

2018

Town of Freedom Maine Ordinances

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BOARD OF APPEALS ORDINANCE

For the Town of Freedom Effective date May 16, 1990

I. GENERAL PROVISIONS:

A. Business of the Board shall be conducted in accord with Maine Statutes, Town Ordinances and Roberts' Rules of Order.

B. It shall be the responsibility of the Board to become familiar with all the duly enacted ordinances of the town, which it may be expected to act upon, as well as with the applicable state statutes.

C. It shall be the responsibility of the Board to become familiar with the community goals, desires and policies as expressed in a "comprehensive plan," if any, and grant the minimum relief, which will insure that, the goals and policies of the plan are preserved and substantial justice is done.

II. APPOINTMENTS:

A. The Board shall consist of 5 members appointed by the municipal officers of the Town of Freedom for terms of 5 years. The initial appointments shall be as follows: 1 member to serve a term to expire as of the date of the Annual Town Meeting in 1991, 2 members to serve terms to expire as of the date of the Annual Town Meeting in 1992, and 2 members to serve a term to expire as of the date of the Annual Town Meeting in 1993.

B. Thereafter, all appointments to the Board shall be for terms of 5 years.

C. Neither a municipal officer nor his or her spouse may be a member of the Board.

D. Any member of the Board may be removed from the Board, for cause, by the municipal officers before expiration of his/her term, but only after notice and an opportunity for a hearing, at which the member in question has an opportunity to refute specific charges against him/her. The term, "for cause" shall include failure to attend four consecutive Board meetings or hearings without sufficient justification, or voting when the member has a "conflict of interest."

E. When there is a permanent vacancy, the secretary shall immediately notify the Town Clerk. The municipal officers shall within 60 days appoint a person to serve for the unexpired term.

III. OFFICERS AND DUTIES:

A. The officers of the Board shall consist of a Chairperson, Acting Chairperson and Secretary, who shall be elected annually by a majority of the Board.

B. CHAIRPERSON. The chairperson shall perform all duties required by law and these by-laws and preside over all meetings of the Board. The Chairperson shall rule on issues of evidence, order, and procedure, and shall take such other actions as are necessary for the efficient and orderly conduct of hearings, unless directed otherwise by a majority of the Board. The Chairperson shall appoint any committees found necessary to carry out the business of the Board.

C. ACTING CHAIRPERSON. The Acting Chairperson shall serve in the absence of the Chairperson and shall have all the powers of the Chairperson during the Chairperson's absence, disability or disqualification.

D. SECRETARY. The Secretary, subject to the direction of the Board and the chairperson, shall keep minutes of all Board proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact. The Secretary shall also arrange proper and legal notice of hearings, attend to correspondence of the Board, and to other duties as are normally carried out by a secretary. The Secretary shall keep a record of all resolutions, transactions, correspondence, findings and determinations of the Board, and shall prepare a complete record of each hearing, including: date(s), time(s), place(s), of the hearing(s), subject of the hearing; identification of each participant, any agreements made between parties and the Board regarding procedures, the testimony presented, findings of fact and conclusions, the decision of the Board; and the date of issuance of the decision. All records are public and may be inspected at reasonable times.

IV. CONFLICT OF INTREEST:

Any question of whether a particular issue involves a "conflict of interest" sufficient to disqualify a member from voting there on, shall be decided by a majority vote of the members, except the member whose potential conflict is under consideration.

The term "conflict of interest" shall be construed to mean direct or indirect pecuniary interest, which shall include pecuniary benefit to any member of the person's immediate family (grandfather, father, wife, son, grandson, e.g.) or to his employer or the employer of any member of the person's immediate family.

V. POWERS AND LIMITATIONS

A. The Board shall have the following powers to be exercised only upon receipt of a written appeal by an aggrieved party:

1. The Board may interpret the provisions of any applicable town ordinance, which are called into question.
2. The Board may approve the issuance of a conditional permit in strict compliance with any applicable town ordinance.
3. The Board may grant a variance only where strict application of any applicable town ordinance, or a provision thereof, to the petitioner and his property would cause undue hardship. The words “undue hardship” as used in this subsection mean:
 - a. That the land in question cannot yield a reasonable return unless a variance is granted,
 - b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood,
 - c. That the granting of a variance will not alter the essential character of the locality; and
 - d. The hardship is not a result of action taken by the applicant or prior owner.
4. The Board shall have the power to hear and determine all appeals by any person directly or indirectly affected by any decision, action or failure to act with respect to any license, permit, variance or other required approval, or any application therefore, including, the grant, conditional grant, denial, suspension, or revocation of any such license, permit, variance or other approval (hereinafter a “Decision”).
 - a. Rendered by the Code Enforcement Officer or the Planning Board pursuant to Shoreland Zoning Ordinance,
 - b. Rendered by the Code Enforcement Officer relating to building code enforcement pursuant to any statute or Town ordinance;
 - c. Rendered by the General Assistance Administrator pursuant to the Ordinance for General Assistance Administration or the Maine statutes relating to general assistance;
 - d. Rendered by the Planning Board or the Selectmen pursuant to the Subdivision statute;
 - e. Rendered by the Selectmen or the Assessors pursuant to 36 MRSA 841 and 30 MRSA 2060 (relating to the abatement of taxes);
 - f. Rendered by the Selectmen pursuant to the Ordinance for the Regulation and Issuance of Special Amusement Permits or 28 MRSA 702 (also relating thereto);
 - g. Rendered by the Selectman or the Road Commissioner pursuant to the street design and Construction Standards Ordinance;
 - h. Rendered by the Selectman pursuant to the Ordinance Regulating Town Cemeteries;
 - i. Rendered by the Planning Board or the Code Enforcement Officer pursuant to the Ordinance Relating to Flood Hazard Building Permit System and review Procedures;
 - j. Rendered by the Selectmen pursuant to the Policy on warning Sign Requests;
 - k. Rendered by the Selectmen pursuant to the Ordinance Covering Excavations in Public Places;
 - l. Rendered by the Code Enforcement Officer pursuant to the Sanitary Code;
 - m. Rendered by the Selectmen pursuant to Section V (H) of the Town Personnel Policy relating to grievances and disciplinary procedures with respect to Town employees and officers;

VI. Meetings:

- A. The regular meeting of the Board shall be held once every other month or as necessary.
- B. The annual organization meeting of the Board shall be the first regular meeting of the year.

C. Special meetings of the Board may be called by the chairperson. At least forty-eight (48) hours written notice of the time, place and business of the meeting shall be given each member of the Board, the Selectmen, the Planning Board and the Code Enforcement Officer.

D. The chairperson shall call a special meeting within ten (10) days of receipt of a written request from any three members of the Board which request shall specify the matters to be considered at such special meetings.

E. The order of business at regular meetings of the Board shall be as follows: (1) roll call; (2) reading and approval of the minutes of the preceding meeting; (3) action on held cases; (4) public hearing (when scheduled); (5) other business; (6) adjournment.

F. All meetings of the Board shall be open to the public, except executive sessions. No votes may be taken by the Board except in public meeting. The Board shall not hold executive sessions except for consultation between the Board and its legal counsel concerning litigation or other legal matters where premature general public knowledge would clearly place the town or Board at a substantial disadvantage.

VII. Voting

A. A quorum shall consist of 3 members of the Board.

B. No hearing or meeting of the Board shall be held, nor any action taken, in the absence of a quorum; however, those members present shall be entitled to request the chairperson to call a special meeting for a subsequent date.

C. All matters shall be decided by a roll call vote. Decisions on any matter before the Board shall require the affirmative vote of a majority of the entire membership of the Board unless otherwise specified herein.

D. A tie vote or favorable vote by a lesser number than the required majority shall be considered a rejection of the application under consideration. Any denial must be accomplished by written findings and reasons.

E. If a member has a conflict of interest, said member shall not be counted by the Board in establishing the quorum for such matter.

F. No regular member shall vote on the determination of any matter requiring public hearing unless he or she has attended the public hearing thereon; however, where such a member has familiarized himself with such matter by reading the record, he or she shall be qualified to vote.

VIII. APPEAL PROCEDURE:

A. Any person aggrieved by an action, which comes under the jurisdiction of the Board pursuant to Section V, must file such application for appeal, in writing on forms provided within thirty (30) days of the decision. The applicant shall file this appeal at the office of the Town Clerk, setting forth the ground for his/her appeal. Upon receiving the application for appeal, the Town Clerk shall notify the Chairperson of the Board.

B. The fee to accompany applications for appeal shall twenty-five (\$25) dollars. Checks are to be made payable to the Town of Freedom.

IX. HEARINGS:

A. The Board shall schedule a public hearing on all appeals applications within (30) days of the filing of a completed appeal application.

B. The Board shall cause notice of the date, time and place of such hearing, the location of the building or lot, and the general nature of the question involved, to be given to the person making the application and to be published in a newspaper of general circulation in the municipality, at least two times, the date of the first publication to be at least seven days prior to the hearing. The /Board shall also cause notice of the hearing to be given to the municipal officers, the Planning Board, the Code Enforcement Officer, and the owners of property abutting that for which the appeal is taken at least 14 days prior to the date of the hearing.

