUTES ANNOTATED.

BE IT FURTHER ORDERED - THAT THE NOMINATION OF JAMES J. HENDRY BY THE DEMOCRATIC TOWN COMMITTEE BE CONFIRMED, AND THAT THE NOMINATION OF VICKI M. LOWE BY THE REPUBLICAN TOWN COMMITTEE BE CONFIRMED, SAID APPOINTMENTS TO BE IN ACCORDANCE WITH STATE STATUTES, AND TERMS WILL EXPIRE ON MARCH 1, 1992.

BE IT FURTHER ORDERED - THAT THE ABOVE NAMED QUALIFY BY SWEARING AN OATH OF OFFICE BEFORE THE TOWN CLERK OR HER DESIGNEE BY FEBRUARY 15, 1991.  
(COUNCILORS GODDARD & CURTIS) (7 AYES) (0 NAYS)

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MOVED AND SECONDED - TO CORRECT ITEM #9-91 AS FOLLOWS:\*

ARTICLE I. SECTION 104 - AFTER "EXCAVATION": DELETE THE FOLLOWING WORDS:  
"in excess of a total per lot of 30 cubic yards".

- AFTER "FILLING": DELETE THE FOLLOWING WORDS:  
"of 50 cubic yards or greater in volume".

(COUNCILORS STEVENS & GRADY ) (7 AYES) (0 NAYS) COUNCILOR ARSENAULT)

MOVED AND SECONDED - TO CORRECT ITEM #9-91 AS FOLLOWS:\*

PAGE -7- 3.B. DELETE THE FOLLOWING WORDS: "January 16, 1990" AND ADD THE  
FOLLOWING WORDS: "date of adoption".

(COUNCILORS ARSENAULT & STEVENS) (7 AYES) (0 NAYS)

ITEM #9-91

*amendments attached*

BE IT ORDERED - THAT THE PROPOSED AMENDMENTS TO THE ZONING ORDINANCE  
PERTAINING TO GRAVEL PITS, FILLING AND ADMINISTRATIVE PROVISIONS, AS SUBMITTED  
TO PUBLIC HEARING ON JANUARY 22, 1991, BE APPROVED, AS AMENDED.\*

(COUNCILORS ARSENAULT & CURTIS) (6 AYES) (1 NAY, COUNCILOR ARSENAULT)

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ITEM #21-91

MOVED AND SECONDED - TO TABLE ACTION RELATIVE TO THE FORMATION OF A BUDGET REVIEW  
COMMITTEE UNTIL FEBRUARY 12, 1991.

(COUNCILORS CURTIS & CAMPBELL) (7 AYES) (0 NAYS)  
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OTHER BUSINESS:

1. COUNCILOR ARSENAULT PRESENTED A PROPOSAL ON TOWNWIDE RE-EVALUATION. THIS ITEM  
WILL BE DISCUSSED AT THE NEXT WEEK WORKSHOP. *- attached proposal -*
2. CHAIRMAN BRADLEY WISHED TO PURSUE A DISCUSSION ON CONCERNS EXPRESSED BY  
COUNCILORS ON THE ROLE OF THE PRESENT CHAIRMAN OF THE COUNCIL.

MOVED AND SECONDED - TO WAIVE THE RULES OF PROCEDURE AND ENTER INTO AN  
EXECUTIVE SESSION TO DISCUSS A PERSONNEL MATTER.

(COUNCILORS CAMPBELL & GRADY) (2 AYES) (5 NAYS, COUNCILORS ARSENAULT,  
GODDARD, STEVENS, CURTIS & BRADLEY)

AFTER MUCH DISCUSSION BY COUNCILORS, THE FOLLOWING "PROBLEM AREAS" WERE  
STRESSED: COMMUNICATIONS BETWEEN COUNCILORS, EXCLUSIONS OF CERTAIN  
COUNCILORS FROM INFORMATIONAL MEETINGS, AND NOTIFICATION OF ALL MEETINGS  
TAKING PLACE WITH COUNCILORS. COUNCILOR CAMPBELL EXPLAINED TO THE PUBLIC  
NOT TO EXPECT A "GROUP HUG" AFTER THIS MATTER HAD BEEN DISCUSSED.

3. UPDATE ON HARBOR COMPREHENSIVE STUDY PLAN, GIVEN BY BILL PLOUFFE, CHAIRMAN  
OF THE STUDY PLAN. THE PUBLIC HEARINGS HAVE BEEN ATTENDED BY 80-90%  
CITIZENS, THEY HAVE HIRED A CONSULTANT: COASTAL STRATEGY, SUB-COMMITTEES  
HAVE BEEN FORMED. ONE SUB-COMMITTEE: "PUBLIC ACCESS COMMITTEE" HAS  
IDENTIFIED A NUMBER OF PROPERTIES THAT THE TOWN OWNS OR HAS PUBLIC  
RIGHTS TO. AFTER HOLDING PUBLIC HEARING THEY ARE RECOMMENDING THAT THESE  
PROPERTIES SHOULD BE DIVERSIFYING ALONG THE COAST.

THE HARBOR COMPREHENSIVE STUDY PLAN WANTS TO PRESENT A REPORT TO THE  
COUNCIL BY JULY.





OTHER BUSINESS CONTINUED -

4. UPDATE ON RESCUE UNIT REORGANIZATION, PRESENTED BY CHARLES DeGRANDPRE, FIRE CHIEF. THE CHIEF STRESSED THEY HAVE AN AGGRESSIVE RECRUITING PROGRAM, ARE WORKING MORE WITH THE PHYSICIAN CONSULTANT. NEW PROGRAMS: IN-HOUSE MAINTENANCE, STUDENT RESCUE PROGRAM, AN "EQUIPMENT AND SUPPLY GROUP" WHICH FORESEES COST SAVINGS WAY - AN EXAMPLE WAS CITED: THEY TRADED SOME UNUSED BEDPANS FOR MUCH NEEDED MEDICAL SUPPLIES. OTHER NEW PROGRAMS: A JOINT VENTURE WITH L.L. BEAN, AND A DRIVER TRAINING PROGRAM.

5. THE BATH-BRUNSWICK HOSPICE HAS REQUESTED PERMISSION TO HOLD A LOBSTER BAKE AT BOW STREET PARK ON JULY 13, 1991. COUNCIL CONSENSUS AGREED TO LET THEM USE THE PARK, BUT REQUESTED THAT A POLICE OFFICER BE POSTED DURING THE EVENT AND THAT THE HOSPICE PAY FOR THE OFFICER.

