

FREEPORT TOWN COUNCIL MEETING #11-92

MAY 19, 1992 - 7:30 P.M. - COUNCIL CHAMBERS

SUMMARY AGENDA

- ITEM #103-92 TO CONSIDER ACTION RELATIVE TO APPLICATIONS/RE-APPLICATIONS FOR VICTUALER'S LICENSES FOR CAROLYN ARNDT, ALAN BRADLEY, DAVID/JOHN COFFIN, EDWARD COLLETT, LEWIS/JACKI CORLISS, DENNIS DANIEL, LESLIE DIONNE, CAROLYN DOBSON, MICHAEL DOHERTY, DOWNEAST ENERGY, FREEPORT BARON CORPORATION, ISAAC RANDALL HOUSE, TERI GOBLE, NANCY GRAY, HARRASEEKEET GRANGE, JOHN/SUE LEWIS, JEAN MACLEOD, BRIAN MAXWELL, RICHARD MARTINO, BARBARA MCGIVAREN, JOHN/KAREN NAPPI, MALCOLM POHLE, ELAINE POLAKIEWICH, ROBERT POTTLE, WILLIAM PUSHARD, JOHN QUIGG, J.D. RAGAN, GAILA RING, VERA/ALAN ROGERS, RALPH ROUTHIER, SAM'S MALLIAN, LEONARD SHEAN, GREG SPAULDING, JOHN STILES, RICHARD THACKER, RICHARD WAGNER, ANITA WILLETT, & JAMES WILLEY. (PUBLIC HEARING.)
- ITEM #104-92 TO CONSIDER ACTION RELATIVE TO THE ADOPTION OF FISCAL YEAR 1993 CAPITAL AND OPERATING BUDGETS FOR WINSLOW PARK. (PUBLIC HEARING)
- ITEM #105-92 TO CONSIDER ACTION RELATIVE TO THE ADOPTION OF A COMPREHENSIVE PLAN FOR THE TOWN OF FREEPORT. (PUBLIC HEARING)
- ITEM #106-92 TO CONSIDER ACTION RELATIVE TO THE PROPOSED CONSTRUCTION PROJECT OF A NEW PUBLIC SAFETY AND PUBLIC WORKS PROJECT. (PUBLIC HEARING)
- ITEM #107-92 TO CONSIDER ACTION RELATIVE TO AN APPOINTMENT TO THE LAND BANK COMMISSION.
- ITEM #108-92 TO CONSIDER ACTION RELATIVE TO AN APPOINTMENT TO THE CONSERVATION COMMISSION.
- ITEM #109-92 TO CONSIDER ACTION RELATIVE TO THE DISBURSEMENT OF THE 1992 CEMETERY PERPETUAL CARE INTEREST INCOME.
- ITEM #110-92 TO CONSIDER ACTION RELATIVE TO THE ISSUANCE OF A QUIT CLAIM DEED FOR TAX MAP 30, LOT 38.
- ITEM #111-92 TO CONSIDER ACTION RELATIVE TO THE ABATEMENT OF TAXES FOR EVELYN STILKEY.
- ITEM #112-92 TO CONSIDER ACTION RELATIVE TO THE APPOINTMENT OF A WARDEN FOR THE JUNE 9, 1992 PRIMARY ELECTION.
- ITEM #208-92 TABLED MAY 5, 1992. TO CONSIDER ACTION RELATIVE TO PROPOSED AMENDMENTS TO THE FREEPORT ZONING ORDINANCE AND ZONING MAP PERTAINING TO NEW STATE REQUIREMENTS FOR SHORELAND ZONING. (CHAPTER 21)

TURN OVER

Summary Agenda - continued

ITEM #90-92

TABLED MAY 5, 1992. TO CONSIDER ACTION RELATIVE TO AN ORDINANCE REQUIRING NOTICE FOR OUTDOOR EVENTS WITH ATTENDANCE IN EXCESS OF 250 PEOPLE. (CHAPTER 10)

OTHER BUSINESS:

ITEM #113-92

TO CONSIDER ACTION RELATIVE TO AN EXECUTIVE SESSION TO DISCUSS LITIGATION.

END OF AGENDA

M I N U T E S

FREEPORT TOWN COUNCIL MEETING #11-92

FREEPORT TOWN HALL COUNCIL CHAMBERS

MAY 19, 1992 - 7:30 P.M.

Regular X Special

Chairman's Call to Order	Present	Absent	Excused
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Vaughndella Curtis, Chairperson Pine Street			X
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Kirk Goddard, Vice-Chairman Mast Landing	X		
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Edward Bradley, Flying Point	X		
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John Nelson, Church Road	X		
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Andrew Arsenault, US Route #1	X		
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Cary Veilleux, Wardtown Road	X		
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Moved and Seconded - To waive the reading of the Minutes of Meeting #10-92 held May 5, 1992 and accept the Minutes as printed.

(Councilors Goddard & Nelson) (4 Ayes) (0 Nays)

Second Order of Business: Public Comment Period - 15 Minutes.

Councilor Nelson announced that there will be an Open House at Winslow Park on May 30, 1992.

Third Order of Business: To take action on the following items of business as read by the Council Chairperson.

(Councilors Goddard & Nelson) (4 Ayes) (0 Nays)

ITEM #103-92

TO CONSIDER ACTION RELATIVE TO APPLICATIONS/RE-APPLICATIONS FOR VICTUALER'S LICENSES FOR CAROLYN ARNDT, ALAN BRADLEY, DAVID/JOHN COFFIN, EDWARD COLLETT, LEWIS/JACKI CORLISS, DENNIS DANIEL, LESLIE DIONNE, CAROLYN DOBSON, MICHAEL DOHERTY, DOWNEAST ENERGY, FREEPORT BARON CORPORATION, ISAAC RANDALL HOUSE, TERI GOBLE, NANCY GRAY, HARRASEEKET GRANGE, JOHN/SUE LEWIS, JEAN MACLEOD, BRIAN MAXWELL, RICHARD MARINO, BARBARA MCGIVAREN, JOHN/KAREN NAPPI, MALCOLM POHLE, ELAINE POLAKEWICH, ROBERT POTTLE, WILLIAM PUSHARD, JOHN QUIGG, J.D. RAGAN, GAILA RING, VERA/ALAN ROGERS, RALPH ROUTHIER, SAM'S ITALIAN, LEONARD SHEAN, GREG SPAULDING, JOHN STILES, RICHARD THACKER, RICHARD WAGNER, ANITA WILLETT, & JAMES WILLEY. (PUBLIC HEARING.)