C. The Board shall provide as a matter of policy for exclusion of irrelevant, immaterial, or unduly repetitious evidence.

D. The order of business at a public hearing shall be as follows:

1. The Chairperson calls the hearing to order.

2. The Chairperson determines whether there is a quorum.

3. The Chairperson gives a statement of the case and reads all correspondence and reports received.

4. The Board determines whether it has jurisdiction over the appeal.
5. The Board decides whether the applicant has the right to appear before the Board.
6. The Board determines which individuals attending the hearing are “interested parties.” “Interested parties” are those persons who request to offer testimony and evidence and to participate in oral cross-examination. They would include abutting property owners and those who might be adversely affected by the Board’s decision. Parties may be required by the Board to consolidate or join their appearances in part or in whole if their interests or contentions are substantially similar and such consolidation would expedite the hearing. Municipal officers, the Planning Board, the Code Enforcement Officer shall automatically be made parties to the proceeding.

Other persons attending the hearing and federal, state, municipal, and other governmental agencies shall be permitted to make oral or written statements and to submit oral and written questions through the Chair.
7. The appellant is given the opportunity to present his or her case without interruption.
8. The Board and interested parties may ask questions of the appellant through the Chair.
9. The interested parties are given the opportunity to present their case. The Board may call its own witnesses, such as the Code Enforcement Officer.
10. The appellant may ask questions of the interested parties and Board witnesses directly.
11. All parties are given the opportunity to refute or rebut statements made throughout the hearing.
12. The Board shall receive comments and questions from all observers and interested citizens who wish to express their views.
13. The hearing is closed after all parties have been heard, if additional time is needed, the hearing may be continued to a later date. All participants should be notified of the date, time, and place of the continued hearing.
14. Written testimony may be accepted by the Board for seven days after the close of the hearing, and any other person making an appearance may request a hearing or respond in like manner within seven days.

D. The Board may waive any of the above rules if good cause is shown.

X. DECISIONS:

- A. Decisions by the board shall be made not later than thirty (30) days from the date of the final hearing.
- B. The final decision on any matter before the Board shall be made by written order signed by the Chairperson. The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, shall constitute the record. All decisions shall become a part of the record and shall include a statement of findings and conclusions, as well as the reasons or basis therefore, upon all the material issues of fact, law or discretion presented and the appropriate order, relief or denial thereof.
- C. The Board, in reaching said decision, shall be guided by standards specified in the applicable state laws, local ordinances, policies specified in the Comprehensive Plan (if any) and by findings of Fact by the Board in each case.
- D. In reviewing an application on any matter, the standards in any applicable local ordinance or statute shall take precedence over the standards of these rules whenever a conflict occurs. In all other instances, the more restrictive rule shall apply.
- E. The Board may reverse the decision, or failure to act, of the Code Enforcement Officer or Planning Board only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this ordinance or unsupported by substantial evidence in the record.
- F. Notice of any decision shall be sent by certified or registered mail or hand delivered to the applicant, his representative or agent, the Planning Board, the Code Enforcement Officer, and the municipal officers within seven (7) days of the decision.
- G. Decisions of the Board shall be immediately filed in the office of the Town Clerk and shall be made public record. The date of filing of each decision shall be entered in the official records and minutes of the Board.
- H. Unless otherwise specified, any order or decision of the Board for a permitted use shall expire if a building or occupancy permit for the use is not obtained by the applicant within ninety (90) days from the date of

the decision; however, the Board may extend this time an additional ninety (90) days.

XI. CONSIDERATIONS:

A. The Board may reconsider any decision. The Board must decide to reconsider any decision, notify all interested parties and make any change in its original decision within 30 days of its prior decision. A meeting to decide whether to reconsider shall be called by the Chairperson in accordance with Article VI of these By-laws. The Board may conduct additional hearings and receive additional evidence testimony.

B. Reconsideration should be for one of the following:

1. The record contains significant factual errors due to fraud or mistake, regarding facts upon which the decision was based;
2. The Board misinterpreted the ordinance, followed improper procedures, or acted beyond its jurisdiction.

XII. APPEAL TO SUPPERIOR COURT:

A. The decision of the Board of Appeals may be taken, within thirty (30) days after the decision is rendered, by any party to Superior Court in accordance with the Maine Rules of Civil Procedure.

XIII. SEVERABILITY:

The invalidity of any section or provision of these Bylaws shall not be held to invalidate any other section or provision of these Bylaws.

Readopted at Special Town Meeting: June 7, 2006

Freedom Budget Committee Ordinance

Section 1. Establishment.

Pursuant to 30-A M.R.S.A. Section 3001, a Budget Committee is hereby established for the Town of Freedom, Maine.

Section 2. Composition; election (appointment); qualifications; terms; vacancies.

The Committee shall consist of 7 members, defined as follows:

Elected Members: The three members of the Select board and the Town Treasurer will qualify automatically to be members of the Freedom Budget Committee, and will serve as long as they are elected by the town to serve in their primary positions. No other official or employee of the Town may be a member of the committee.

Appointed members; The three remaining members of the committee shall be appointed by the Select Board. Members shall serve for terms of 3 year(s), except that they shall continue in office until their successors are appointed. For transition purposes, the initial terms shall be staggered so that one appointed member's term shall expire annually. Vacancies shall be filled within 10 days by appointment of the municipal officers for the unexpired term.

All members of the Freedom Budget Committee must be registered voters of the town.

Section 3. Officers; meetings; quorum; procedure.

The Committee shall annually elect a Chairman and a Secretary from among its members. The Chairman shall call meetings as necessary or when so requested by a majority of members or the municipal officers. A quorum necessary to conduct business shall consist of at least a majority of members. The Chairman shall preside at all meetings. The Secretary shall maintain a record of all proceedings including all correspondence of the Committee. All meetings and records shall be subject to the Maine Freedom of Access Act, 1 M.R.S.A. Sections 401-410. The Committee may adopt rules of procedure not inconsistent with this ordinance.

Section 4. Powers and duties; authority; recommendations; official cooperation.

The Committee shall have the following powers and duties:

- A. To prepare the annual operating budget for presentation to the town at Town Meeting;
- B. To review and make recommendations to the Town on annual capital expenditures;
- C. To review and make recommendations to the Town on supplemental appropriations, expenditures and other budgetary actions;

- D. To review the town budget on a quarterly basis and to make a public report of the budget for each quarter.
- E. To explore ways and means to encourage business and economic growth within the town.
- F. To make such other recommendations on fiscal matters or matters in the towns best interest as it may from time to time deem advisable.

Any recommendation on a matter requiring town meeting action shall be printed with the article in the warrant and on the ballot, if any, along with such other recommendations as may be included by the municipal officers or required by law. Members of the Committee, elected or appointed, and all other Town officials and employees will cooperate for the betterment of the town.

TOWN OF FREEDOM BUILDING ORDINANCE

CONTENTS:

I. AUTHORITY

II. PURPOSE

III. SCOPE

IV. REPEAL OF PRIOR ORDINANCES

V. DEFINITIONS

VI. ADMINISTRATION

VII. LOT STANDARDS

VIII. MINIMUM CONSTRUCTION STANDARDS

IX. NON-CONFORMING USE

X. APPEALS AND VARIANCES

XI. ENFORCEMENT

XII. AMENDMENTS

XIII. VALIDITY AND SEVERABILITY

XIV EFFECTIVE DATE

TOWN OF FREEDOM

BUILDING ORDINANCE

SECTION I. AUTHORITY

This ordinance is created according to the powers given a municipality by Title 30 –MRSA, §4101-4104 (4), and Title 30-MRSA, §3001.

SECTION II. PURPOSE

To provide for the health, safety, and welfare of the public through the regulation of construction, relocation, replacement, and alteration of buildings.

SECTION III. SCOPE

The provisions of this ordinance shall apply to all new construction, reconstruction, alteration, addition, placement, relocation, or replacement of any structure or part thereof.

A. Exemptions

Up to two detached buildings of one hundred (100) Square feet or less, or one building of two hundred (200) square feet or less, are allowed per lot without a building permit in the Town of Freedom, provided such buildings are not used for living space. A permit will not be required for fences, walks and driveways, earthwork, radio or other towers less than fifty (50) feet above ground. However, all structures shall conform to the setback requirements.

SECTION IV. REPEAL OF PRIOR ORDINANCE

All prior building ordinances enacted by the Town of Freedom are hereby repealed with the adoption of this ordinance.

SECTION V. DEFINITIONS

A. Structures

Anything constructed or erected for the shelter or support of persons, animals, goods, or property of any kind which requires location on the ground or attachment to something on the ground. This shall include but not be limited to such structures as permanent, seasonal, or temporary living quarters, single and multi-family dwelling units, mobile homes, garages, swimming pools, barns, storage sheds, and decks or patios larger than two hundred (200) square feet.