6. DISCUSSION ON CASCO BAY STORMWATER MANAGEMENT. THIS PROJECT IS FULLY FUNDED BY EPA. THEY REQUIRE THAT THE TOWN APPOINT AN ADVISORY COMMITTEE TO WORK WITH THE STATE AND MEMBERSHIP SHOULD CONSIST OF ONE FROM THE CONSERVATION COMMISSION, ONE FROM THE PLANNING BOARD, AND ONE COUNCILOR.

THE GROUP ARE TO IDENTIFY PROBLEMS CAUSING POLLUTION AND COME UP WITH SOLUTIONS TO RESOLVE THE POLLUTION.

TOWN MANAGER OLMSTEAD WAS "VOLUNTEERED" AS THE THIRD MEMBER TO REPRESENT THE COUNCIL.

7. FEBRUARY 12 WORKSHOP

THERE WILL BE A SPECIAL COUNCIL MEETING BEFORE THE WORKSHOP AT 7:30 TO DEAL WITH THE BUDGET COMMITTEE FORMATION. OTHER ITEMS ON THE WORKSHOP AGENDA ARE: 1992 RE-EVALUATION AND COMPREHENSIVE PLAN COMMITTEE UPDATE.

8. DAVIS CONSENT ORDER - A LETTER WAS PRESENTED TO JOHN SHEPERD FROM THE TOWN'S LEGAL COUNSEL. THIS LETTER CLARIFIES IN DETAIL WHAT THE TOWN'S POSITION IS. THE LETTER WILL BE SENT TO COURT.

9. BOW STREET COMMITTEE - BILL GRADY REPORTED THERE HAD BEEN A PUBLIC MEETING LAST THURSDAY - THERE WILL BE A FINAL MEETING THIS THURSDAY. RECOMMENDATIONS WILL BE FORTHCOMING TO THE COUNCIL.

10. COUNCILORS BRADLEY & CURTIS ALONG WITH TOWN MANAGER OLMSTEAD AND MR. BUTLER MET REGARDING THE \$25,000 FINE IMPOSED BY THE COURT. COUNCILORS MADE AN OFFER OF \$10,000 INCLUDING LEGAL FEES OF \$3,000. MR. BUTLER WAS INVITED TO COME BACK WITH A COUNTER PROPOSAL.

11. CHAIRMAN BRADLEY REGARDING AFFORDABLE HOUSING - TOM KELLEY WOULD LIKE TO EXTEND AN INVITATION TO COUNCILORS AT THEIR AFFORDABLE HOUSING MEETING ON FEBRUARY 14 AT THE HIGH SCHOOL.

12. CHAIRMAN BRADLEY MENTIONED THAT TOWN MANAGER OLMSTEAD, VICE-CHAIRMAN CURTIS, SUPERINTENDENT OF SCHOOLS LYMAN, SCHOOL VICE-CHAIRMAN KLEIN-GOLDEN, AND MR. BRADLEY ALL MET REGARDING RECOMMENDATIONS FOR SCHOOL BUDGET PREPARATIONS. COUNCIL WOULD LIKE TO SEE A MAINTENANCE BUDGET WITHOUT ANY ADDITIONS. THE WORKSHOP WILL BE HELD ON FEBRUARY 28 WITH THE INFORMATION.

13. COUNCILOR STEVENS INQUIRED "WHAT WILL HAPPEN TO SOULE SCHOOL?" THE SCHOOL COMMITTEE IS DISCUSSING THIS MATTER.



OTHER BUSINESS CONTINUED -

14. TOWN MANAGER OLMSTEAD INFORMED COUNCILORS THIER PACKETS WOULD BE READY THIS THURSDAY AFTERNOON AND COULD BE LEFT AT THE POLICE STATION.
  15. CITIZEN STEVE DAY, SR. PASSED OUT TO COUNCILORS A DRAFT IN SQUARE FEET OF A PROJECT BEING BUILT NEAR HIM. MR. DAY QUESTIONED WHETHER THE PROJECT SHOULD BE CLASSIFIED AS "HOME OCCUPATION" OR "COMMERCIAL" BECAUSE THE BUILDING WAS APPROXIMATELY 19,000 SQUARE FEET AND THE OWNER WAS GOING TO STORE HORSES IN THE BUILDING. COUNCIL REQUESTED A REPORT FROM THE CODES ENFORCEMENT OFFICER.
- 

MOVED AND SECONDED - THAT THE COUNCIL ADJOURN AT 10:23 P.M.  
(COUNCILORS STEVENS & CAMPBELL) (7 AYES) (0 NAYS)

THE FOREGOING WAS RECORDED BY:

*Mary D. Wescott*  
MARY D. WESCOTT  
COUNCIL SECRETARY, PRO TEM



Andrew P. Arsenault  
Proposed February 5, 1991

Adopted \_\_\_\_\_

To research and gather pertinent alternative cost/benefit options for deliberations on the F.Y. 1992 Budget

Be it ordered that:

- A. The Town Manager shall publish within seven days an invitation to bid:
  - 1. on the proposed townwide re-evaluation and
  - 2. an annual program to maintain 100% Just Valuation.
  
- B. The Town Manager shall also publish within seven days an invitation to bid on the re-evaluation of:
  - 1. L.L.Bean Office and Manufacturing Facilities.
  - 2. L.L. Bean Retail Store and related properties in the VC District.
  
- C. The Town Manager shall also publish an invitation to bid within seven days on the development of "land tables" to update the so-called "*1986 Joseph Downey land tables.*"
  
- D. Bids must be submitted by March 18, 1991.



Adopted  
Feb. 5, 1991  
mtg. #4-91

Adopted w/ amendments  
DRAFT

Public Hearing  
February 5, 1991

JANUARY 3, 1991

FREEPORT ZONING ORDINANCE AMENDMENTS

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Article I

Sec. 104.

*amendment  
2/5/91*  
Excavation: Any extraction, removal, mining, separation or disturbance ~~in excess of a total per lot of 50 cubic yards~~ of earth or earth material from its original position. Earth materials include, but are not limited to, gravel, clay, soil, topsoil, loam, sand, rock, stone, ore, minerals, mineral substances and organic materials other than vegetation.

*amendment  
2/5/91*  
Filling: Depositing or dumping any matter ~~of 50 cubic yards or greater in volume~~ on or into the ground or water.