MOVED & SECONDED: That the Council adjourn and the Licensing Board convene:
(Councilors Nelson & Veilleux) (4 Ayes) (0 Nays)

<u>ROLL CALL OF MEMBERS:</u>	<u>PRESENT</u>	<u>ABSENT</u>	<u>EXCUSED</u>
Vaughndella Curtis			x
Kirk Goddard	x		
Edward Bradley		x	
Andrew Arsenault	x		
John Nelson	x		
Cary Veilleux	x		
Dale Olmstead	x		
Mary Lou Halla	x		

MOVED & SECONDED: That the following applications/reapplications for Victualer's Licenses be subject to Public Hearing.
(Councilors Nelson & Veilleux) (6 Ayes) (0 Nays)

Item #103-92 - continued on next page

ITEM #103-92 - continued

CAROLYN ARNDT, D/B/A DEPOT STREET CABOOSE (PEDDLER/TOWN PROPERTY) DEPOT STREET
ALAN BRADLEY, D/B/A CAPTAIN JOSIAH MITCHELL HOUSE BED & BREAKFAST, 188 MAIN STREET
DAVID/JOHN COFFIN, D/B/A HARRASEEKET LUNCH, SOUTH FREEPORT WHARF
EDWARD COLLETT, D/B/A RED WHEEL ANTIQUES, U.S. ROUTE 1 SOUTH
LEWIS/JACKI CORLISS, D/B/A THE VILLAGE INN, 186 MAIN STREET
LEWIS/JACKI CORLISS, D/B/A LEWEY'S LUNCH (PEDDLER/PRIVATE PROPERTY) MALLET DRIVE
DENNIS DANIEL, D/B/A BEN & JERRY'S ICE CREAM, 57 MAIN STREET
LESLIE DIONNE, D/B/A STATE O MAINE ICE CREAM (PEDDLER/PRIVATE PROPERTY) MAIN STREET
CAROLYN DOBSON, D/B/A DESERT DUNES OF MAINE, 95 DESERT ROAD
MICHAEL DOHERTY, D/B/A MAINLY HOTDOGS (PEDDLER/TOWN PROPERTY) MAIN STREET
DOWNEAST ENERGY, D/B/A FREEPORT MOBIL HOTDOGS (PEDDLER/PRIVATE PROPERTY) 57 MAIN STREET
FREEPORT BARON CORPORATION, D/B/A FREEPORT INN & CAFE, U.S. ROUTE 1 SOUTH
JIM/GLYNROSE FRIEDLANDER, D/B/A ISAAC RANDALL HOUSE BED & BREAKFAST, 13 INDEPENDENCE DRIVE
TERI GOBLE, D/B/A MC DONALD'S, 155 MAIN STREET
NANCY GRAY, D/B/A HARRASEEKET INN, 162 MAIN STREET
HARRASEEKET GRANGE, D/B/A BEANO, ELM STREET
JOHN/SUE LEWIS, D/B/A THE BLUE ONION, CORNER VARNEY/MAIN STREETS
JEAN MACLEOD, D/B/A OCEAN FARMS OF FREEPORT, 23 MAIN STREET
BRIAN MAXWELL, D/B/A MAXWELL'S (PEDDLER/PRIVATE PROPERTY) 49 MAIN STREET
RICHARD MARINO, D/B/A THE LOBSTER COOKER, 39 MAIN STREET
BARBARA MC GIVAREN, D/B/A MC WILL'S SOUTHERN SPECIALTIES (PEDDLER/TOWN PROPERTY) MAIN STREET
JOHN/KAREN NAPPI, D/B/A BOW STREET MARKET, 79 BOW STREET
MALCOLM POHLE, D/B/A FREEPORT COUNTRY CLUB, 7 OLD COUNTY ROAD
ELAINE POLAKEWICH, D/B/A MAGGIE'S, U.S. ROUTE 1 SOUTH
ROBERT POTTLE, D/B/A CINDY'S FISH & CHIPS, U.S. ROUTE 1 SOUTH
WILLIAM PUSHARD, D/B/A PORKY'S (PEDDLER/TOWN PROPERTY) NATHAN NYE STREET
JOHN QUIGG, D/B/A UNCLE JOHN'S BBQ (PEDDLER/PRIVATE PROPERTY) U.S. ROUTE 1 SOUTH
J.D. RAGAN JR, D/B/A KENDALL TAVERN BED & BREAKFAST, 213 MAIN STREET
GAILA RING, D/B/A ATLANTIC SEAL CRUISES CATERING, MAIN STREET, SO. FREEPORT
GAILA RING, D/B/A ATLANTIC SEAL CRUISES BED & BREAKFAST, MAIN STREET, SO. FREEPORT
VERA/ALAN ROGERS, D/B/A FLORIDA LAKE, WARDTOWN ROAD
RALPH ROUTHIER, D/B/A HOLBROOK INN, 7 HOLBROOK STREET
SAM'S ITALIAN, SAM'S SANDWICH SHOPPE, 7 MAIN STREET
LEONARD SHEAN, D/B/A MOM 'N' POPS STORE, MAIN STREET, SO. FREEPORT
GREG SPAULDING, D/B/A B & B'S GRILL (PEDDLER/PRIVATE PROPERTY) U.S. ROUTE 1 SOUTH
JOHN STILES, D/B/A JAMESON TAVERN, 115 MAIN STREET
RICHARD THACKER, D/B/A ARBY'S ROAST BEEF, 123 MAIN STREET
RICHARD WAGNER, D/B/A DEROSIER'S MARKET, 120 MAIN STREET
ANITA WILLETT, D/B/A COTTAGE STREET INN, 13 COTTAGE STREET
JAMES WILLEY, D/B/A THE BEANERY, LL BEAN - CASCO STREET

MOVED & SECONDED: That the Public Hearing be closed.
(Councilors Nelson & Veilleux) (6 Ayes) (0 Nays)

BE IT ORDERED: That the applications/re-applications for Victualer's Licenses as noted above be approved.
(Councilors Nelson & Veilleux) (6 Ayes) (0 Nays)

MOVED & SECONDED: That the Licensing Board adjourn and the Licensing Board reconvene.
(Councilors Nelson & Veilleux) (6 Ayes) (0 Nays)

ITEM #104-92

TO CONSIDER ACTION RELATIVE TO THE ADOPTION OF FISCAL YEAR 1993 CAPITAL AND OPERATING BUDGETS FOR WINSLOW PARK.
(PUBLIC HEARING)

MOVED & SECONDED: That the proposed Fiscal Year 1993 Capital and Operating Budgets for Winslow Park be subject to Public Hearing.
(Councilors Arsenault & Nelson) (4 Ayes) (0 Nays)

MOVED & SECONDED: That the Public Hearing be closed.
(Councilors Veilleux & Arsenault) (5 Ayes) (0 Nays)

MOVED & SECONDED: That the proposed Fiscal Year 1993 Capital and Operating Budgets for Winslow Park be tabled until June 2, 1992.
(Councilors Veilleux & Nelson) (5 Ayes) (0 Nays)

Note: Councilor Bradley arrives at 7:50 p.m.

ITEM #105-92

TO CONSIDER ACTION RELATIVE TO THE ADOPTION OF A COMPREHENSIVE PLAN FOR THE TOWN OF FREEPORT. (PUBLIC HEARING)

MOVED & SECONDED: That the proposed Comprehensive Plan for the Town of Freeport be subject to Public Hearing.
(Councilors Nelson & Veilleux) (5 Ayes) (0 Nays)

MOVED & SECONDED: That the Public Hearing be closed.
(Councilors Nelson & Veilleux) (5 Ayes) (0 Nays)

MOVED & SECONDED: That the proposed Comprehensive Plan be tabled until such time that the Planning Board is prepared to make final recommendations to the Town Council.
(Councilors Nelson & Veilleux) (5 Ayes) (0 Nays)

ITEM #106-92

TO CONSIDER ACTION RELATIVE TO THE PROPOSED CONSTRUCTION PROJECT OF A NEW PUBLIC SAFETY AND PUBLIC WORKS PROJECT.
(PUBLIC HEARING)

MOVED & SECONDED: That the proposed construction project of a New Public Safety and Public Works Project, that will be submitted to the voters at the June 9, 1992 Primary Election, be subject to Public Hearing.
(Councilors Arsenault & Nelson) (5 Ayes) (0 Nays)

MOVED & SECONDED: That the Public Hearing be closed.
(Councilors Arsenault & Veilleux) (5 Ayes) (0 Nays)

ITEM #107-92

TO CONSIDER ACTION RELATIVE TO AN APPOINTMENT TO THE LAND BANK COMMISSION.