B. Principal Structures

The structure in which the primary use of the lot is conducted.

C. Accessory Structure

A structure of a nature customarily incidental or subordinate to that of the principal structure or the primary use to which the premises are devoted.

D. Residential Structure

A structure designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters. The term shall include mobile homes.

E. Dwelling Unit

A room or group of rooms designed and equipped exclusively for use as living quarters for one family, including provisions for living, cooking, and eating.

F. Multi-Family Dwelling

A residential structure containing three (3) or more dwelling units.

SECTION VI. ADMINISTRATION

A. Administrator

This ordinance shall be administered by the Code Enforcement Officer who shall be appointed by the Municipal Officers.

1. Term

The Code Enforcement Officer shall be appointed or re-appointed annually by July 1. The appointment may be terminated only for cause after a thirty (30) day notice by the Municipal Officers in accordance with Title I, MRS.A, §307. The Municipal Officers may determine not to re-appoint the Code Enforcement Officer without prior notice and an opportunity for a hearing.

2. Compensation

Compensation shall be determined by the voters at the annual town meeting.

B. Administrative Procedures

1. Permits

Before the commencing of any of the activities described in Section III (SCOPE) the owner shall obtain from the Code Enforcement Officer of the Town of Freedom a permit covering the proposed work.

2. Applications

Applications for permits shall be in writing on such forms as the Code Enforcement Officer shall provide.

3. Information

The application shall contain the following minimum information:

- a. Owner's name, address, phone number
- b. Location and size of lot
- c. Description of proposed activity
- d. Plot plan
- e. Setbacks
- f. Estimated cost of construction
- g. Copy of the plumbing permit.

Additional information may be required by the Code Enforcement Officer in accordance with local and state ordinances.

4. Approval or Denial

After a proper examination of the application, the Code Enforcement Officer shall either issue the requested permit or transmit a notice of denial to the applicant and the Planning Board of the Town of Freedom within thirty (30) days of a completed application. Notice of denial shall be in writing and shall state the reasons therefore. If the Code Enforcement Officer has a question about the applicability of the building ordinance to the proposed activity, he/she shall deny the permit. Both the Code Enforcement Officer and the Planning Board shall keep a file of all applications for permits and decisions concerning permits.

5. Inspections

a. The Code Enforcement Officer shall inspect all activities requiring a building permit during the course of the construction, reconstruction, substantial alteration, placement relocation, or replacement of structures.

b. Two inspections shall be made by the Code Enforcement Officer of building activities involving mobile homes, accessory structures, alterations, and repairs.

1. One inspection of proposed building site prior to construction.
2. Final inspection at completion of work.

c. Three inspections shall be made by the Code Enforcement Officer of the building activities involving all other structures.

1. One inspection of the proposed building site prior to construction.
2. One inspection during the course of construction.
3. Final inspection at completion of work.

d. The Code Enforcement Officer shall keep accurate records of all inspections, including dates and comments, upon the original form.

e. The Code Enforcement Officer may make additional inspections at no cost to the owner, as he/she deems necessary, in order to adequately enforce the provisions of this ordinance. Where additional inspections are required, the records shall state the reason therefore.

6. Right of Entry

The Code Enforcement Officer, in the performance of his/her duties, may enter any building or lot for the purpose of making the inspections required by this ordinance. The Code Enforcement Officer shall perform all inspections at a reasonable time of day and with prior notice of inspection provided to the owner or lessee.

7. Fees

\$15.00 for a shed, barn or garage

\$30.00 for a house trailer or manufactured home

\$40.00 for a house

\$100.00 for a commercial building

\$100.00 for a permit after the fact

(Accepted in March 25, 2006 town meeting)

The Code Enforcement Officer shall give these fees to the Treasurer of the Town of Freedom.

8. Life of Permits.

All building permits shall be void unless the work thereunder is substantially commenced within six (6) months of the date of issuance and substantially completed within two (2) years of the date of issuance.

9. Revisions

No changes or revisions of the original application shall be made in the process of construction, reconstruction, substantial altering, placing, relocating, or replacing a structure without the approval of the Code Enforcement Officer if the provisions of this ordinance apply to said changes.

SECTION VII. LOT STANDARDS

A. Lot Size

All principal structures shall be constructed or placed upon lots that have a minimum of two (2) acres.

(Accepted in March 26, 2004 town meeting)

B. Road Frontage

All principal structures placed upon a public street or road shall be constructed or placed upon lots that have a minimum frontage of one hundred fifty (150) feet.

C. Multi-Family Dwellings

All multi-family dwellings shall additionally have one half (1/2) acre plus fifty (50) feet of road frontage per dwelling unit after the initial two units. The multi-family dwelling must have a fifty (50) foot set back from all adjoining property lines, and have no more than four (4) dwelling units per principal structure.

D. Setbacks from Roads

All structures shall be constructed or placed on lots with setbacks at least fifty (50) feet from the center of the legal right of way of any street or road.

E. Setbacks from Adjoining Property Lines

All structures shall be at least twenty (20) feet from any adjoining property lines. (For multi-family dwellings, see section VII, sub-heading C.)

SECTION VIII. MINIMUM CONSTRUCTION STANDARDS

A. Building Practices

All building materials used and practices followed in the construction of buildings shall conform to generally accepted standards of good workmanship.

B. Foundations

Except when erected on solid rock or equivalent, all principal structures shall be set on a masonry or concrete foundation, a poured concrete slab, or concrete posts.

1. EXEMPTIONS

a. Mobile Homes

Mobile homes may be placed on a minimum base of eighteen (18) inches of compacted gravel.

b. Pressure Treated Foundations

Foundations constructed of pressure treated plywood walls or supporting posts may be used so long as same are placed upon a reasonable footing to support building stress. Drainage systems and appropriate backfill must be used.

C. Electrical Installation

All electrical entrance work shall be installed or approved by a licensed electrician, and any other electrical work shall be in accordance with the National Electrical Code.

D. Plumbing Installation

All interior and exterior plumbing work shall be done in compliance with the Maine State Plumbing Code.

E. Chimneys

All chimneys shall be constructed of brick, reinforced concrete block, or prefabricated U.L. approved, double-walled, and insulated metal.

1. Chimney Lining

Chimneys shall be lined with fire clay or tile flue liners where applicable.

2. Chimney Supports

Masonry or concrete chimneys shall be supported on foundations of masonry or reinforced concrete which, if on the exterior of the building, shall extend below the frost line.

3. Chimney Height

Chimneys shall extend not less than two (2) feet above the roof. In no case should the height be less than two (2) feet above the highest ridge within ten feet (10) of the chimney. The height above a flat roof should not be less than three (3) feet, more if called for by the manufacturer's requirements.

4. Chimney Cleanout

Every chimney shall be provided with a properly installed cleanout opening with a metal door for each flue where applicable.

F. Roof Covering

The roof shall be covered with fire resistant material, except that any building or structure which is at least twenty-five (25) feet from any other building may be roofed with wood shingles that have been treated with a fire retardant material.

G. Exterior Finish

Tarred or asphalt paper, felt or building paper used as permanent sheathing, shall not be permitted.

H. Disposal of Construction Waste

Waste material and rubbish shall be removed from the premises as rapidly as possible. No material shall be disposed of by burning without obtaining a required permit.

SECTION IX. NON-CONFORMING BUILDING AND LOTS

A. Any lawful use of structures, premises, land, or parts thereof existing at the effective date of this ordinance or amendments thereto, and not in conforming with the provisions of this ordinance, shall be considered a non-conforming use.

B. Any non-conforming use may continue and may be maintained, repaired and improved.

C. Any non-conforming lot of record which, at the effective date or adoption or amendment of this ordinance, does not meet the area or road frontage requirements, or both in the Town of Freedom, may be built upon provided that such lot shall be in separate ownership and not contiguous with any other lot in the same ownership and that all other provisions of this ordinance shall be met. If two or more contiguous lots or parcels are in single ownership of record at the time of adoption or amendment of this ordinance, and if all or part of the lots do not meet the dimensional requirements of the ordinance, the lands involved shall be considered to be a single parcel for the purpose of this ordinance. All other provisions of this ordinance, including but not limited to setbacks, shall be met.

SECTION X. APPEALS AND VARIANCES

All appeals shall be made to the Board of Appeals of the Town of Freedom (in accordance with the procedures of the Board of Appeals Ordinance of the Town of Freedom).

SECTION XI. ENFORCEMENT

A. Violations

Any structure constructed or placed or work performed in violation of the provisions of this ordinance shall be considered a violation. Note: MRSA Title 30A, §4452.

A. Notification

It shall be the duty of the Code Enforcement Officer to enforce the provisions of this ordinance. If the Code Enforcement Officer shall find that a violation has occurred, he/she shall notify in writing the person responsible for each violation, indicating the nature of the violation and ordering the action necessary to correct, including discontinuance of illegal use of land, buildings, structure, or work being done, removal of illegal buildings, structures, or work being done, and abatement of such violations. The Code Enforcement Officer shall maintain a record of such notices.