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



Article II

Sec. 201.

- G. Excavation or Filling shall be permitted in any district only to the extent such activities are necessary for and or incidental to any permitted use or other lawful use. Ponds and Short Term Excavations are permitted in any district.

Sec. 202. Non-Conformance.

B. Non-Conforming Uses.

- (2) Extension of Use: The Zoning Board of Appeals may grant a variance for a one-time expansion of a non-conforming use up to a maximum of 15% of the gross floor area of the existing structure(s). A non-conforming open use of land may not be extended to any part of the remainder of the land except that excavation existing on January 16, 1990 may expand without a variance if such expansion is allowed under Section 509 of this Ordinance.

Sec. 203. Changes and Amendments

A. (4). Add:

- g. If the request is for designation as a MEOD District, the following additional submissions are required:

- (1) Total project acreage.
- (2) Approximate acreage and locations of areas to be excavated and areas to be left undisturbed.
- (3) Locations of wetlands, water bodies, flood zones and environmentally sensitive land as defined in subparagraph (e) of the definition of Net Residential Acreage in Section 104 of this Ordinance.
- (4) General description of the extraction methods, amount of extraction, shipping procedures and land reclamation.
- (5) Description of visual impact on abutting residential properties of the extraction operation and methods of screening the view of the operation from surrounding properties.
- (6) Explanation of how the project will meet the standards listed in Section 509 G.

Sec. 421. Resource Protection II "RP-II"

D. Prohibited Activities:

4. Mining or excavation in excess of 10 cubic yards other than excavation for permitted uses or approved uses and within the public rights-of-way and as otherwise permitted in Section 509.

Add:

Sec. 423. Mining and Extraction Overlay District - "MEOD"

A. Purpose and Applicability:

It is the intent of this District to provide for the excavation, processing, and storage of mineral deposits in locations which will be compatible with surrounding land uses and the general character of the area; to ensure the orderly development of mineral resources in a manner compatible with the overall development of the Town of Freeport; to assure the best management practices for maximum control of potential adverse environmental impacts; to provide for future reuse of mined land and to provide for the public health, safety and welfare.

The creation by the Town Council of a Mining and Extraction Overlay District shall not change the existing zoning district classification of any property. The regulations of the Mining and Extraction Overlay District shall be in addition to and shall apply concurrently with the regulations of the underlying zoning district. Where a conflict exists between the requirements of the Mining and Extraction Overlay District and the requirements of the underlying zoning district, the more restrictive requirement shall apply.

B. Permitted Uses:

The following uses are subject to the review requirements of Section 509 of this Ordinance:

1. Excavation.
2. A residence for the caretaker, operator or owner of the property where the excavation is occurring. No more than one residence shall be permitted.
3. Equipment and/or structures which are necessary and accessory to the operation of the extraction, e.g., garage, storage shed, fuel tanks, but excluding residences not otherwise permitted by subparagraph 2 of this Section 423 (B).
4. Uses accessory to excavation, limited to the following activities:
  - a. Washing, cleaning and sifting of raw mined material (ore) into salable condition.
  - b. Sedimentation ponds when used in conjunction with washing and cleaning of raw ore.
  - c. Stockpiling of raw ore.
  - d. Sale of stockpiled and excavated ore, including a sales office where business operations exclusively for this use are conducted.
  - e. Parking areas for employee vehicles, trucks and equipment used in the mining operation.
  - f. Waiting and loading area for trucks moving the ore.
  - g. Facilities for the storage, maintenance and repair of equipment used on the site.

5. Processing Uses.

Processing of earth materials into a stone or concrete product, including crushing mined rock, sawing, grinding and polishing quarry stone and mixing sand and gravel with cement to form concrete or asphalt, provided that on an annual basis, no more than thirty-three percent (33%) of all aggregate processed on the site may be brought in from a location outside the site.

6. Public or private parks and recreation areas which are created as a result of the reclamation of the site.

7. Public Utilities.

8. Municipal Facility.

C. Space Standards:

1. Minimum lot area:

The minimum lot area shall be determined by the sum of the maximum area of extraction plus the area required to meet the setback requirements and performance standards of Sec. 509. However, the minimum lot area shall be no less than 5 acres.

2. Maximum building height: 35 feet.

3. Minimum Setbacks - 150 feet, front, side, rear and shore.

D. Other Standards:

1. A minimum of 50' of frontage on a public road is required for access to the operation.

2. The requirements of Sec. 509 shall be met.

3. One parking space shall be provided for each employee based on the expected average employee occupancy. In addition, sufficient parking and/or waiting space shall be provided for each truck and each piece of mobile equipment used in the extraction operation and any accessory uses.

Delete existing Sec. 509.

Add:

Sec. 509.      Extraction.

- A.    Purpose: The purpose of this section is to regulate both new and existing excavations and their accessory uses. Excavations are unique uses because they must be located where the desired natural resources exist and because they generally must expand if the use is to continue. Existing and proposed excavations, therefore, are and may be adjacent to or within residential districts and may have adverse impacts on surrounding uses due to their potential for producing noise, dust, vibration, traffic and groundwater contamination. These regulations are intended to protect the quality and quantity of ground and surface waters, prevent erosion and sedimentation, provide for the reclamation and rehabilitation of new and existing excavations, minimize any adverse impact of such excavations on adjacent and nearby properties, and insure minimum standards of safety during and after active operations.

It is the intent of this Section to permit existing excavations to continue to operate and to expand. It is also the intent of this section to require rehabilitation of expanded and newly excavated areas. Excavations existing as of January 16, 1990 may continue to exist and expand without rezoning only if they meet the requirements of this Section. New excavations, except for short Term Excavations, require the creation by the Town Council of a Mining and Extraction Overlay District before the use is permitted; new excavations are subject to the requirements of this Section. Minor expansions, defined under "Existing Excavations", require less extensive review by the Planning Board. Larger expansions of existing excavations, Short Term Excavations and new excavations require more extensive review because of their potential for creating a greater impact on surrounding properties and the environment and the review is undertaken by the Planning Board as an extension of the Site Plan Review process.

B.    Definitions:

1.    Abandoned Excavation: an excavation which does not qualify as an Existing Excavation. In order to operate, it must meet the requirements for New Excavation.
2.    Excavated area: any area of land on which excavation, as defined in Section 104 of this Ordinance, is occurring or has occurred.