BE IT ORDERED: That Alison Truesdale be appointed, effective immediately, to serve as a member of the Land Bank Commission until January 1, 1994.

BE IT FURTHER ORDERED: That Ms. Truesdale qualify by swearing an oath of office before the Town Clerk by May 29, 1992.
(Councilors Arsenault & Nelson) (5 Ayes) (0 Nays)

COUNCIL MINUTES #11-92
MAY 19, 1992

ITEM #108-92 TO CONSIDER ACTION RELATIVE TO AN APPOINTMENT TO
THE CONSERVATION COMMISSION.

BE IT ORDERED: That Ted Myers be appointed, effective immediately, to serve as a member of the Conservation Commission until September 1, 1993.

BE IT FURTHER ORDERED: That Mr. Myers qualify by swearing an oath of office before the Town Clerk by May 29, 1992.
(Councilors Bradley & Nelson) (5 Ayes) (0 Nays)

ITEM #109-92 TO CONSIDER ACTION RELATIVE TO THE DISBURSEMENT
OF THE 1992 CEMETERY PERPETUAL CARE INTEREST INCOME.

BE IT ORDERED: That Cemetery Perpetual Care Interest Income be disbursed as follows:

<u>Cemetery Association</u>	<u>Interest Income</u>
Burr Cemetery Association	3,955.11
Woodlawn Cemetery Assoc.	679.57
Webster Cemetery Assoc.	535.05
So. Freeport Cemetery Assoc.	1,232.50
Grove Cemetery Assoc.	1,307.72
Flying Pt. Cemetery Assoc.	255.78

(Councilors Veilleux & Arsenault) (5 Ayes) (0 Nays)

ITEM #110-92 TO CONSIDER ACTION RELATIVE TO THE ISSUANCE OF A
QUIT CLAIM DEED FOR TAX MAP 30, LOT 38.

BE IT ORDERED: That the Town Manager be authorized to issue a Quit Claim Deed releasing any interest of the Town of Freeport for the following property for Tax Year 1977.

Town of Freeport Tax Map 30, Lot 38

To: Douglas E. & Michaline M. Drummond

Note: This property is located in Desert Pines and all taxes have been paid.

(Councilors Nelson & Veilleux) (5 Ayes) (0 Nays)

ITEM #111-92 TO CONSIDER ACTION RELATIVE TO THE ABATEMENT OF TAXES FOR EVELYN STILKEY.

BE IT ORDERED: That an abatement of taxes for Evelyn Stilkey of 35 Prout Road in the amount of \$230.63 for Tax Years 1990-91, be approved.

Note: That the 1990-91 assessment was based on a parcel size of 18.5 acres. A recent survey has reduced the actual size to 6.5 acres.
(Councilors Bradley & Veilleux) (5 Ayes) (0 Nays)

ITEM #112-92 TO CONSIDER ACTION RELATIVE TO THE APPOINTMENT OF A WARDEN FOR THE JUNE 9, 1992 PRIMARY ELECTION.

BE IT ORDERED: That Cary Veilleux be appointed Warden for the June 9, 1992 Primary Election.
(Councilors Nelson & Arsenault) (5 Ayes) (0 Nays)

ITEM #208-92 TABLED MAY 5, 1992.
TO CONSIDER ACTION RELATIVE TO PROPOSED AMENDMENTS TO THE FREEPORT ZONING ORDINANCE AND ZONING MAP PERTAINING TO NEW STATE REQUIREMENTS FOR SHORELAND ZONING. (CHAPTER 21)

attached amendments
BE IT ORDERED: That the proposed amendments to the Freeport Zoning Ordinance and Zoning Map pertaining to New State Requirements for Shoreland Zoning, as submitted to Public Hearing on December 17, 1991 and continued to May 5, 1992, be approved.

MOVED & SECONDED: To amend Item #208-91 by deleting Section 602.
(Councilors Arsenault & Bradley) (Motion - withdrawn)

MOVED & SECONDED: To amend Item #208-91 by deleting Section 602 C.5.
(Councilors Arsenault & Bradley) (Motion - withdrawn)

MOVED & SECONDED: To amend Item #208-92 by deleting proposed changes to Section 602 C.5.
(Councilors Arsenault & Bradley) (5 Ayes) (0 Nays)

MOVED & SECONDED: To table Item #208-91 until June 2, 1992. (Councilors Bradley & Veilleux) (5 Ayes) (0 Nays)

Note: The Town Council requested that the Master Shoreland Zoning Map be notarized.

ITEM #90-92 TABLED MAY 5, 1992.
TO CONSIDER ACTION RELATIVE TO AN ORDINANCE REQUIRING NOTICE FOR OUTDOOR EVENTS WITH ATTENDANCE IN EXCESS OF 250 PEOPLE. (CHAPTER 10)

attached ordinance
BE IT ORDERED: That the proposed Ordinance Requiring Notice for Outdoor Events with Attendance in Excess of 250 People, as submitted to Public Hearing on May 5, 1992, be approved.
(Councilors Veilleux & Arsenault) (5 Ayes) (0 Nays)

COUNCIL MINUTES #11-92
MAY 19, 1992

ITEM #113-92 TO CONSIDER ACTION RELATIVE TO AN EXECUTIVE SESSION
TO DISCUSS LITIGATION.

MOVED & SECONDED: That the Council enter into Executive Session to discuss litigation - Gilliam and Denney v. the Town of Freeport.
(Councilors Nelson & Veilleux) (5 Ayes) (0 Nays)

MOVED & SECONDED: That the Council reconvene.
(Councilors Veilleux & Nelson) (5 Ayes) (0 Nays)

MOVED & SECONDED: That the Council adjourn at 10:57 p.m.
(Councilors Nelson & Veilleux) (5 Ayes) (0 Nays)

Recorded by,

Mary Lou Halla, Council Secretary

P/H 5-5-92
Approved May 19, 1992
Item #208-192

April 16, 1992

Revised Draft #11

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Section 104. Add: (First Paragraph) aids in understanding the written regulations Definitions with asterisks apply only to the Shoreland Zone.

Accessory Use or Structure: Where an accessory building or structure, including but not limited to a deck or garage, is attached in a substantial manner by a wall to a principal building

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

Basal Area: The area of cross section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

Coastal Wetland*: All tidal and subtidal lands; all lands below any identifiable debris line left by tidal action; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land which is subject to tidal action during the maximum spring tide level as identified in tide tables published by the National Ocean Service.

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

Forested Wetlands: A freshwater wetland dominated by woody vegetation that is six (6) meters (19 1/2 feet) tall or taller.