C. Legal Actions

When the above action does not result in the correction or abatement of the violation, the Code Enforcement Officer is hereby authorized and directed to institute any appropriate action necessary to enforce the provisions of this ordinance.

D. Penalties

Any person found guilty of violating any provision of this ordinance shall be found subject to a fine of no less than one hundred dollars (\$100.00) or no more than two thousand five hundred dollars (\$2500.00) pursuant to MRSA 30-A, §4452. This penalty shall be deemed to be exclusive of any other appropriate legal or equitable actions.

SECTION XII. AMENDMENTS

All amendments to this ordinance shall not apply to uncompleted work under an outstanding permit which was issued before the effective date of the amendment.

SECTION XIII. VALIDITY AND SEVERABILITY

Should any section or provision of this ordinance be declared by the courts to be invalid, such decisions shall not invalidate the remaining portions of this ordinance.

SECTION XIV. EFFECTIVE DATE

This ordinance shall become effective when enacted by the voters of the Town of Freedom at a town meeting.

Adopted at Special Town Meeting: May 16, 1990.

Readopted at Special Town Meeting: June 7, 2006

*Town of Freedom
Commercial Development
Review Ordinance*

Town of Freedom

Commercial Development Review Ordinance

Article	Title	Page
1	General Provisions	2
2	Purpose	3
3	Applicability	4
4	Administration and Enforcement	6
5	Application Procedure	13
6	Review Criteria	16
7	Development Standards Generally	18
8	Development Standards for Specific Activities	31
9	Definitions	40

Article 1: General Provisions

SECTION 1. TITLE

This Ordinance is known and cited as the Town of Freedom Commercial Development Review Ordinance and will be referred to as this Ordinance.

SECTION 2. AUTHORITY

This Ordinance is adopted pursuant to the provisions of Title 30-A MRSA Section 3001-3006.

SECTION 3. EFFECTIVE DATE

This Ordinance takes effect upon adoption by the Town. The effective date is: _____.

SECTION 4. RELATIONSHIP WITH OTHER ORDINANCES

Whenever a provision of this Ordinance conflicts with, or is inconsistent with, another provision of this Ordinance or any other Ordinance, regulation or statute, the more restrictive provision shall control. All site review applications are required to conform to all other applicable Ordinances and regulations of the Town of Freedom, including but not limited to, Shoreland Zoning, Building Ordinance, Subdivisions and Floodplain Management.

SECTION 5. VALIDITY AND SEVERABILITY

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

SECTION 6. AMENDMENTS

Any amendment to this Ordinance shall be adopted by a majority vote of a Town Meeting or secret ballot election after an official public hearing.

SECTION 7. AVAILABILITY

A certified copy of this Ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost to be charged to the person making the request.

Article 2: Purpose

SECTION 1. PURPOSE

The purpose of this Ordinance is to accomplish the following:

- A. To establish a procedure whereby the Planning Board shall review new proposals to use or develop land and buildings.
- B. To establish a fair and reasonable set of standards for evaluating each development.
- C. To mitigate potential nuisances associated with development from having a negative impact upon the community.
- D. To address a wide range of environmental and planning issues associated with development including: noise, odors, storm water, erosion, pollution, water body protection, traffic, parking, light and glare, scenic resources, groundwater, historic and archeological resources, significant wildlife and aquatic resources, and other natural resources.
- E. To reduce off-site impacts from development from negatively affecting municipal services and infrastructure.
- F. To protect the water quality of all the lakes, ponds, streams, brooks, and wetlands within the community.

Article 3: Applicability

SECTION 1. APPLICABILITY

Review is required for new construction or development of commercial uses or the proposed expansion of existing commercial operations as provided below:

- A. The construction or placement of any new building or structure for a nonresidential use.
- B. The expansion of an existing nonresidential building or structure, including accessory buildings and structures.
- C. The conversion of an existing building, in whole or in part, from a residential use to a nonresidential use.
- D. The establishment of a new, nonresidential use, even if no buildings or structures are proposed, including such uses as gravel pits, mining operations, cemeteries, golf courses, and other nonresidential uses.
- E. The construction of a multi-family dwelling, the conversion of an existing building or structure into a multi-family dwelling or the expansion of an existing multi-family dwelling into additional units. A multi-family dwelling for the purpose of this Ordinance is defined as a single building or structure containing three or more dwelling units.
- F. The conversion of an existing nonresidential use, in whole or in part, to another nonresidential use.
- G. New or existing mineral operations which result in the excavation, movement or processing or more than 200 cubic yards of material within any 2- year period or which result in non-vegetated areas in excess of 20,000 square feet. Permits for mineral extraction shall be for a period of up to 5 years and shall be renewable.
- H. Water extraction operations. Permits for water extraction shall be for a period not to exceed three (3) years but may be renewed subject to the criteria contained in Article 8 Section 3 contained herein.
- I. Facilities for the storage of bulk fuel, chemicals or other flammable or hazardous substances that exceed 1,000 gallons.

SECTION 2. USES NOT REQUIRING REVIEW

The following uses and activities do not require review:

- A. The construction, alteration, enlargement or placement of a single family or two- family dwelling, including accessory buildings or structures.
- B. Home occupations as defined in Article 9.
- C. Agricultural production, timber harvesting, and forest management activities.
- D. Subdivisions (other than multi-family structures – see Section 1 (E)) reviewed under the Town’s Subdivision Ordinance and also any roads or driveways covered by that Ordinance.

Article 4: Administration and Enforcement

SECTION 1. PLANNING BOARD

The Planning Board shall have the following powers and duties:

- A. To administer this Ordinance;
- B. To develop site review application forms;
- C. To hear and decide upon applications according to this Ordinance;
- D. To impose additional procedural criteria, standards, and requirements, as it deems necessary for the public good;
- E. To recommend substantive changes to this Ordinance, which shall be submitted to the Board of Selectpersons for review and potential submission to the voters; and
- F. To provide the applicant and Code Enforcement Officer with a written decision on each application.

SECTION 2. CODE ENFORCEMENT OFFICER

The Code Enforcement Officer shall have the following powers and duties:

- A. To enforce the provisions of this Ordinance;
- B. To issue stop work orders and other appropriate notices of violation;
- C. To assist the Planning Board with the review process;
- D. To conduct site visits and to review applications as authorized by this Ordinance; and
- E. To issue permits.

SECTION 3. COMMERCIAL DEVELOPMENT REVIEW PERMITS

Any person wishing to pursue any land use activities governed by this Ordinance shall seek a Commercial Development Review Permit from the Planning Board. The Planning Board shall review and decide upon all applications and shall submit its written decision on each application to the Code Enforcement Officer. The Planning Board shall prepare the permit approval, including any conditions and submit it to the Code Enforcement Officer, who shall issue the permit to the applicant. Issuance of a Commercial Development Review Permit does not excuse the applicant from the requirement to obtain any other permits or approvals required by ordinance of the Town of Freedom.

No work or other physical development shall be undertaken on any use or project that requires review until a permit has been issued by the Code Enforcement Officer.

SECTION 4. PERMIT FEE

A non-refundable review fee shall be submitted with the application. The fee shall be established by the Board of Selectpersons.

SECTION 5. PERMIT EXPIRATION

Permits are valid for 12 months from the date of Planning Board approval. If the permit recipient has not made a substantial start to the permitted activity within 12 months from the date of Planning Board approval, the permit shall become null and void and the applicant shall obtain another permit as required by this Ordinance by submitting another site review application to the Planning Board. Where permit renewal is sought, the Planning Board may (but is not required to) incorporate its prior findings upon a showing that the planned activities and other circumstances have not changed. A permit is transferable to subsequent owners of the property.

SECTION 6. PUBLIC HEARING

After a review of a complete application, the Planning Board shall determine whether the proposal meets the review criteria contained in Article 5 of this Ordinance. The Planning Board shall make written findings of fact to support its decision and vote to approve the application, approve the application with conditions, or deny the application. The Planning Board shall submit its decision to the applicant and the Code Enforcement Officer.

SECTION 7. BURDEN OF PROOF

The applicant shall have the burden of proof to show that the proposal meets the applicable review criteria and the standards contained in this Ordinance.

SECTION 8. RIGHTS NOT VESTED

The submittal of the application to the Code Enforcement Officer shall not be considered the initiation of the review process for the purposes of bringing the application under the protection of Title 1, MRSA, Section 302. The formal review process shall begin upon notification to the applicant that a complete application has been received.

SECTION 9. SITE INSPECTION

The Code Enforcement Officer and/or the Planning Board may perform an on-site inspection of the proposed project to obtain knowledge about the site and the surrounding area.