3. Existing Excavations: an operation where extraction in excess of two hundred (200) cubic yards of earth materials or fifty (50) cubic yards of topsoil or loam has taken place lawfully during each of at least three (3) of the previous five (5) calendar years preceding January 16, 1990.

An existing excavation may expand and still retain its status as an existing excavation provided that the following limits are not exceeded:

- a. The annual rate of extraction shall not increase by more than (10%) of the average rate per year of the highest three of the previous five (5) calendar years preceding [date of adoption of Ordinance].
- b. Expansion of the excavated area is limited to a maximum of one acre or 50% more than the size of the existing excavated area as measured around the edge of the excavated area as of ~~January 16, 1990~~, whichever is less, and any such expansion must remain within the boundaries of the parcel on which the excavation was occurring on [date of adoption of Ordinance].
- c. The number of processing operations shall not increase and there shall be no change in processing activities unless the Codes Enforcement Officer determines that the change will result in a reduced impact on the environment.

"date of adoption"  
amendment  
2/5/91

Any other increases or changes shall cause reclassification to "Expansion of Existing Excavation," as defined below.

Any excavation which has been determined by written decision of the Codes Enforcement Officer issued prior to January 16, 1990 to have expanded, enlarged or changed unlawfully may qualify for existing excavation status, but limited to the rate of extraction, excavated area and number and types of processing operations, if any, which the Codes Enforcement Officer has determined to be allowed as a lawful nonconforming use, and cannot operate beyond such limitations unless reviewed and approved as an "Expansion of Existing Excavation" under Section 509 (F).

4. Expansion of Existing Excavation: An expansion of the excavated area, annual rate of extraction, or number or types of processing operations exceeding those permitted for "Existing Excavations" as defined above.

5. New Excavation: An excavation which did not exist before January 16, 1990 or does not qualify as an existing excavation. Creation of a Mining and Extraction Overlay District is required for all new excavations except for ponds and Short Term Excavations.
6. Processing Operations: Operations which include, but are not limited to, washing, cleaning, sifting, crushing, blasting, sawing, grinding and polishing of raw materials, and the creation of products such as concrete and asphalt.
7. Short Term Excavation: A New Excavation which is permitted in all districts, is limited to a total lifetime extraction limit of 20,000 cubic yards of earth material, and is limited to a total, consecutive time of two (2) years from date of initial extraction to completion of reclamation. a Short Term Excavation shall be subject to the same requirements as a New Excavation, except that a Short Term Excavation does not require the creation of a Mining and Extraction Overlay District by the Town Council. Processing shall not be permitted.

C. Permit Required

There shall be no excavation not otherwise exempt under Subsection D below unless a permit has been issued under this Section, except that Existing Excavations may continue to operate for 240 days after \_\_\_\_\_ (date of adoption of this ordinance) without a permit if a complete application has been filed within 180 days with the Planning Board as required below. The Planning Board may grant a time extension of up to two months for each deadline if it determines that the extension is needed to obtain relevant information or if Planning Board schedules require a time extension.

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

1. Excavation, the sole purpose of which is to determine the nature or extent of mineral resources, which is accomplished by hand-sampling, test boring or other methods which create minimal disturbance. Test holes shall be filled in immediately after use.
2. Excavation necessarily incidental to construction, alteration, or grading for which a building permit or other construction permit has been issued by the Codes Enforcement Officer.
3. The removal of less than two hundred (200) cubic yards of earth material and less than fifty (50) cubic yards of topsoil or loam in any one (1) year from any single lot of land, provided such removal does not disturb more than one (1) acre of land.

The removal of any amount of topsoil or loam from a site is an exempt activity if it is undertaken as part of an approved construction project, is part of normal farm operations or the topsoil or loam is being moved to a contiguous site having the same ownership. In the case of multiple successive excavations on the same property, all such excavations shall be deemed part of a single excavation for all purposes under this ordinance.

E. Existing Excavation Registration Regulations

Within two hundred forty (240) days of \_\_\_\_\_ (effective date of adoption) or a later date if the Planning Board grants a time extension, no Existing Excavations shall continue to operate unless they have been approved by the Planning Board.

If an excavation is not registered or fails to qualify under this Section, it shall be deemed an abandoned excavation and may not resume operations except according to the requirements for New Excavations.

1. Procedures:

The application shall be reviewed by the Planning Board. If the application meets the requirements of this Section, the Board shall issue a permit effective for three (3) years. The Planning Board may hold a public hearing if it deems it necessary to elicit the required information. The Planning Board may attach such condition(s) as it finds necessary to ensure compliance with the purposes and requirements of this Section.

2. Submission Requirements.

The following shall be submitted:

a. Fee.

b. Completed application form which shall include the following information:

- (1) Name and address of owner and/or operator.
- (2) Copy of deed of original parcel, map and lot number, lease, if applicable.
- (3) Evidence that this is an existing excavation and that it will continue to operate within the limits of Section 509(F)(2). Evidence of existing excavation status may include receipts, affidavits, photographs or other information.



- (4) Drawing containing the following information: approximate size of parcel, location of excavation, name of road frontage, location of access road, location and size of buffer, existing slope of excavation.
  - (5) Information on depth to groundwater.
  - (6) Location of surface water, e.g., streams, ponds, brooks, etc.
  - (7) Description of reclamation plan for newly excavated areas.
  - (8) If the operation will include blasting, a blasting plan prepared by a qualified professional which includes, but is not limited to, an assessment of the potential impact on surrounding areas.
  - (9) Location of exposed groundwater.
  - (10) Location and description of all processing operations.
3. Additional Information. The Planning Board may require other pertinent information necessary to determine if the use meets the provisions of this Ordinance.
4. Waivers. The Planning Board may grant waivers from the required submissions if it determines that the information is not necessary to evaluate the extent of the impact on surrounding properties and the environment.
5. Operating Requirements.
  - (a) No further excavation which would increase the amount of standing groundwater shall occur and a plan shall be developed to protect existing exposed groundwater from contamination.
  - (b) The excavation, including processing operations, shall meet the standards listed in Subsection G below.
  - (c) Topsoil shall be stockpiled and used to revegetate newly exposed areas which shall be reclaimed to a minimum 2:1 slope.
  - (d) The operation shall comply with all required State and Federal regulations.