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

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

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

Frontage, Shore: ... The horizontal distance, measured in a straight line, between the intersections of the side lot lines with the shoreline of tidal waters, rivers and streams in the Shoreland Zone at normal high water elevation.

High Water Elevation:

Add as a new paragraph at end of entire section:

In the case of wetlands adjacent to rivers, the normal high water line is the upland edge of the wetland, and not the edge of the open water.

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

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

Charles
Coastal Beaches
Limerick

Medomak
Ondawa
Podunk

Rumney
Saco
Tidal Marsh

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

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

Salt Marsh*: Areas along coastal waters (most often along coastal bays) which support salt tolerant species, and where at average high tide during the growing season, the soil is regularly inundated by tidal waters. The predominant species is salt marsh cordgrass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

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

Shore Setback: Setback between the normal high water elevation of a shoreline, including tidal waters, rivers, upland edge of wetlands and streams in the Shoreland Zone, or the bounds of a Resource Protection District, whichever is greater, and the side and/or rear line of a building, structure or other regulated use, object or area. The depth of the shore setback shall be measured from the normal high water elevation of a shore to the side and/or rear building line of a building, structure or other regulated use, object or area.

Shoreland Zone*: The area shown on the official Town of Freeport Zoning Map which includes the Resource Protection I District and the land area located within two hundred and fifty (250) feet horizontal distance of the normal high-water line of any river or saltwater body; within 250 feet of the upland edge of a coastal or freshwater wetland; or within seventy-five (75) feet of the normal high-water line of a stream.

Stream*: A free-flowing body of water from the confluence of two (2) perennial streams as depicted either on the most recent edition as of [date of adoption of this Ordinance] of the United States Geological Survey 7.5 minute series topographic map, or the 15-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within the Shoreland Zone. Included is a stream draining a RP-I Freshwater Wetland and flowing directly into a stream as defined above.

Timber Harvesting: Timber harvesting does not include the construction or creation of roads or the clearing of land for approved construction.

Tributary Stream*: A channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock, and which flows to a water body or wetland as defined. This definition does not include the term "stream" as defined elsewhere in this Ordinance, and applies only to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

Upland Edge*: The boundary between upland and wetland.

Vegetation*: All live trees, shrubs, ground cover, and other plants including without limitation, trees both over and under 4 inches in diameter measured at 4 1/2 feet above ground level.

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

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

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

Article II

Section 201.

- A. No building or land shall hereafter be used or occupied, ~~no new lot shall be created,~~ Except as otherwise provided, ... home occupation, ~~forest management activities, state granted snowmobile trails~~ and open space uses are permitted in every district.
- F. When a lot is transected by a zoning district boundary, the regulations set forth in this Ordinance for each district shall apply to the area of the lot in each district, ~~except as permitted by Section 201.H. below.~~
- G. Excavation, filling and earthmoving ~~as described in Section 509 D.2.~~ shall be permitted in any district only ~~to the extent such activities are necessary for and incidental to any permitted use or other lawful use unless otherwise regulated by this Ordinance.~~ Ponds, ~~as regulated in Section 525,~~ and short-term excavations, ~~as regulated in Section 509,~~ are permitted in any district ~~unless otherwise regulated by this Ordinance.~~
- H. ~~In determining whether a particular use satisfies the space standards of this Ordinance, all areas or distances within the Resource Protection District shall be taken into account only when such areas constitute more than fifty percent (50%) of the total lot area.~~

~~When part of a lot is in a Resource Protection District RPI, that area in the Resource Protection District shall be counted toward the required minimum lot area of the other District only if all other applicable space standards can be satisfied within that part of the lot which is in the other district.~~

Section 202. Non-Conformance.

B. Non-Conforming Uses.

3. Change in Use:

A non-conforming use of a building, structure or land may be changed to another non-conforming use only when the impact of the new use on adjacent properties, water bodies, wetlands, and upon the Town is less adverse than the impact of the former use and a permit is issued for such change by the Planning Board in accordance with the procedures described in Section 602....

6. Resource Protection:

... In Section 602.F.1.L. of the Site Plan Review regulations and the requirements of Section 507 and is subject to the restrictions described below:

c. The expansion shall not increase the non-conformance of any existing shore setback.

d. If the Zoning Board of Appeals grants a setback variance request under Sec. C.1. below, it shall be counted in the maximum total lifetime expansion area permitted.

202.C.1. Add.

In the Shoreland Zone, the following additional requirements shall be met:

a. If a non-conforming building or structure lies partially or entirely within the required shore setback, no variance shall be granted which would permit the building or structure to expand in a manner that would reduce the shortest existing non-conforming setback from the shore.

For purposes of this section, when determining the setback line, if minor attachments such as stairs, landings and basement bulkhead doors are within the required shore setback for buildings or structures, expansions of the main portion of the building or structure toward the front edge of these minor attachments shall not be permitted.

New stairways for the sole purpose of gaining access to, or egress from, a building or structure need not be considered when determining its setback, provided that the stairway and landing, if any, is no wider than five feet and extends no closer to the water than is necessary to accomplish its purpose. If the elevation at the top of the stairway or landing is greater than four feet above ground level, the stairway must be constructed such that it parallels the wall of the building or structure rather than extending toward the shoreline.

- b. If any portion of a building or structure is less than the required shore setback, the Zoning Board of Appeals may, during the lifetime of the building or structure, grant a variance for expansion to expand within the setback area by a maximum of 30% of the gross floor area of that portion of the existing building or structure within the setback area provided, however, that the footprint does not expand by more than the lesser of 600 square feet or 30% of the gross floor area of the existing building or structure within the setback area and the existing non-conforming shore setback is not decreased. These provisions shall not restrict expansion of portions of a building or structure located outside of the required setback.

C. 2. Destroyed or Demolished:

If a non-conforming building or structure is which destroyed or damaged by any means beyond the control of the owner, the owner retains the right to rebuild or restore the non-conforming building or structure it shall be rebuilt or restored provided that a permit is obtained within a period of eighteen (18) months

If such building or structure is located in whole or in part in the Shoreland Zone, reconstruction or restoration shall be in compliance with the shore setback requirement to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this Ordinance. In no case shall a building or structure be reconstructed or restored so as to increase its non-conformity.

In determining whether the building or structure reconstruction or restoration meets the shore setback to the greatest practical extent the Planning Board shall consider, in addition to the criteria in Section 602.F.1.L. below, the physical condition and type of the existing foundation, if any, and whether it is reasonably feasible to relocate it.

4. Relocation:

In the Shoreland Zone, a non-conforming building or structure may be relocated within the boundaries of the parcel on which the building or structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a building or structure be relocated in a manner that causes it to be more non-conforming.

In the Shoreland Zone, the Planning Board shall review requests for relocation of non-conforming buildings or structures. In determining whether the building or structure relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other buildings and structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

4. 5. Construction begun

Sec. 203. Changes and Amendments.

7. ~~The State Planning Office shall be notified, by Certified Mail, or amendments in designated Shoreland Zone Districts prior to the effective date of such amendments. A file of return receipts from such mailings shall be maintained as a permanent record.~~

7. If the provisions of the Shoreland Zone are amended, copies of amendments, attested and signed by the Town Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the Town Council and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the Town within the forty-five (45) day period shall be governed by the terms of the amendment. If such amendment is approved by the Commissioner.