SECTION 10. ADDITIONAL INFORMATION AND STUDIES/INDEPENDENT EXPERT ASSISTANCE

The Planning Board may, at its discretion, retain independent expert assistance to supplement the evidence presented by the applicant and received during the public hearing, or in developing appropriate conditions of approval. It may engage the services of such expert assistance, to serve as the Planning Board's own expert. The cost of such expertise shall be borne by the applicant according to the terms of an escrow account established at the time the application is submitted as listed in the Permit Fee Schedule established by the Board of

Select persons. Within fourteen (14) days of filing an application the Applicant shall deposit in a joint escrow account with the Town an amount equal to one half of one percent of the estimated cost of the project. The failure of payment by the applicant shall excuse the Planning Board from issuing a final decision until such payment is made in full.

SECTION 11. WAIVERS

- A. The Planning Board may vote to waive any of the submission requirements in this Ordinance when it finds one or more of the submission requirements is not applicable to the proposal due to the size of the project, circumstances of the site, design of the project, type of project or unique features of the proposed uses.
- B. The applicant shall submit information to support the waiver request with the application.
- C. The Planning Board may only consider a waiver request when the applicant has submitted a written waiver request in the application. The first item of the application review shall be a consideration of any waiver request. The Planning Board shall review the waiver request and, if it meets the appropriate criteria, shall approve the request, and submit its decision, in writing, to the applicant. If the Planning Board finds that the waiver request does not meet the criteria, it shall deny the waiver and require the applicant to revise the application, as necessary. The Planning Board may vote to suspend review of the application until the applicant can supply all the necessary information. The applicant shall submit all required information to the Planning Board within 60 calendar days of the denial of the waiver request. Failure to submit the information within this time will require that a new application be submitted for review. In no case shall the Planning Board make a final decision on the application until the applicant supplies additional information to the satisfaction of the Board.
- D. All waivers approved by the Planning Board shall be documented during the review process.

SECTION 12. CONDITIONS

Upon consideration of the review criteria, the Planning Board may attach such conditions to the proposed application that it finds necessary to further the purposes of this Ordinance. A condition may not be imposed to regulate any item not specifically addressed in this Ordinance.

In determining whether conditions are appropriate or necessary, the Planning Board shall consider the unique features of the following: site and surrounding area; proposed use and proposed structure. A written finding of fact shall be created stating that unique features are found to exist and suitable conditions can be imposed that will allow the proposal to meet the purposes of this Ordinance. The conditions shall be listed in the permit and shall be made enforceable under this Ordinance.

SECTION 13. PUBLIC HEARING REQUIREMENTS

The Planning Board shall hold a public hearing on each site review application as follows:

- A. The public hearing shall be held within 35 days after the proposed application is deemed complete. This period may be extended for up to 60 days by mutual consent of the applicant and the Planning Board.
- B. The notice of the date, time and place of the public hearing shall be made as follows:
 - 1. Published at least once in a newspaper having general circulation within the Town. The date of the first publication shall be at least 7 days before the hearing.
 - 2. Mailed by first class mail to the applicant.
 - 3. Applicant shall mail notice of the hearing by certified, return receipt requested mail to all property abutters as determined from the current tax assessment roles, at least 7 days before the public hearing. The Planning Board shall maintain a list of all property abutters mailed a notice in the application file. Failure of an abutter to receive a notice shall not invalidate the public hearing, nor shall it require the Planning Board to schedule another hearing.
- C. The Planning Board may vote to continue the public hearing to receive additional public comment or information concerning the application. The Board is not required to meet the notice requirements listed above for the continued public hearing.

SECTION 14. APPEALS

- A. The Board of Appeals is authorized to hear administrative appeals and variance appeals arising from this Ordinance.
 - 1. Administrative Appeals: To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration of this Ordinance.
 - 2. Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.
- B. Variances may be permitted only under the following conditions:
 - 1. Variances may be granted only from dimensional requirements including but not limited to, lot width, structure height, lot coverage and setback requirements.

2. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
3. The Board of Appeals shall not grant a variance unless it finds that the strict application of this Ordinance would result in undue hardship as defined in 30-A M.R.S.A. § 4353(4).
4. The Board of Appeals shall limit any variances granted as strictly as possible in order to insure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to variances as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

C. Appeal Procedure

1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board. Such appeal shall be taken within 30 days of the date of the decision appealed from, and not otherwise, except that the Board of Appeals, upon a showing of good cause, may waive the 30- day requirement.
2. Such appeal shall be made by filing with the Board of Appeals a written notice of appeal, which includes:
 - a. A concise written statement indicating what relief is requested and why it should be granted.
 - b. A sketch, drawn to scale, showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
3. Upon being notified of an appeal, the Code Enforcement Officer or the Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
4. The Board of Appeals shall hold a public hearing on the appeal within 30 days of its receipt of an appeal request.

D. Decision by the Board of Appeals

1. A majority of the Board of Appeals shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.
2. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse an order, requirement, decision, or determination of the Code Enforcement Officer or Planning Board, or to decide in favor of the applicant on any matter, or to affect any variation in the application of this Ordinance from its stated

terms. The Board of Appeals may reverse the decision of the Code Enforcement Officer or Planning Board only upon a finding that the decision was clearly contrary to specific provisions of this Ordinance. The Board of Appeals may also hear appeals of the Code Enforcement Officer's or Planning Board's failure to act.

3. The person filing the appeal shall have the burden of proof.
4. The Board of Appeals shall decide all appeals within 30 days after the close of the final public hearing, and shall issue a written decision on all appeals.
5. All decisions shall become part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefore, and the appropriate order, relief or denial thereof.
6. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within 30 days from the date of any decision of the Board of Appeals.
7. The Board of Appeals may reconsider any decision within 45 days of its prior decision. A request for the Board to reconsider any decision shall be made within 10 days of issuance of the written decision, however, the Board may decide to reconsider any decision at any time within the 45-day period. The Board may conduct additional hearings and receive additional evidence and testimony. Appeals of any decision on reconsideration must be submitted to the Superior Court within 15 days of the decision on reconsideration.

SECTION 15. VIOLATIONS, ENFORCEMENT AND PENALTIES

- A. It shall be considered a violation of this Ordinance for any person to develop or use property for which Commercial Development approval is required, without obtaining said approval from the Planning Board and Code Enforcement Officer, or to develop or use property in a manner other than as presented to and approved by the Planning Board and Code Enforcement Officer, or to fail to comply with the performance standards outlined in this Ordinance or any condition attached to a Commercial Development permit.
- B. The Code Enforcement Officer shall keep a record of all violations of this Ordinance and shall institute or cause to be instituted in the name of the Town any actions that might be appropriate for the enforcement of this Ordinance, including the use of administrative consent agreements.
- C. Any person, including but not limited to a landowner, landowner's agent, or contractor, who is responsible for a violation of this Ordinance is liable for the penalties in Title 30-A, MRSA, Section 4452.

- D. The Code Enforcement Officer may represent the Town in District Court pursuant to Rule 80k, provided the Board of Selectpersons has authorized legal action. The Board of Selectpersons may authorize the Code Enforcement Officer to obtain the services of the Town Attorney if required in litigation.

Article 5: Application Procedure

SECTION 1. APPLICATION PROCEDURE

- A. The applicant shall submit the site review application to the Code Enforcement Officer along with the appropriate application fee and written evidence that abutters have been notified.
- B. The Town of Freedom shall issue a dated receipt to the applicant upon receiving the application fee.
- C. Within 35 days of receipt of the application, the Code Enforcement Officer shall make a determination whether the application is complete and notify the applicant of his/her determination.
 - 1. The applicant shall provide the required materials according to listed procedures. If the application is not complete the Code Enforcement Officer shall notify the applicant of the specific materials needed to complete the application.
 - 2. If the application is complete, the Code Enforcement Officer shall notify the Planning Board, within a reasonable number of days that a complete site review application has been received. The Planning Board will then consider the application at a Planning Board meeting, as expediently as practical.
- D. The applicant shall, at least 14 days prior to the Planning Board's meeting at which the application will be considered, submit to the Code Enforcement Officer 7 copies of the site review application. The Code Enforcement Officer shall distribute to the Planning Board copies of the application prior to the meeting. The applicant may provide reduced copies of maps and plans; however, at least one full size (typically 24"x 36" depending on readability) set of plans shall be submitted.
- E. The Planning Board shall make a final decision upon the application within 90 days of the first Planning Board meeting at which the completed application had been reviewed. However, upon mutual consent of the applicant and the Planning Board, the due date for the final decision may be extended.
- F. The Planning Board shall submit its final written decision in writing to the applicant and to the Code Enforcement Officer within 30 days of the last Planning Board meeting at which the application was considered. Any conditions imposed upon the application shall be listed in their final decision.

SECTION 2. SUBMISSION REQUIREMENTS

All Commercial Development Review applications shall be submitted on the forms developed by the Planning Board. The following materials and information shall be included with the Site Review Application. The applicant shall indicate those submission items that are not applicable to the proposal due to the particular location or design of the proposal.