6. Permit Renewal. The applicant shall apply for permit renewal before the expiration date unless the excavation is no longer classified as an "Existing Excavation". Renewals shall be reviewed by the Planning Board according to the requirements of this Section 509.E. The purpose of the renewal shall be to determine compliance with the previously granted permit, status of the reclamation plan and review of future plans.

F. Expansion of Existing Excavations and New Excavations.

No expansion of an existing excavation or creation of a new excavation shall commence unless the Planning Board grants a permit under this Subsection. Review of a New Excavation shall not commence until a Mining and Extraction Overlay District has been created by Town Council action. The Planning Board shall review applications according to the procedures and requirements of Sec. 602 (Site Plan Review) of this Ordinance as well as the additional requirements described below.

1. Submissions.

In addition to applicable Site Plan Review submissions, the following submissions shall be made. The Planning Board may waive any of these requirements if it determines that the scale of the project is of such size as to make the information unnecessary. The Planning Board may require other pertinent information necessary to determine if the planned use meets the provisions of this Ordinance.

- (a) Fee,
- (b) Names and addresses of current owner(s) of the property and the current operator; a copy of the deed, and the lease agreement if the operator is not the owner; map and lot number; zoning district; size of parcel,
- (c) A site plan, drawn to a scale no smaller than one inch to one hundred feet, showing the location and boundaries of the property; the boundaries of existing and proposed excavation areas; a boundary survey for any existing and proposed excavation in excess of five (5) acres; the present use of the entire property including any existing excavated areas; present uses of adjacent property; the location of all proposed access roads, parking areas and temporary and permanent structures; the type and location of all existing surface and ground water, including location of existing wells and streams, drainage ways,

and depth to groundwater at the site of the proposed excavation as determined by test borings and/or other geotechnical or other methods if acceptable to the Board; location of existing and proposed utility service; signs; lighting; the contours of the land within and extending beyond the boundaries of the parcel for two hundred (200) feet at five (5) foot contour intervals, or at intervals acceptable to the Board; the location and design of all proposed hazardous material storage areas;

- (d) A plan for controlling access to the site.
- (e) An operations statement, which shall include the approximate date of commencement and duration of excavation, proposed phasing of the operation, proposed hours and days of operation, the estimated volume of the excavation, the method(s) of extracting and processing, including the disposition of topsoil, loam, brush and boulders, the equipment proposed to be used in the operations, and the operating practices proposed to be used to prevent surface and groundwater pollution and minimize noise, dust, air contamination and vibration;
- (f) An erosion and sedimentation control plan designed to the standards of the Cumberland County Soil and Water Conservation District; CCSWCD approval shall be required;
- (g) A final reclamation plan.
- (h) A statement explaining specifically how the applicable performance standards shall be met.
- (j) A description of the proposed Performance Guarantee for the reclamation plan.
- (k) A hydrogeological study which shows the depth of groundwater throughout the site and establishes that the excavation will not cause any pollution to groundwater and/or surface water.
- (l) A traffic study which includes the anticipated maximum estimated volume of traffic into and out of the excavation, the kinds of trucks and equipment which will be going into and out of the excavation, any existing or potential traffic hazards on roads servicing the site and applicant's plans to address them, and the ability of such roads physically to withstand the additional traffic generated by the site. The study shall consider the actual, existing traffic conditions in the vicinity of the excavation.

- (m) Names and addresses of property owners within 500' of the property.
- (n) If the operation is to include blasting, a blasting plan, prepared by a qualified professional, which includes, but is not limited to, an assessment of the potential impact on surrounding areas.

G. Standards for Operation of Existing Excavations, Expansion of Existing Excavations and New Excavations.

All excavations shall meet the following requirements:

1. A buffer strip of one hundred fifty (150) feet from all public rights-of-way and one hundred fifty (150) feet from all other boundaries of the property is required. The buffer strip is measured from the property boundary to the top edge of the excavation. No excavation shall be permitted within the buffer strip and natural vegetation shall be retained. Topsoil may be stockpiled in the buffer if it is stabilized to prevent erosion and sedimentation. To the extent necessary to protect neighboring uses from dust, noise and unsightly appearance, the Planning Board may require the applicant to provide additional screening where there is inadequate natural buffer. In those situations, provisions shall be made to provide trees for a visual and accoustical buffer between the project and adjacent properties and along the road frontage. The number, location, size and type of the trees shall be approved by the board. Alternative plans, such as vegetated berms, may be approved by the Planning Board if they will provide the required buffer.

No use, other than the access road where it intersects with the entrance to the parcel, shall be permitted within the buffer. No excavation or use shall occur in these buffer strips and no existing excavation or use lawfully located within such buffer areas shall be permitted to expand horizontally within these buffer strips; however, vertical excavation within this already excavated area in the buffer may continue. An applicant may, as part of the application, apply for a waiver of the 150 foot buffer strip in the three instances described below, and the Board shall grant such waiver in the case of (1) two abutting, working excavations, and (2) where the excavation abuts unbuildable land of a public utility provided the excavation remains at least one hundred fifty (150)

feet from the public utility's property line furthest from the excavation measured perpendicular to that property line and (3) where any abutting property owner agrees in writing recorded in the Cumberland County Registry of Deeds to reduce or eliminate the buffer strip where the excavation adjoins that abutter's property.

No processing operations shall be located within 300' of a dwelling other than a residence permitted on the same lot under Section 423(B)(2). Existing processing operations located within 300 feet of a dwelling shall be permitted to continue but may not expand in the direction of a dwelling, unless such dwelling is a residence permitted on the same lot under Section 423(B)(2).

2. Excavation shall not extend below an elevation of five (5) feet above the seasonal high ground water table as established by competent, technical data. If the applicant proposes less than a 5 foot separation, all information required by DEP, under its Site Location Authority, 38 MRSA Section 481-490, to review groundwater quality and quantity shall be submitted. If standing water exists in an existing excavated area, no further excavation which could increase the amount of standing water shall occur. The Planning Board may grant a waiver if it determines that the proposal will not impact groundwater quality and quantity.
3. For existing excavations, the average slope of any cut bank measured from the top of the slope to the toe of the slope shall not be steeper than a horizontal to vertical ratio of 2:1. Any excavation in lawful operation at the effective date of this ordinance whose slopes are steeper than this requirement may maintain, but not increase, such non-conforming slopes. In an expanded or new excavation, the slope for such areas shall not be steeper than 3:1. Quarrying operations may be granted waivers from these requirements if the proposed slopes are stabilized and compatible with the approved reclamation plan.
4. Excavation shall be limited to 6:00 a.m. to 6:00 p.m., Monday through Friday, and 8:00 a.m. to 2:00 p.m. Saturday. The Planning Board may approve extended hours of operation if it determines that such extended hours will not unreasonably interfere with neighboring residential uses existing at the time of the request.