If amendments are made in the Shoreland Zone boundaries, such changes shall be made on the Official Zoning Maps within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

Article III

Section 302. Zoning Map

The Zoning Districts and Shoreland Zone of the Town are shown on a map entitled "Town of Freeport, Maine, Zoning Map", dated October 1975 as subsequently amended on June 6, 1986

Field verification of any distance indicated on the map from the normal high-water line of the water body or the upland edge of the wetland or the 100-year flood plains when associated with rivers and adjacent to tidal waters in the Shoreland Zone is required to determine the actual boundary of the zone.

Section 304. Map Corrections - Shoreland Zone and Resource Protection District RP-1.

Any person owning a parcel of land which is shown within the Shoreland Zone or the Resource Protection District RP-1 on the Town of Freeport Zoning Map may apply to the Planning Board for a map correction for his/her parcel. The Planning Board shall process the application using the procedures described in Section 602(C)(1) of this Ordinance and the Planning Board may recommend to the Town Council reimbursement of up to one-half of the cost of any professional studies required for the determination. In making its decision, the Planning Board may consider evidence from a Maine certified soil scientist, a Maine certified geologist, a Maine licensed land surveyor, biologist, or other person with relevant training and experience.

If the Planning Board determines that the applicant's land or any portion of the applicant's land was incorrectly included in the Shoreland Zone or in the Resource Protection District RP-1, the Planning Board shall issue a "Notice of Map Correction" finding that the applicant's property or some specifically described portion of the applicant's property was incorrectly mapped. If the map correction eliminates the applicant's land or any portion thereof from the Resource Protection District RP-1, the affected land shall be governed by the regulations applicable in the zoning district which abuts the affected land (or, if there is more than one abutting zoning district, by the regulations applicable in the most restrictive abutting zoning district). The Notice of Map Correction shall be recorded in the office of the Town Clerk and may be recorded by the applicant in the registry of deeds.

A map correction under this Section 304 shall constitute administrative action by the Planning Board and shall not constitute a rezoning or an amendment to the Town of Freeport Zoning Map or the Town of Freeport Zoning Ordinance and shall not require action by the Town Council. However, any corrections established by a map correction under this Section 304 shall be incorporated into any subsequent amendments of the Town of Freeport Zoning Map.

Section 402. RR-1.

B. Permitted Use.

The following use is subject to a Planning Board permit as described in Section 507.R.

19. Aquaculture.

C. Space Standards:

6. Minimum shore frontage: 150-feet See Section 507.

D. Other Standards:

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

Section 403. RR-II.

B. Permitted Use.

The following use is subject to a Planning Board permit as described in Section 507.R.

16. Aquaculture.

C. Space Standards:

6. Minimum shore frontage: 150-feet See Section 507.

D. Other Standards:

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

Section 404. MDR-I

C. Space Standards:

6. Minimum shore frontage: 100-feet See Section 507.

D. Other Standards:

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

Section 405. MDR-II

C. Space Standards:

6. Minimum shore frontage: 100-feet See Section 507.

D. Other Standards:

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

Section 406. MD

B. Permitted Use.

The following use is subject to a Planning Board permit as described in Section 507.R.

26. Aquaculture.

Section 408. V-II

C. Space Standards:

6. Minimum shore frontage: ~~100 feet~~ See Section 507.

D. Other Standards:

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

Section 415. LB

C. Space Standards:

5. Minimum shore frontage: ~~150 feet~~ See Section 507.

- D. 6. Parcels within the Shoreland Zone shall meet the requirements of Section 507.

Section 419. MW

D. Other Standards:

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

Section 420. Resource Protection District "RP-1"

A. 1. Purpose.

It is the intent of this District to protect the most fragile shoreline and natural areas, including flood plains, critical aquifer recharge areas and fresh and salt water wetlands, in which development would lower the water quality, significantly disturb essential natural plant and animal relationships, or general scenic and natural values, and to discourage development in unsafe or unhealthy areas.

2. Applicability.

Only areas shown as RPI on the official Town of Freeport Zoning Map are regulated by this Section. They include critical aquifer recharge areas and the following types of areas defined in the "State of Maine Guidelines for Municipal Shoreland Zoning Ordinances", March 24, 1990 as subsequently amended: areas within 100 feet of the upland edge of portions of the Florida Lake freshwater wetland and within 250 feet, horizontal distance, of the upland edge of other freshwater wetlands, salt marshes and salt meadows and wetlands associated with rivers, which are ten (10) acres or more and are rated "moderate" or "high" value by the Maine Department of Inland Fisheries and Wildlife as of [date of adoption of this Ordinance]:

ood plains along rivers and tidal waters defined by the 100 year flood plain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils; areas within the Shoreland Zone of two or more contiguous acres with sustained slopes of 20% or greater; land areas along rivers subject to severe bank erosion, undercutting, or riverbed movement and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs and productive wildlife habitat within the Shoreland Zone. However, notwithstanding that they are not shown as RP-1 on the Freeport Zoning Map, any areas which are within 250' of the mean high water line of a river or tidal water and which are in the 100 Year Flood Plain as shown on the FEMA maps are included within and subject to all requirements of the RP-1 District. All parcels within the RP-1 District are included in the Shoreland Zone.

B. Permitted Uses:

1. General Agriculture.
2. Timber Harvesting.
1. Excavation, filling and earth moving up to fifteen (15) cubic yards.
2. Repair and maintenance of an existing road culvert as described in Section 507.D.3.

The following uses require a CEO permit.

3. Timber Harvesting.
4. Clearing of vegetation for approved construction and other permitted uses.
5. 5. Temporary and Permanent Piers, Docks, Wharves, Breakwaters, Bridges, Structures and uses projecting into Water Bodies extending over or below the normal high water line or within a wetland.

The following uses require a Planning Board permit are subject to site plan review regardless of size as described in Section 507R below.

6. General Agriculture.
7. Aquaculture.
3. 8. Non-Residential Facilities for Nature Interpretations Purposes.
4. 9. Public and Private recreational areas involving minimal structures customarily incidental to such uses.

6. ~~10.~~ Public Utilities.
7. ~~11.~~ Filling ~~and earthmoving~~ in excess of 40 ~~15~~ cubic yards.
8. ~~12.~~ Underground Utilities and Utility Poles.
9. ~~13.~~ Roads to access the above permitted uses or to access permitted residential uses in an adjacent property where no other access is reasonably possible.

C. Space Standards:

6. Minimum shore frontage: ~~150-feet~~ See Section 507.

D. Prohibited Activities: (not to imply that such activities are permitted elsewhere.)

1. Disposal of solid wastes (except brush and stumps), leachable wastes (except ~~existing and replacement systems for~~ subsurface disposal of domestic sewage) and sludge.
2. Storage of petroleum or gasoline.
3. Storage of leachable wastes or solid wastes.
4. Mining or excavation in excess of 40 ~~fifteen~~ (15) cubic yards other than excavation for permitted uses and uses within public rights-of-way.
5. Spraying of pesticides and herbicides or application of de-icing chemicals except sand with a salt content of no more than 10 percent may be used on public rights-of-way.
6. Animal feedlots.
7. Use and storage of hazardous materials as defined in Chapter 14 of Title 38 of the Maine Revised Statutes and hazardous wastes as defined in Chapter 13 of Title 38 of the Maine Revised Statutes ~~as subsequently amended.~~
8. ~~Conversions of seasonal residences to year-round residences.~~
9. ~~Marinas.~~

E. Other Standards:

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

Section 421. RP-II

C. Space Standards:

6. Minimum shore frontage: ~~150-feet~~ See Section 507.

D. Other Standards:

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

Section 422. I.D.