- A. Site Review Application.
- B. Site Review Application fee.
- C. Waiver Request Form, if applicable.
- D. General information including the following:
 - 1. Name, address and telephone number of the applicant and applicant's agent if applicable.
 - 2. Property location, including address, map and lot number.
 - 3. Verification of the applicant's right, title or interest in the property. If such evidence is other than outright ownership and title as evidenced by a deed duly recorded in the Waldo County Registry of Deeds, the entire document/documentation (other than reference(s) to purchase price and financing terms, which may be redacted) whether by lease, option, contract or otherwise establishing right, title and interest shall be submitted with the application.
 - 4. Estimated cost of the proposal.
 - 5. Schedule of construction including anticipated beginning and completion dates.
 - 6. A description of the project.
- E. General location information including the following:
 - 1. A copy of the tax map showing the property and surrounding parcels. Including a list of all persons abutting or within 500 feet of the property.
 - 2. A copy of the Waldo County soil map showing the property.
 - 3. A copy of the United States Geological Survey (USGS) Topographic map showing the property.
 - 4. A copy of the Town Shoreland Zoning Map showing the property, if located in a Shoreland District.
 - 5. A copy of the Federal Insurance Rate Map (FIRM) showing the property, if located in a designated floodplain.
 - 6. A copy of the National Wetlands Inventory Map showing the property.
 - 7. A map drawn to scale showing the location, boundaries, elevations, uses and size of the following: developed site, type of structures, setbacks, parking areas, driveways and roads, drainage ways, easements and rights-of-way, watercourses, water bodies and wetlands, number of acres within the development, size of all impervious areas, all other significant natural and physical features and true north. Note: The Planning Board may require the drawing be done by a licensed surveyor, a licensed engineer, or similar appropriately licensed professional, depending on the scale and extent of the project.
- F. The location of all proposed subsurface wastewater disposal systems.

- G. Indication of the water source for the proposal including evidence that an adequate water supply is available to supply all the water needs of the proposal including fire suppression (please note: the fire chief should be consulted to determine whether or not appropriate structures are required to supply a water source to handle a fire threat).
- H. Evidence that all other local permits have been obtained including but not limited to: Shoreland Zoning, and Floodplain Management.
- I. An erosion control plan as per the requirements of this Ordinance.
- J. A storm water control plan as per the requirements of this Ordinance.
- K. A phosphorus control plan as per the requirements of this Ordinance.
- L. The location of any site or structure listed on the National Register of Historic Places or any archeological site identified by the State Historic Commission.
- M. The location of any significant wildlife resources or natural areas.
- N. The traffic access data for the site including an estimate of the amount of vehicular traffic to be generated on a daily basis.
- O. Any proposed areas or structures to be dedicated for public use.
- P. Scaled drawings showing the location and construction specifications for all proposed roads including drainage features such as ditches and culverts, access points, driveways, parking areas and other traffic management and control features.
- Q. Any other material to show that the applicable performance standards or other requirements of this Ordinance are followed as requested by the Planning Board.
- R. The estimated quantities of flammable or hazardous materials to be stored or handled on site.
- S. List of what flammable or hazardous material would be stored or handled on site and appropriate Material Safety Data Sheets (MSDS).
- T. A list of all other federal, state, and local reviews or permits required.

Article 6: Review Criteria

SECTION 1. REVIEW CRITERIA

An applicant for a commercial development permit shall demonstrate that the proposed use or project meets the review criteria listed below. The Planning Board shall not approve an application unless it makes written findings that all of these criteria have been met.

1. The application is complete and applicable review fee has been paid.
2. The proposal conforms to each of the applicable provisions of this Ordinance (specific findings shall be made for each applicable provision).
3. The proposed activity will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that an unsound or unhealthy condition results.
4. The proposed activity will not have an adverse impact on wetlands.
5. The proposed activity will not have an adverse impact upon any water body such as a lake, pond or stream.
6. The proposed activity will provide for adequate storm water management.
7. The proposed activity will provide for adequate sewage disposal.
8. The proposed activity will not adversely impact any floodplain areas and will conform to the applicable requirements of the Town of Freedom Floodplain Management Ordinance.
9. The proposed activity will not result in air or water pollution.
10. The proposed activity has sufficient water available for the current and foreseeable needs of the development.
11. The proposed activity will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.
12. The proposed activity will dispose of all solid waste in conformance with all local regulations and that the type and quantity of waste proposed to be sent to Town facilities will not exceed their capacity.
13. The proposed activity will not have a significant detrimental effect on adjacent land uses, or on other properties that might be affected by waste, sound, shadow flicker, glare, fumes, smoke, dust, odors or their effects.

14. The proposed activity will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of highways or roads existing or proposed.
15. The proposed activity to the maximum extent possible will not have an adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the Town of Freedom, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.
16. The proposed activity shall conform to all the applicable requirements of the Town's Shoreland Zoning Ordinance, Building Ordinance and all other local Ordinances.
17. The proposed activity will not unreasonably increase a great pond's phosphorus concentration, if the development is within the watershed of a great pond, stream, or other water body.
18. The Town has the capacity to provide fire and rescue services to the development.

Article 7: Development Standards Generally

SECTION 1. AIR QUALITY

- A. No development is permitted which will cause emissions of dust, ash, smoke, or other particulate matter likely to damage human or animal health, vegetation, or property, by reason of concentration or toxicity. Evidence that relevant state and federal regulatory requirements have been met shall be considered sufficient to meet this standard. This shall not be construed to regulate dust or odors generated by agricultural practices conducted using accepted Best Management Practices (BMP).

SECTION 2. ACCESS TO PUBLIC STREETS

This section shall apply to all developments requiring a permit that directly access Public Streets. Compliance with this section shall not relieve the applicant of the need for permitting under State Access Management Regulations.

A. General Provisions.

1. The number of access points shall be the minimum necessary to assure safe and proper vehicular access to the site. As a general rule, no more than two access points onto any single road will be allowed. Where more than one road abuts the development site, the Planning Board may require the developer to access the site from the road with less potential for congestion and traffic hazard.
2. All streets which can be expected to carry traffic to and from the development shall have sufficient capacity or be suitably improved to accommodate the amount and types of traffic generated by the development:
 - a. Local roads/streets (non-State Roads)-No development shall increase the volume of traffic above 5,000 Average Daily Trips (ADT), according to the most recent version of the Institute of Transportation Engineers (ITE), Trip Generation Manual (7th Edition or most current edition).
 - b. State roads-No development shall increase the volume of traffic so as to reduce the Level of Service below "C" or increase the volume to a capacity ratio above .55, as determined by the Maine DOT, as defined by the Institute of Transportation Engineers (ITE).
3. Access points shall be of a design and have sufficient capacity to avoid the stopping or standing of vehicles attempting to enter the development from the street. Where necessary to ensure safety of drivers and pedestrians and to avoid congestion, the developer shall install turning lanes, traffic directional islands, frontage roads, signalization, or other traffic controls within public streets. All such installations shall conform to standards in the *Manual on Uniform Traffic Control Devices*

published by the American Traffic Safety Services Association.

4. The Planning Board may require the developer to plan or install direct access to adjoining properties where it will serve to reduce demand for vehicular movement on public roads.
5. Visibility triangle: In order to provide adequate visibility, all access points shall be kept free from visual obstructions, including signs, within a triangular area defined by legs of 25 feet measured along the driveway and street lines.

B. Location and Design of Access Points

1. Sight Distances: All access points shall be located to provide minimum sight distance of ten (10) feet for each mile per hour of posted speed limit in both directions. Sight distance is measured from a point ten (10) feet behind the edge of the traveled way, with the height of the eye at 3.5 feet, to the top of an object 4.5 feet above the street surface.
2. Access points shall be designed and constructed to a standard consistent with their estimated volume as follows:
 - Low Volume:* Peak hour volume of six (6) or fewer vehicles.
 - Medium Volume:* Any access that is not a low volume or high volume.
 - High Volume:* Peak hour volume of one hundred (100) or more vehicles.

a. Design Criteria.

All portions of an access point within the right-of-way of the street shall be consistent with the surface of the existing roadway.

All access points entering a curbed street shall be curbed to the full radius of the access point to a minimum distance of fifty (50) feet back from the edge of the existing curb line.

All access points shall intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case less than 75 degrees.

The curb radius for two-way access points shall be at least 20 feet. The curb radius for one-way access points or access points with median islands shall be between five and 10 feet on the inside corner and at least 30 feet on the outside corner.

The width of a low volume driveway shall be no more than 20 feet. The width of a medium or high volume driveway may be between 20 and 26 feet; for driveways with a median island, the width shall apply to each side. Where truck traffic is a major element, the width may be increased to 30 feet. The width of individual, “right turn only” channels shall be no more than 20 feet.

From the edge of the traveled way, the access point should not exceed a grade of 2 percent for a minimum of 40 feet, or, where a traffic study has been done, for the full distance of the predicted queue of vehicles at the peak hour.

b. Median and Channelization Islands

Medians or channelization island(s) are required for high volume access points and may also be required for medium volume access points at the discretion of the Planning Board. Median islands shall be between 6 feet and 10 feet in width and shall create a throat (entry lane) of adequate length based on the traffic study, but in no case less than 60 feet. All islands shall be curbed with sloped curbing, with proper signs installed to direct traffic.

c. Spacing Standards

No low or medium volume access point shall be located within one hundred (100) feet of any street intersection. No high volume access point shall be within two hundred fifty (250) feet of any intersection. Distance shall be measured from the point of tangency for the intersection curb radius to the point of tangency for the access point curb radius.