In the case of emergency need for excavated material, the hours of extraction may exceed those approved by the Planning Board on no more than two days in any calendar year. Any excavation operations to exceed the approved hours for more than two days require a Temporary Activity Permit pursuant to Section 501 of this Ordinance.

5. Access to the site shall be approved by the Planning Board and may be limited according to the particular circumstances of the proposed operation; at a minimum, a gate with a lock shall be located at each entrance.

All access roads which are outside the excavation and within the buffer area, and which connect to public roads or adjoining property, shall be paved and/or otherwise regularly treated with water or calcium chloride spray to minimize dust conditions, as determined by the Planning Board.

6. Rock and stone crushing, or other processing activities, which may be permitted by the Planning Board as an accessory use to excavation operations, shall be limited to the hours of 7:00 a.m. to 5:00 p.m. Monday through Friday, and may be prohibited or further restricted by the Planning Board if it will unreasonably interfere with existing and/or future residential uses. On an annual basis, no more than thirty-three percent (33%) of all aggregate crushed or otherwise processed on the property of such excavation operation may be brought in from a location outside the property.
7. Erosion and sedimentation on site shall be adequately controlled, based on guidelines of the Cumberland County Soil and Water Conservation District; CCSWCD approval shall be required;
8. Sufficient topsoil shall be retained and stockpiled on the site to comply with the approved reclamation plan. Topsoil shall not be removed from the site unless it is not needed after the site has been completely reclaimed or if the Planning Board determines that an alternative reclamation plan is acceptable.
9. Signs and lighting shall be designed and located to prevent public nuisance conditions or undesirable excess lighting of the neighborhood and the sky. One sign of a maximum size of 24 square feet shall be permitted at the entrance access road. If the excavation is in a residential district, the maximum size of the sign face shall be 12 square feet. The sign shall be wood with minimal down-lighting or no lighting.

10. All potentially hazardous materials (petroleum products, salt, rubbish, etc.) shall be stored on impervious surfaces in watertight containers.
11. Noise. No operation shall exceed the noise levels required by Sec. 515.
12. Odorous and Toxic Matter. The requirements of Sec. 516 shall be met.
13. Electromagnetic Interference. The requirements of Sec. 517 shall be met.
14. Smoke and Particulate Matter. The requirements of Sec. 518 shall be met. In addition, all potential sources of fugitive particulate emissions shall be controlled with water or calcium chloride or other acceptable means so that visible emissions at the source do not exceed 5% opacity. Potential sources include: all unpaved roads and parking areas, all uncovered trucks, all sand and aggregate stockpiles and all crushers and associated equipment. Dust shall not be permitted to drift offsite if it creates a nuisance condition.
15. Vibrations. The requirements of Sec. 519 shall be met. Any blasting shall require Planning Board review under Sec. 509.F. A plan shall be submitted showing locations and a monitoring plan. Certificates of liability insurance covering the blasting activity in an amount approved by the Town Manager as sufficient to cover any damage reasonably likely to occur shall be submitted.
16. Fire and Explosive Hazards. The requirements of Sec. 520 shall be met.
17. Lighting. The requirements of Sec. 521 shall be met.
18. Water Quality Protection. The requirements of Sec. 522 shall be met.
19. Groundwater. The requirements of Sec. 523 shall be met. In addition, no ditches, trenches, pumping or other methods shall be used to lower the water table to permit more extraction than could occur under natural conditions unless the applicant can prove that there will be no harmful impact on groundwater supplies.



If excavation has occurred in the groundwater, a plan shall be developed to remedy the situation and the Planning Board shall review and approve a final plan. If such excavation has occurred in the RP-II District, the property owner shall employ a Certified Maine Geologist who specializes in Hydrogeology to develop a plan to remedy the situation and the Planning Board shall review and approve a final plan.

A fine of \$500 shall be levied for each day groundwater exposure occurs in new excavations prior to being remedied.

20. Reclamation plans shall meet the requirements of Sec. 509.H.

H. Reclamation.

The following provisions shall apply to all existing excavations, expansions of existing excavations, and new excavations. A reclamation plan shall be submitted to the Planning Board, and the site shall be reclaimed in accordance with the requirements of this Section. The reclamation plan shall include a description of the proposed use of the site after reclamation and the plan shall be designed to be suitable for that proposed use. Any project which will operate for more than five years shall be designed to operate and be reclaimed in phases, if possible. The reclamation work shall be completed within one year of the closing of a site (or a portion of a site with regard to phased reclamation plans).

Reclamation of continuing operations shall be conducted in phases, if possible, so that there is never open more area than is needed to efficiently operate the excavation. Any excavation which is proposed to operate for a period of time in excess of five years shall be designed to be reclaimed in phases. At the time of review, the Planning Board shall determine the maximum boundary line which may be exposed by excavation before reclamation is begun. Failure to remove more than four hundred (400) cubic yards of material from an excavation within any 24 month period shall trigger the obligation of the excavation operator to commence reclamation. The following requirements shall be met unless the Planning Board finds that an alternative plan will achieve the soil stabilization, groundwater and surface water protection, buffering and aesthetic effects intended by these regulations.



1. Where an embankment remains after the completion of operations, it shall be at a slope no steeper than (2:1) 2 feet horizontal to one foot vertical for excavated area existing as of (date of adoption of Ordinance) and 3:1 for expanded and new excavation. Quarrying operations may be granted waivers from these requirements if the proposed slopes are stabilized.
2. Exposed slopes shall be stabilized so that no erosion will occur. Loaming, seeding and planting, if required, shall be based on guidelines of the Cumberland County Soil and Water Conservation District. Sufficient topsoil shall be retained on site to complete the site reclamation.
3. Overburdened soil shall be redistributed over the excavation area, or removed from the parcel if not needed for the reclamation plan. All stumps and grubblings shall be removed from the site or disposed of legally. The areas of the excavation with solid or broken ledge rock shall be trimmed of loose rock, and the bottom of the excavation graded to be compatible with the surroundings.
4. Grading and restoration shall be completed in such a manner that it will avoid adverse drainage impacts on adjacent parcels, prevent standing water unless a wetland is created, minimize erosion and sedimentation on the parcel and adjacent parcels, and be compatible with the planned final use of the reclaimed site. The excavation shall be contoured so that sediment is not directed into streams or drainage ways.
5. A performance guarantee in the form of a bond, letter of credit, or other financial instrument satisfactory to the Town Manager covering the cost of the reclamation plan shall be delivered to the Town Manager at the time of Planning Board approval of the excavation. The amount of the performance guarantee shall be determined by the Planning Board according to the time schedule for the excavation and rehabilitation, and shall include adjustments for reasonable inflation estimates; the amount shall include a breakdown of costs of the various stages of reclamation. The performance guarantee shall remain in force until the Codes Enforcement Officer certifies that the site has been rehabilitated according to the approved rehabilitation plan.