C. Space Standards:

3. Maximum lot coverage with non-vegetated surfaces: 20%

D. Other Standards:

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

Section 505. Campgrounds.

- A.1. Each recreational vehicle, tent or shelter site shall contain a minimum of 5,000 square feet, not including roads and driveways, wetlands and land below the normal high water line of a water body.

Delete this section entirely.

~~Section 507. --- Timber Harvesting and Vegetative Cutting.~~

~~A. Except as otherwise provided in a Resource Protection Zone, clearing of trees and shrubs or conversion to other vegetation is permitted only for approved construction and landscaping. Where such clearing or conversion is permitted and where it extends to the shoreline, a cleared opening, not greater than thirty (30) feet in width (measured along the normal high water mark), may be created in any lot in the strip exceeding fifty (50) feet inland from the normal high water mark and paralleling the shoreline. Where natural vegetation is removed, it shall be replaced with other vegetation that is equally effective in retarding erosion and preserving natural beauty. This section shall not be construed to prohibit the selective cutting or pruning of shrubs or trees.~~

~~B. The following standards shall govern timber harvesting within two hundred fifty (250) feet of the normal high water elevation of streams having an average annual flow exceeding five (5) cubic feet per second, ponds having an area greater than ten (10) acres, and the shoreline.~~

1. Harvesting Operations:

- (a) ~~Harvesting operations shall be conducted in such a manner that a well-distributed stand of trees is retained.~~
- (b) ~~Harvesting activities shall not create single openings greater than seventy-five hundred (7,500) square feet in the forest canopy.~~
- (c) ~~Harvesting operations shall be conducted in such a manner and at such a time that minimal soil disturbance results. Adequate provisions shall be made to prevent soil erosion and sedimentation of surface waters.~~

2. ~~No roads requiring earth moving, cut or fill shall be constructed for timber harvesting purposes without first obtaining a special permit from the Codes Enforcement Officer. Issuance of such a permit will be conditional upon reasonable assurances to prevent environmental damage and/or nuisance conditions from occurring and adequate guarantees of restoration upon completion.~~

- G. ~~No significant accumulation of slash shall be left within fifty (50) feet of the normal high water elevation of water bodies. At distances greater than fifty (50) feet but less than two hundred fifty (250) feet from the normal high water elevation of water bodies, all slash shall be disposed of in such a manner that it lies on the ground.~~

Section 507. Shoreland Zone Regulations

A. Purposes:

It is the intent of this Section to provide for the regulation of activities and uses in the Shoreland Zone in order to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect freshwater and coastal wetlands; to control building sites and placement of structures; to conserve shore cover and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

B. Authority:

This Section has been prepared in accordance with the provisions of Title 38, Sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).

C. Applicability:

This Section applies to all land in the Shoreland Zone as defined in Section 104 above. The regulations of this Shoreland Zone shall be in addition to and shall apply concurrently with the regulations of the zoning district in which the parcel is located. Where a conflict exists, the more restrictive requirements shall apply.

D. Permitted Uses:

1. Filling, excavation and earthmoving up to fifteen (15) cubic yards.
2. Filling, excavation and earthmoving between 15 cubic yards and 200 cubic yards and excavation for creation of a pond between 15 cubic yards and 400 cubic yards all subject to subsection 0.1. below.

E. Space Standards:

1. Minimum Shore Frontage:

a. Residential per dwelling unit:

- | | |
|--|-----------------|
| <u>(1) Adjacent to tidal areas</u> | <u>150 feet</u> |
| <u>(2) Adjacent to non-tidal areas</u> | <u>200 feet</u> |

b. All non-residential uses subject to site plan review or Planning Board permit:

- | | |
|--|-----------------|
| <u>(1) Adjacent to tidal areas</u> | <u>200 feet</u> |
| <u>(2) Adjacent to non-tidal areas</u> | <u>300 feet</u> |

F. Stream Protection Standards:

Within the 75' setback from a stream as defined in Section 104, the following additional regulations apply:

1. Code Enforcement Officer permit required:

a. Clearing of vegetation for approved construction and other permitted uses.

2. Planning Board permit required:

a. Aquaculture.

b. Public Utilities only to serve a permitted use or where no reasonable alternative exists.

3. The following uses are specifically prohibited (not to imply that such activities are permitted elsewhere).

- a. Mineral exploration.
- b. Mineral extraction.
- c. Developed areas of campgrounds.

G. Piers, Docks, Wharves, Bridges and Other Structures and Uses.

The following standards shall apply to all piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Beyond the Normal High-Water Line of a Water body or Within a Wetland.

- 1. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- 2. The location shall not interfere with existing developed or natural beach areas.
- 3. The facility shall be located so as to minimize adverse effects on fisheries.
- 4. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use, and character of the area.
- 5. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity.
- 6. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
- 7. Except in the Marine Waterfront District, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.
- 8. All required Federal, State and Local permits including, but not limited to, permits from the Department of Environmental Protection under the Natural Resources Protection Act, 38 M.R.S.A. 480-C as subsequently amended and the Army Corps of Engineers shall be obtained.
- 9. All local permits, when required, including but not limited to a Code Enforcement Officer permit, and a Wharfing-Out Permit issued by the Town Council under Title 38 Chapter 9 of M.R.S.A. as subsequently amended shall be obtained.

H. Parking Areas

1. Parking areas shall meet the shoreline setback requirements for structures for the district in which such areas are located, except that in the MW District, parking areas shall be set back at least twenty-five (25) feet from the normal high-water line. The setback requirement for parking areas serving public boat launching facilities in other Districts may be reduced to no less than fifty (50) feet from the normal high-water line or upland edge of a wetland if the Planning Board finds that no other reasonable alternative exists.
2. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, and where feasible, to retain all runoff on-site.

I. Roads

New roads shall meet the requirements of the "Street Acceptance and Standards Ordinance of the Town of Freeport, Maine" unless waived by the Planning Board. Where the standards described below are more stringent, they shall be required. The following standards shall apply to the construction of roads and drainage systems, culverts and other related features.

1. Roads shall be set back at least seventy-five (75) feet from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists, as determined by the Planning Board. The Planning Board may reduce the road setback requirement to no less than fifty (50) feet and may permit water crossings and roads that provide access to permitted structures and facilities located nearer to the shoreline due to an operational necessity upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.
2. Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body.