The minimum separation distance between two low volume access points or a low- and a medium-volume access point is fifty (50) feet. The minimum separation distance between two medium volume access points or a high- and a medium-volume access point is seventy-five (75) feet. The minimum separation distance between two high volume access points is one hundred fifty (150) feet.

No access point shall be located within ten (10) feet of a property line.

d. Any access point which intersects an existing or planned sidewalk shall incorporate ramped access curbing in accordance with the Americans with Disabilities Act.

SECTION 3. EROSION CONTROL

- A. All soil disturbances must be conducted in a manner which avoids sediment leaving the property. Development must employ best management practices (BMPs) for erosion control unless the Code Enforcement Officer certifies in writing that the nature of the site poses very little risk of erosion. Erosion of soil and sedimentation of watercourses, including intermittent drainage swales, and water bodies shall be avoided by employing BMPs as established in "Maine Erosion & Sediment Control Handbook for Construction-Best Management Practices" Cumberland County SWCD & MDEP-March 1991.
- B. The least possible amount of disturbance shall occur during construction in regard to tree removal, de-vegetation, and soil disturbance. In particular, strips of naturally vegetated areas existing on the down slope side of the construction site shall be maintained as undisturbed buffer areas. Temporary erosion control measures shall be installed prior to the start of any development. The applicant shall be responsible for the proper installation and operation of all erosion control measures. Permanent measures shall be installed as appropriate upon completion of the development.
- C. Exposed soils on slopes 10% or greater shall be initially stabilized (i.e., mulched, covered, or reseeded) within two working days of disturbance. All exposed soils on slopes less than 10% shall be stabilized within 15 days of disturbance.
- D. All watercourses, water bodies and wetlands shall be protected from sedimentation by the installation of silt fence barriers or other appropriate means. Such barriers shall be installed before digging, soil removal, the stripping of vegetation, scarification, or soil disturbance of any kind occurs within 500 feet of a watercourse, water body or wetland or on slopes greater than 10%. The barriers shall be installed at all points immediately down slope of soil exposing activities. Hay bale barriers are not to be used as a primary means of erosion control, but may be used as reinforcement or back up to silt fencing or other effective primary erosion control. Erosion control mix placed as a berm may be used in lieu of silt fencing as a sediment barrier, especially on frozen ground.
- E. All erosion controls must be inspected by the applicant and repaired every week, and before and after any significant rainfall events (0.5 inches or greater).
- F. Ditches or swales with slopes from 0-3% need to be vegetated, those at 3-5% require a geotextile mat and appropriate seeding, and those at 5% or greater require stone lining with an appropriate geotextile underlayment. All ditches not stabilized by vegetation before Oct. 15 shall be stone lined.
- G. Areas within 500 feet of water bodies must receive final stabilization within 5 days of final grading. Other disturbed areas must have final stabilizing measures in place within 10 days of final grading.

- H. After September 15, or if construction activities are to be suspended for more than 30 days, additional stabilization measures must be installed which include seeding, and mulching (including securing of mulch), and water diversions necessary to minimize on-site drainage contribution to erosion.
- I. If any portion of the designed impervious area falls within 500 feet of a watercourse, water body or wetland larger than one acre and the designed impervious area exceeds 10,000 sq. ft. in area;
or
If the Planning Board initiates a review in conjunction with the DEP, or other qualified water quality experts and it is determined that because of the slope, soil erodibility, designed impervious area, and site location, there is a demonstrated need, the following shall occur:
A temporary or permanent sedimentation control mechanisms shall be utilized by which sediment in run-off water shall be trapped by the use of debris basins, sediment basins, silt traps, or other acceptable methods as determined by the Planning Board, and in accordance with the current "Maine Erosion & Sediment Control Handbook for Construction-Best Management Practices" Cumberland County SWCD & MDEP-March 1991.
- J. The top of a cut or the bottom of a fill section shall not be closer than ten feet to an adjoining property, except in the case of material extraction operations as provided in Section 8.2 of this Ordinance.

SECTION 4. HISTORIC AND ARCHEOLOGICAL RESOURCES

If any portion of the site has been identified, or is found to contain historic or archaeological resources, the development plan shall include appropriate measures for protecting these resources, including, but not limited to, modification of the proposed building and site layout and design.

SECTION 5. MATERIALS STORAGE

- A. All outdoor storage areas, including areas used for the storage or collection of solid waste, automobiles, auto parts, building materials, machinery, or other such items, shall have screening sufficient to minimize visual impact on roads, and neighboring and other properties in the area. Walls, fencing, dense plant material, or a combination of techniques can be used to achieve this intent. A dense evergreen hedge six (6) feet or more in height at the time of planting shall be the preferred means of attaining this standard.
- B. Where a potential safety hazard to children is recognized by the Planning Board, a physical barrier sufficient to deter small children from entering the area shall be provided and maintained in good condition.

- C. No bulk storage of flammable or explosive liquids, solids, or gases shall be permitted unless storage facilities are located at least seventy-five (75) feet from any property line if above ground, or forty (40) feet if underground. All materials shall be stored in compliance with requirements of the Maine Department of Public Safety and other appropriate Federal, State, and local regulations. Propane gas tanks in two hundred (200) pound cylinders or smaller and heating fuel tanks of 330 gallons or smaller are not considered bulk storage for the purpose of these standards except where three or more are aggregated.

All above-ground storage facilities for toxic, flammable, or explosive liquids shall be located on impervious surfaces and shall be completely enclosed by a dike high enough to contain the total capacity of the storage tank(s) plus the rain falling into the area during a twenty-five (25) year, 24-hour duration storm, or 150 percent of the volume of the storage facility, whichever is greater.

SECTION 6. NATURAL RESOURCE PROTECTION

A. Natural Features

Site development shall minimize, insofar as possible, disturbance of natural features. This shall be done by designating on the site plan the limits on development-related clearing. Outside of the limits, there shall be no tree removal, water channelization, soil disturbance, or grading and filling.

B. Habitat Protection

1. If any portion of the parcel has been identified as a critical natural area, or as containing threatened or endangered species of plants or animals, the subject areas shall be located outside of the clearing limits. The Planning Board may require a mitigation or management plan to be reviewed by the Maine Department of Inland Fisheries and Wildlife (IFW) or the Natural Areas Program of the Department of Conservation, as appropriate.
2. If any portion of the area to be developed includes areas mapped by the Maine IFW as Deer Wintering Areas, the developer shall consult with the Department on means to limit the impact of the development on the habitat, and incorporate those recommendations into the development plan insofar as practicable.
3. If any portion of the area to be developed includes wetlands, as determined by the Town of Freedom, the Maine DEP, or a certified soil scientist, the developer shall avoid, minimize, and mitigate impacts on the wetland both during and after construction.

C. Groundwater Protection

1. Any development which will generate a demand of 5,000 gallons per day or greater out of groundwater supplies shall not affect groundwater availability beyond the boundaries of the property. The developer shall comply with the additional standards in Article 8 Section 3, Large Scale Pumping or Extraction of Groundwater, Spring Water and/or Water from Aquifers.
2. Should an area in Freedom be identified as a Significant Sand and Gravel Aquifer by the Maine Geological Survey, no activity involving the production, use, or storage of hazardous or toxic chemicals or petroleum products shall be conducted except in accordance with a Spill Prevention and Management Plan developed at the time of application and approved by the Town of Freedom.

SECTION 7. SOUND

- A. Sound shall be measured by a meter set on the A-weighted response scale, slow response. The meter shall meet the American National Standards Institute (ANSI S1.4-1961) "Specification for General Purpose Sound Level Meters". Sound levels shall be measured at least 4 feet above ground at the property boundary. Sound data shall be as specific to the permitted activity as technically possible.
- B. Sound shall not exceed forty-two (42) dBA for more than 8 days in any 365-day period, when measured at any occupiable structure existing on the date of application of the commercial or industrial use.
- C. Sound at the property line shall not exceed 55 dBA from 7 a.m. to 6 p.m. for more than 8 days in any 365-day period, and not to exceed 45 dBA from 6 p.m. to 7 a.m. for more than 8 days in any 365-day period.
- D. On sites abutting a residential use, development construction shall be staged so that exterior activities are conducted between the hours of 7 a.m. and 8 p.m.
- E. The Planning Board may require additional measures for sound suppression as reasonably necessary to protect against undue noise pollution.

SECTION 8. OUTDOOR LIGHTING

A development may employ outdoor lighting which serves security, safety, and operational needs to the extent that it does not impair the vision of vehicle operators on adjacent streets or infringe on the enjoyment of neighboring properties. Lighting fixtures shall be shielded or hooded so that the lighting elements are not in view of motorists, pedestrians, or adjacent dwellings. Intensity should not exceed one (1) foot-candle at the property line, and under no circumstances be located or directed so as to create a nuisance to abutting residential properties.