Failure to complete the reclamation plan approved by the Planning Board shall constitute a violation of this Ordinance, subject to enforcement and legal action as provided in Section 601. In addition, if there is a default of any obligation to reclaim an excavation under this Section 509, the Town may call upon the performance guarantee and cause the reclamation plan to be implemented pursuant to the terms of that guarantee.

6. Reclaimed areas shall be guaranteed for a period of eighteen (18) months following the substantial completion of reclamation, during which time the performance guarantee shall remain in full force and effect. A reclamation plan shall state specific time requirements for commencement and substantial completion, and the times may be staggered for phased extraction work.

I. Inspection.

It shall be a condition of any Planning Board approval pursuant to this Section 509 that the Codes Enforcement Officer and his/her agents and assistants may, at reasonable times and after reasonable notice to the operator of the excavation, enter the property and inspect for compliance with the requirements of this Section 509, with any conditions of approval and with the reclamation plan.

Sec. 525 Filling of Lands and Creation of Ponds.

No materials in excess of 200 cubic yards during a calendar year may be used for filling of lands and no materials in excess of a total of 400 cubic yards over the project lifetime may be removed to create a pond unless a special permit for such operation has been approved by the Planning Board and subsequently issued by the Codes Enforcement Officer. The Planning Board shall review applications according to the procedures and requirements of Sec. 602 (Site Plan Review) as well as the additional requirements described below.

A. Exemptions.

No permit under this Section 525 shall be required for:

1. The depositing or dumping of two hundred (200) cubic yards or less of material onto or in the ground.
2. Filling necessarily incidental to construction, alteration or grading for which a building permit or other construction permit has been issued by the Codes Enforcement Officer.

3. The removal of a total of four hundred (400) cubic yards over the project lifetime or less of material over the project lifetime to create or enlarge a pond, except that ponds requiring DEP approval are not exempt.
4. Excavation to maintain an existing pond at its originally created size.

B. Submissions.

In addition to applicable Site Plan Review submissions, the following submissions shall be made. The Planning Board may waive any of these requirements if it determines that the scale of the project is of such size, as to make the information unnecessary. The Planning Board may require other pertinent information necessary to determine if the planned use meets the provisions of this Ordinance.

1. Fee.
2. Name and address of owner and/or operator of property and operation, copy of deed, map and lot number, zoning district, size of parcel and other information required on the application.
3. A site plan drawn at a scale no smaller than one inch to one hundred feet for that portion of the parcel proposed for the fill or pond activity. The plan shall show the entire parcel; describe the type of fill or excavation for a pond and its proposed location; slope existing and proposed; locate any water bodies and drainageways; describe any dams proposed for creation of a pond.
4. Plans and/or other written materials showing how the applicant will comply with the standards of Subsection C below.

C. Standards for Filling of Lands and Creation of Ponds.

1. For fill operations, excessive slopes and standing water shall be avoided. Where an embankment shall be left upon the completion of operations, it shall be at a slope not steeper than three (3) feet horizontal to one (1) foot vertical.
2. The plan shall not alter drainageways unless adequate provisions are made so that drainage flows off-site will not increase. If drainage patterns are altered, the Planning Board shall require submission of a stormwater study conducted by a Registered Professional Engineer. If a dam is proposed for creation of a pond, stream flows shall not be significantly decreased and fishery assets shall not be harmed.

3. Groundwater quality and quantity shall not be lowered.
4. Erosion and sedimentation shall be adequately controlled. The standards of the Cumberland County Soil and Water Conservation District for erosion and sedimentation measures shall be met. Review and approval by the CCSWCD shall be required.

Erosion and sedimentation plans shall be based on the following principles, when applicable:

- (a) Stripping of vegetation, regrading or other development shall be conducted in such a way as to minimize erosion;
- (b) Development shall preserve salient natural features, keep cut-fill operations to a minimum and ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and velocity of surface water runoff;
- (c) Whenever feasible, natural vegetation shall be retained, protected and supplemented;
- (d) The disturbed area and the duration of exposure shall be kept to a practical minimum;
- (e) Disturbed soils shall be stabilized, by appropriate means, as quickly as practical, in any event, no later than 2 weeks after the soil has been disturbed.
- (f) Temporary vegetation or mulching shall be used to protect exposed critical areas during development;
- (g) The permanent (final) vegetation and mechanical erosion control measures shall be installed as soon as practical on the site. A time schedule shall be submitted. Ground cover planting shall be used, if appropriate;
- (h) Until the disturbed area is stabilized, sediment in the run-off water shall be trapped by the use of debris basins, sediment basins, silt traps or other acceptable methods;
- (i) Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility, including financial responsibility, of the developer causing such sedimentation to remove it from all adjoining surfaces, drainage systems, and watercourses and to repair any damage as quickly as possible.

5. No hazardous materials or materials which may contaminate the ground or surface water, land or air, as determined by the Planning Board, shall be permitted to be used as fill.
6. Methods and time period of the activity including, but not limited to, weight and load limits of trucks hauling fill or excavating materials, protection against spillage off-site and potential damage to off-site roadways, shall be approved by the Planning Board.
7. The Planning Board may impose limitations on the amount, type and location of the filling operation or excavation for ponds because of potential environmental degradation;
8. The Planning Board may require adequate buffering or fencing for public health, safety and welfare considerations;
9. The Planning Board may require a surety bond, or equivalent, made payable to the Town and issued by a commercial surety company authorized to do business within the State of Maine, in an amount sufficient to guarantee conformity with the provisions of this section, approved as to form and amount by the Town Manager.