3. New roads are prohibited in the Resource Protection District except to provide access to permitted uses within the district, or as approved by the Planning Board upon a finding that no reasonable alternative route or location is available outside the district, in which case the road shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
4. Road banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in subsection 0 below.
5. Road grades shall be no greater than ten (10) percent unless this requirement is waived by the Planning Board.
6. In order to prevent road surface drainage from directly entering water bodies, roads shall be designed, constructed, and maintained to empty onto a vegetated buffer strip at least (50) feet, plus two times a number equal to the percentage of the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Road surface drainage shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
7. Ditch relief (cross drainage), culverts, drainage dips and water turnouts shall be installed in a manner effective in preventing erosion of the road or ditch. To accomplish this, the following shall apply:
 - a. Ditch relief, culverts, drainage dips and associated water turnouts shall be spaced along the road at intervals no greater than indicated in the following table:

<u>Road Grade (Percent)</u>	<u>Spacing (Feet)</u>
<u>0-2</u>	<u>250</u>
<u>3-5</u>	<u>200-135</u>
<u>6-10</u>	<u>100-80</u>
<u>11-15</u>	<u>80-60</u>
<u>16-20</u>	<u>60-45</u>
<u>21+</u>	<u>40</u>

- b. Drainage dips may be used in place of ditch relief culverts only where the road grade is ten (10) percent or less.
 - c. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
- 8. Ditches, culverts, bridges, dips water turnouts and other storm water runoff control installations associated with roads shall be maintained on a regular basis to assure effective functioning.
- 9. Repair, maintenance or replacement of an existing road culvert is permitted without a permit as long as the replacement culvert is:
 - a. Not more than one standard culvert size wider in diameter than the culvert being replaced;
 - b. Not more than 25% longer than the culvert being replaced; and
 - c. Not longer than 75 feet and
 - d. Provided that adequate erosion control measures are taken to prevent sedimentation of the water, and that the crossing does not block fish passage in the water course.

J. Storm Water Runoff

- 1. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of storm waters.
- 2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

K. Public Utilities

- 1. Where feasible, the installation of public utility service shall be limited to existing public and private ways and existing service corridors.
- 2. Where permitted, such structures shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

1. Agriculture

1. All spreading or disposal of manure shall be accomplished in conformance with the Maine Guidelines for Manure and Manure Sludge Disposal on Land published by the University of Maine Soil and Water Conservation Commission in July, 1972 as subsequently amended.
2. Manure shall not be stored or stockpiled within seventy-five (75) feet horizontal distance of water bodies, tributary streams, or wetlands within the Shoreland Zone. Within five (5) years of [the effective date of this ordinance] all existing manure storage areas within the Shoreland Zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water. Existing facilities which do not meet the setback requirement may remain, but must meet the no discharge provision within the above five (5) year period. New manure storage areas shall be constructed to meet these standards.
3. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, or the spreading, disposal or storage of manure within the Shoreland Zone shall require a Soil and Water Conservation Plan to be filed with the Planning Board except that manure may be spread on any home garden less than 10,000 square feet outside of the 75 foot shore setback area. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
4. There shall be no new tilling of soil within seventy-five (75) feet horizontal distance of water bodies, nor within twenty-five feet horizontal distance of tributary streams and wetlands within the Shoreland Zone. Operations in existence on [the effective date of this ordinance] and not in conformance with this provision may be maintained.
5. After [the effective date of this ordinance] newly established livestock grazing areas shall not be permitted within seventy-five (75) feet horizontal distance of all water bodies, nor within twenty-five (25) feet horizontal distance of tributary streams and wetlands within the Shoreland Zone. Livestock grazing associated with presently existing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Soil and Water Conservation Plan.

M. Timber Harvesting.

1. Timber Harvesting shall conform with the following provisions:

- a. Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted.

The Codes Enforcement Officer may permit timber harvesting in excess of the 40 percent limitation if a forest management plan, signed by a Maine licensed professional forester, concludes that such exemption is necessary for good forest management and is carried out in accordance with the purposes of this Shoreland Zone.

In addition:

1. Within seventy-five (75) feet, horizontal distance of the normal high-water line of all water bodies, tributary streams, or the upland edge of a wetland there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, as defined in Section N.1.b.2., including existing ground cover, shall be maintained.
2. At distances greater than seventy-five (75) feet, horizontal distance of the normal high-water line of all water bodies, tributary streams or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than ten thousand (10,000) square feet in the forest canopy.

Where such openings exceed five thousand (5000) square feet they shall be at least one hundred (100) feet apart. Such clearcut openings shall be included in the calculation of total volume removal.

For the purpose of these standards, volume may be considered to be equivalent to basal area.

- b. No accumulation of slash shall be left within fifty (50) feet of the normal high-water line of a water body. In all other areas, slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body shall be removed.
- c. Timber harvesting equipment shall not use stream channels as travel routes except when:
 - 1. Surface waters are frozen; and
 - 2. The activity will not result in any ground disturbance.
- d. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
- e. Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
- f. Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that a strip of vegetation of at least seventy-five (75) feet in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the vegetated strip shall be increased by twenty (20) feet. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty-five (25) feet from the normal high-water line of a water body or upland edge of a wetland.

N. Clearing of Vegetation for Development

- 1. Within the 75' shore setback:
 - a. Within the RP-1 District, clearing of vegetation shall be limited to that which is necessary for all permitted uses in the district.

b. In all other Districts, a buffer strip of vegetation shall be preserved. All tree clearing shall be subject to the following provisions:

1. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown; however, a footpath or other recreational trail not to exceed ten (10) feet in width as measured between tree trunks is permitted.
2. Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees and other vegetation is maintained. For the purposes of this section a "well-distributed stand of trees and other vegetation" adjacent to water bodies, tributary streams, and wetlands, is defined as maintaining a minimum rating score of 8 points as hereinafter defined per 25-foot square area. (625 sq. ft.)

Diameter of Tree at 4-1/2 feet
Above Ground Level (Inches) Points

<u>2 - 4 in.</u>	<u>1</u>
<u>>4 - 12 in.</u>	<u>2</u>
<u>>12 in.</u>	<u>4</u>

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

3. Pruning of tree branches on the bottom 1/3 of the tree is permitted.

The provisions contained in Section N.1.b. above shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas, however, shall be limited to the minimum area necessary.

2. Outside of the 75' shore setback:

- a. At distances greater than seventy-five (75) feet, horizontal distance, from the normal high-water line of all water bodies, tributary stream, or the upland edge of a wetland, there shall be permitted on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, exceed in the aggregate, 25% of the lot area or ten thousand (10,000) square feet, whichever is greater, including land previously developed. This provision shall not apply to the Marine Waterfront District.

- b. Clearing of trees and woody vegetation in excess of that permitted in subsection 2.a. above may be allowed if the CEO finds:

1. That the standards of subsection 0 will be met at all times and
2. That the area cut over will be revegetated promptly with plantings sufficient to avoid soil erosion and sedimentation.

3. Cleared openings, legally in existence on the effective date of this Ordinance, may be maintained, but shall not be enlarged, except as permitted by this Ordinance.

4. Fields which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

0. Erosion and Sedimentation Control

1. Notification of the Codes Enforcement Officer shall be required for filling, earthmoving and excavation activities described in Section 507.D.2. above. If the CEO determines that unstable soil conditions may result from the activity, he/she shall require that erosion and sedimentation control measures be instituted and shall include, where applicable, the measures described below:

2. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the Codes Enforcement Officer or Planning Board, as required, for approval and shall include, where applicable, provisions for:
 - a. Mulching and revegetation of disturbed soil.
 - b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - c. Permanent stabilization structures such as retaining walls or riprap.
3. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
4. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
5. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
 - a. Where mulch is used, it shall be applied to a depth of six (6) inches and shall be maintained until a catch of vegetation is established.
 - b. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - c. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

6. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater, and shall be stabilized with vegetation or lined with rip-rap.