Sec. 601.H. Planning Board Appeals.

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

Sec. 602.C.5. Approval of Specific Site Plan.

The approval of a site plan shall become void if substantial construction is not commenced within one (1) year of the date of such approval unless such time limit is extended by the Planning Board. The site may be developed and used only as shown on the approved site plan. All elements and features of the plan are conditions of the approval and no change from the approved plan is permitted unless an amended plan is first submitted to and approved by the Freeport Planning Board ....

Fees - Sec. 509. Zoning Ordinance

Fees

Review Procedures

1. Existing Excavations

Initial Registration - \$150.00

Renewal - \$150.00

Public Hearing - \$ 50.00

2. New and Expanded Excavations and Fill Permits -

Site Plan review fees apply.

Permits

\$50

## Section 508. Sanitary Standards

- A. All subsurface sewage disposal systems shall be located in areas of suitable soil and comply with the minimum standards set forth in the State Plumbing Code.
- B. No materials of any kind shall be permanently or temporarily placed or deposited directly into or in the flood plains of any river or stream, lake, ponds or tidal waters or on the ice thereof where such material may fall or otherwise find its way into said water courses or tidal waters, nor shall such material be placed or deposited directly in pits, wells or on ground surface except in conformity with municipally approved sites and procedures.
- C. A marina shall provide, for use by its customers, shower and toilet facilities and shall also provide an environmentally safe means of removing accumulated waste matter from boats which have self-contained sanitary waste disposal units.

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## Section 509. Mineral Exploration, Excavation, Removal and Filling of Lands

- A. Mineral Exploration: Exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, back hoe test pits, or other methods which create minimal disturbance. A permit from the Planning Board shall be required for mineral exploration which exceeds the above limitation.
- B. Excavation, Removal and Filling of Lands
  - 1. This Section shall not prohibit normal excavation, removal or fill for construction of a building for which a building permit has been issued.
  - 2. No top soil, rock, sand, gravel or similar earth materials in excess of 30 cubic yards during a calendar year may be removed and no earth materials in excess of 50 cubic yards during a calendar year may be used for filling of lands until a special permit for such operations has been issued by the Codes Enforcement Officer to the owner upon approval of the Planning Board, provided that plans submitted to the Planning Board indicate the following:
    - (a) Specific plans are established to avoid hazards from excessive slopes or standing water. Where an embankment must be left upon the completion of operations, it shall be at a slope of not steeper than one (1) foot vertical to three (3) feet horizontal;
    - (b) The operation is shielded from surrounding property with adequate screening and creates no disturbance of a water source. Drainage ways shall not be altered unless adequate provisions are made so that drainage flows off-site will not increase. Groundwater quality and quantity shall not be lowered;



- (c) Without the approval of the Road Commissioner, no excavation shall be extended beneath the grade of adjacent street grade unless provision has been made for reconstruction of such street grade;
  - (d) Sufficient top soil or loam shall be retained to cover all areas which require seeding and restoration to natural conditions;
  - (e) A surety bond, or equivalent, made payable to the Town and issued by a commercial surety company authorized to do business within the State of Maine, or an amount sufficient to guarantee conformity with the provisions of this section, approved as to form and amount by the Town Manager, is posted;
  - (f) Required state permits are obtained or will be obtained as a condition of approval.
3. The plan review by the Planning Board shall take into consideration at least the following items. The Planning Board may impose such conditions as necessary to safeguard the health, safety, and welfare of the community:
- (a) Adequate fencing, landscaped buffer strips, and other public safety considerations;
  - (b) Advertising signs, lighting designed to prevent public nuisance conditions or undesirable aesthetic effects in the neighborhood;
  - (c) Adequate parking space, loading and unloading areas;
  - (d) Total time period for operation;
  - (e) Daily hours of operation;
  - (f) Methods of operation;
  - (g) Weight and loading limit of trucks;
  - (h) Safeguards against sand and gravel spillage upon public streets;
  - (i) Complete rehabilitation proposals;
  - (j) Limitations on the amount, type and location of the filling operation because of potential environmental degradation.
4. Filling, grading, lagooning, dredging, earth-moving activities, and other land use activities shall be conducted in such a manner to prevent, to the maximum extent possible, the erosion and sedimentation of surface waters. To this end, all construction shall be accomplished in conformance with the erosion prevention provisions of "Environmental Quality Handbook Erosion and Sediment Control," published by the Maine Soil and Water Conservation Commission dated June, 1974, or subsequent revisions thereof.

Erosion and sedimentation plans shall be based on the following principles, when applicable:

- (a) Stripping of vegetation, regrading or other development shall be done in such a way as to minimize erosion;

- (b) Development shall preserve salient natural features, keep cutfill operations to a minimum and ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and velocity of surface water runoff;
- (c) Whenever feasible, natural vegetation shall be retained, protected and supplemented;
- (d) The disturbed area and the duration of exposure shall be kept to a practical minimum;
- (e) Disturbed soils shall be stabilized as quickly as practicle;
- (f) Temporary vegetation or mulching shall be used to protect exposed critical areas during development;
- (g) The permanent (final) vegetation and mechanical erosion control measures shall be installed as soon as practical on the site. Ground cover planting shall be used, if appropriate;
- (h) Until the disturbed area is stabilized, sediment in the runoff water shall be trapped by the use of debris basins, sediment basins, silt traps or other acceptable methods;
- (i) Whenever sedimentaton is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the developer causing such sedimentation to remove it from all adjoining surfaces, drainage systems, and watercourses and to repair any damage at his expense as quickly as possible.

#### **Section 510. Design Review**

Buildings and structures located in the Design Review District are subject to the regulations of the Freeport Design Review Ordinance.

#### **Section 511. Signs**

All signs shall comply with the Sign Ordinance of the Town of Freeport.

#### **Section 512. Access to Property**

- A. Each property shall be provided with vehicular access to the property by abutting public or private ways. Private rights-of-ways shall be protected by permanent easements.
- B. Where the proliferation of access points from subdivisions, commercial and industrial developments to public ways tends to cause traffic hazards, congestion and other manifestations of strip development, the Planning Board may require that a developer dedicate a fifty (50) foot strip adjacent to and running the length of the public way to the use of controlled public access and landscaping. Such strip shall not be considered as part of the required setback. If required, such an access roadway shall be constructed in accordance with minimum Town standards and shall connect in a proper fashion with the roadways of adjoining development.