P. Soils

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. In addition, if an on-site investigation for a septic system is needed, a Maine Licensed Site Evaluator shall submit a required report. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed design to counteract soil limitations where they exist.

Q. Archaeological Sites

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on, the National Register of Historic Places, as determined by the Planning Board or Codes Enforcement Officer, during the required review process, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment at least twenty (20) days prior to action being taken by the Planning Board or Codes Enforcement Officer who shall consider comments received from the Commission prior to rendering a decision on the application.

R. Administration

1. Permits Required

After [the effective date of this ordinance] no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the Shoreland Zone in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use.

2. Permit Application

- a. Every applicant for a permit, approval or determination required by the provisions of this Ordinance governing the Shoreland Zone shall submit a written application, including a scaled site plan, on a form provided by the Town and any reasonable and relevant information which shall enable the Planning Board or CEO to make the determinations required in Subsection 3. below. For permits issued by the Codes Enforcement Officer, the application shall be submitted to the Codes Enforcement Officer. For any other such permit, approval or determination, the application shall be submitted to the Planning Board.
- b. The Planning Board shall process applications for permits, approvals or determinations required by the provisions of this Ordinance governing the Shoreland Zone according to the procedures described in Section 602(C)(1) of this Ordinance, but may modify those procedures as it deems appropriate to process the particular permit, approval or determination which is sought.

3. The Planning Board (or the Codes Enforcement Officer in the case of permits issued by the Codes Enforcement Officer) shall approve an application for a permit, approval or determination required by the provisions of this Ordinance governing the Shoreland Zone only upon finding that the use, activity or structure complies with all requirements of this Ordinance and that it meets the criteria listed in Section 602.F.1.b.(1) - (7) below.

No approval shall be granted if the use or structure will violate any other local Ordinance or regulation or any State law which the municipality is responsible for enforcing.

4. Installation of Public Utility Service

No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure located in the Shoreland Zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the Codes Enforcement Officer. Following installation of service, the company or district shall forward the written authorization to the Codes Enforcement Officer, indicating that installation has been completed.

5. Enforcement

The Codes Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a bi-ennial basis, a summary of this record must be submitted by March 1 to the Director of the Bureau of Land Quality Control within the Department of Environmental Protection.

6. Fines

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A, Maine Revised Statutes Annotated, Subsection 4452 as subsequently amended.

Section 509. Extraction

D. Exemptions:

- 2.... Officer, plantings which are accessory to permitted and existing uses, excavations and fill incidental to construction, filling of the earth for gardens and landscaping associated with permitted and existing uses, and normal excavation and fill whose sole purpose is routine maintenance of existing facilities and grades.

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

Add at end of section.

Unless authorized pursuant to the Natural Resources Protection Act, Title 38, M.R.S.A., Section 480-C as subsequently amended, no part of any extraction operation, including drainage and runoff control features shall be permitted within seventy-five (75) feet of the normal high-water line of any water body, tributary stream, or the upland edge of a wetland in the Shoreland Zone.

Section 525. Filling of Lands and Creation of Ponds.

A. Exemptions:

5. Activities described in Section 509.D.2.

Section 601.G.2.b. Add, after (4).

No variance from the 75 foot setback from a stream in the Shoreland Zone shall be granted unless the Zoning Board of Appeals finds that the criteria under Section 602.F.1.L. are satisfied.

G.4.f. Shoreland Zoning Variances: A copy of all variances granted by the Board of Appeals to all areas within the Shoreland Zone shall be submitted to the Department of Environmental Protection within fourteen (14) days of the decision 250 feet, horizontal distance, of the normal high water mark of all tidal waters shall be submitted to the State Planning Office.

Section 602. Site Plan Review

C.5. Approval of Specific Site Plan

All elements and features of the plan and all representations made by the applicant concerning the development and use of the property which appear in the record of the Planning Board proceedings are conditions of the approval and no change from the approved plan conditions of approval is permitted unless an amended plan is first submitted to and approved by the Freeport Planning Board.

Section 602.F.1.L.

- (1) ... water pollution, erosion or sedimentation to surface waters:...
- (5) The project will adequately provide for the disposal of all wastewater:
- (6) The project will protect archaeological and historic resources:
- (7) The project will not adversely affect existing commercial fishing or maritime activities in the Marine Waterfront District:

PH 5-5-92
Approved 5/19/92

~~APR 07 1992~~

Item #90-92

ORDINANCE REQUIRING NOTICE
FOR OUTDOOR EVENTS WITH
ATTENDANCE IN EXCESS OF 250 PEOPLE

- A. No person, acting individually or in concert with others, shall sponsor, promote, operate or hold any outdoor event, including, without limitation, festivals, exhibitions, amusement shows, fairs, theatrical performances, music concerts, parades or other outdoor activities, at which attendance by 250 or more people is invited, solicited, expected or should be anticipated by such person, without first providing written notice to the Police Chief of the Town of Freeport.
- B. The written notice shall:
1. be delivered to the Freeport Police Department no less than thirty (30) days before the commencement of the event;
 2. describe waste disposal facilities provided;
 3. describe fire fighting equipment and personnel provided;
 4. describe water supplies available;
 5. describe list of facilities provided;
 6. describe communication facilities provided;
 7. provide evidence that the event is authorized by the owner of the property on which it will be held and that the owner or the person conducting the event has procured adequate liability insurance for the event.
 8. contain the signed written agreement of the person giving the notice that such person will assume responsibility for any damage in the nature of vandalism to any property occurring before, during or after the event and caused by persons en route to or from the event.
- C. If, upon review of the notice, the Police Chief or his designee determines that the imposition of conditions on the event is necessary to protect the public health, safety and welfare, the Chief or his designee may require the person giving the notice to:
1. post a bond to ensure prompt clean-up of the grounds and to ensure payment for any damage to public or private property in the area;
 2. provide private security guards or police officers in numbers deemed adequate for the event by the Chief of Police or his designee and reimburse the Town of Freeport

for the cost of providing any special duty police officers;

3. take other reasonable precautions appropriate to the size, location and purpose of the event, including but not limited to, restrictions on the hours of operation, limitations on the portions of the property which can be utilized for the event, limitations on signage, requirements for fencing, shelter, noise control, and other reasonable restrictions necessary to protect the public health, safety and welfare.

Violation of any condition imposed by the Police Chief or his designee shall be a violation of this Ordinance.

- D. If at any time during an event subject to this Ordinance any Freeport police officer determines that the continuation of the event presents a danger to the public safety, peace or order, or if an event is held for which no notice was given as required by this Ordinance, any Freeport police officer may order the event immediately terminated, and failure of the person or persons operating the event to comply with such order shall constitute a violation of this Ordinance.
- E. No person who owns property on which an event subject to this Ordinance is held shall cause, permit, or fail to prevent the operation of such an event in violation of this Ordinance. The owner of the property on which an event subject to this Ordinance is held shall be liable for violations of this Ordinance to the same extent as the person or persons who sponsor, promote, operate or hold the event.
- F. This Ordinance may be enforced by any police officer of the Town of Freeport. Violation of this Ordinance constitutes a civil violation punishable by a civil penalty of up to One Thousand Dollars (\$1,000.00) for each violation.