SECTION 9. ELECTROMAGNETIC INTERFERENCE

The applicant shall mitigate to the extent deemed reasonable by the Planning Board, any interference with electromagnetic communications, such as radio, telephone or television signals caused by any commercial activity.

SECTION 10. PARKING

A. General

No new or expanded development shall be permitted unless adequate off-street parking is provided to accommodate projected number of vehicles.

SECTION 11. SCREENING OF STRUCTURES, PARKING LOTS, AND OTHER COMMERCIAL USES

A. Buffering from the Main Road.

New commercial uses shall be separated from the street by a vegetative buffer.

1. Requirements for buffering are not intended to prevent any commercial establishment from having adequate visibility from the main road to promote its name and its products and services.
2. The placement, species, and beginning size of vegetation specified for the planned buffer must be included in the applicant's plot plan, and are subject to final approval by the Planning Board.

B. Screening of Adjacent Properties

Screening shall be required wherever a proposed commercial use abuts a residential development or pre-existing home, and in other instances where the Planning Board determines uses may be incompatible.

1. Screening shall consist of a natural (preferred) or artificial visual buffer sufficient to ensure continuous year-round screening. Screening shall be sufficient to minimize the impacts of large buildings, vehicle movements, outdoor storage areas, glare, and related commercial activity. Areas shall be maintained and vegetation replaced as necessary. The following is intended as a guide:
 - a. A fifty (50) linear foot minimum will be required if the buffer will consist of natural woodland, provided that the Planning Board may require supplemental plantings to achieve an effective visual screen.

- b. A twenty-five (25) linear foot minimum will be required if the buffer will consist primarily of dense planting of native coniferous trees.
2. Where no vegetation can be maintained, or due to unusual site conditions, the Planning Board may approve a screen consisting of fences, walls, berms, or combinations thereof.

See above note re: multi-family and residential subdivisions.

SECTION 12. SIGNS

A. Purpose

The purpose of this section is to allow advertising and informational signs that will not, by their nature and location, endanger the safety of individuals, or confuse, mislead, or obstruct the vision necessary for traffic safety, or otherwise endanger the public health, safety, and welfare.

B. Abandoned Signs

Any free-standing sign which advertises a business conducted, product sold, or activity no longer in existence, or which, through lack of maintenance or other reason, becomes a hazard shall be removed by the owner, agent, or person responsible for the lot upon on which the sign is located.

C. Illuminated Signs

Signs may be illuminated internally or externally by lights which are shielded or hooded so that the light source is not a nuisance to traffic or neighboring properties. Lighting shall be constant in color, location, and brightness. Signs shall not give off or reflect light at intensity greater than fifty (50) foot candles as measured one hundred (100) feet from the sign.

D. Sign Area and Placement

No more than two signs, projecting or free-standing, which in combination are not more than 32 square feet in size, shall be permitted per premise. The height of any sign shall not exceed 25 feet from the elevation of the road adjacent to the sign.

A sign may be placed in the front setback area but may not protrude beyond the property line. All signs must be mounted on buildings or secured to the ground in such a manner as to prevent them being dislodged by strong winds. Signs in the vicinity of an access point shall be placed so as not to obstruct driver vision. Such signs shall comply with standards specified in Article 7, section 2 A5 and Article 7, Section B1.

SECTION 13. STORM WATER MANAGEMENT

- A. All new construction and development shall be designed to reflect or resemble, as nearly as possible, natural runoff conditions in terms of volume, velocity, and location of runoff. All systems shall be designed so as to have no significant adverse effect on neighboring properties, downstream water quality, soil stability, or the public drainage system. Where possible, existing natural features, such as berms, swales, terraces, and wooded areas shall be retained in order to control runoff and encourage infiltration of storm water.
- B. Storm water drainage systems shall be designed to minimize the volume and rate of outflow from the development, including engineered measures and off-site improvements such that the downstream system can accommodate any additional runoff. The storm water management system shall be designed to accommodate the peak discharge of two (2) year, ten (10) year, and twenty-five (25) year frequency, twenty-four (24) hour duration storms.
 - 1. Storm water practices shall be as described in *Maine Storm Water Best Management Practices Manual*, Maine DEP, 2005 or most recent edition, see www.maine.gov/dep/blwq/docstand/stormwater/stormwaterbmps.
 - 2. A storm water control plan prepared according to the requirements of DEP Regulation chapter 500, "Storm Water Management" and Chapter 502 "Direct Watersheds of Water bodies most at Risk from New Development" shall be deemed suitable to meet these standards.
- C. Within lake watersheds, storm water systems shall include runoff from roof drains and camp roads to encourage infiltration and minimize phosphorus loading.
- D. Storm water systems shall be maintained as necessary to ensure proper functioning.

SECTION 14. WASTES

A. Solid Waste

The development shall provide for the disposal of all solid wastes on a timely basis and in an environmentally safe manner. The development shall not produce wastes that exceed the capability of the transfer station, in either volume or type of waste. Any toxic, hazardous, or special waste must be disposed of in compliance with state and federal regulation and in a manner approved by the Planning Board.

B. Sanitary and Liquid Wastes

- 1. A completed site evaluation form (HHE-200) which evidences adequate soil conditions for wastewater disposal shall be a prerequisite to approval.

2. At the time of application, the developer shall specify the amount and exact nature of all industrial or chemical wastes to be generated by the development, and a plan to dispose of such wastes only and in such quantities and/or quality as to be able to be accepted into the disposal system or shipped to an approved facility off site. All such plans shall be in conformance with applicable State and Federal regulations.

SECTION 15. WATER QUALITY

A. General Standard

No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quality, toxicity, or temperature that run into or mix with surface or ground waters so as to contaminate, pollute, or degrade such waters with objectionable shore deposits, floating or submerged debris, oil, scum, color, odor, taste, or unsightliness, or be harmful to human, animal, plant, or aquatic life.

B. Impact on Groundwater.

1. The Planning Board shall require an assessment of the impact of a development on groundwater quality and quantity based on the proposed size or nature of the development in cases where the development is projected to generate demand of more than five thousand (5,000) gallons per day from groundwater sources. This assessment shall contain at least the following information and shall comply with the additional standards in Article 8, Section 3:
 - a. A map showing the basic soils types, and the location of any subsurface wastewater disposal systems and drinking water wells within the development and within three hundred (300) feet of the development boundaries.
 - b. Depth to the water table at representative points throughout the development.
 - c. Data on the existing groundwater quantity and quality, either from test wells or from existing wells on neighboring properties.
 - d. An evaluation of the effect of the development on groundwater. This evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within one thousand (1,000) feet from potential contamination sources.
2. The assessment shall demonstrate that the development will comply with the following standards:

- a. No development shall increase any contaminant concentration in the groundwater to more than one half (½) of the Primary Drinking Water Standards, nor to an amount to exceed the Secondary Drinking Water Standards as established by the Maine Dept. of Health and Human Services at the time of the permit issuance.
 - b. If existing groundwater contains contaminants in excess of the primary standards, the applicant shall demonstrate no significant further deterioration. If groundwater contains contaminants in excess of the secondary standards, the development shall not cause the concentration of contaminants to exceed one hundred fifty (150) percent of the pre-existing concentration.
 - c. Groundwater withdrawals or alteration of surface recharge characteristics by a proposed development shall not lower the water table beyond the boundaries of the development. No proposed development shall result in a lowering of the water table at the development boundary.
3. Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If any measures to reduce groundwater contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the Plan, and as restrictions in the deeds to the affected lots.

C. Impact on Lake Water Quality

Any new or expanded development within the watershed of Sandy Pond or any other “great pond” (see Article 9: Definitions) shall be designed to limit the post-development phosphorus export consistent with that set forth in the Maine DEP manual: Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development, revised May 1992 or most recent edition (hereinafter referred to as “Phosphorus Control Method”, see www.maine.gov/dep/blwq/doclake/).

SECTION 16. AVOIDANCE AND MITIGATION OF DAMAGES TO PUBLIC
ROADS AND DRAINAGE SYSTEMS

- A. Applicants shall identify all county, city or township roads to be used for the purpose of transporting parts, cement, and/or equipment for construction, operation or maintenance of the development and obtain applicable weight and size permits from the impacted road authority(ies) prior to construction.

- B. Applicants shall conduct a pre-construction survey, in coordination with the impacted local road authority(ies) and Code Enforcement Officer to determine existing road and drainage system conditions. The survey shall include photographs and a written agreement to document the condition of the public facility.
- C. Applicants shall be responsible for restoring or paying damages as agreed to by the applicable road authority(ies) and the Code Enforcement Officer_ sufficient to restore the road(s), bridges, and drainage systems to pre-construction conditions.
- D. Applicants shall be responsible for repair of damage to roads, bridges, and public drainage systems stemming from construction, operation or maintenance of the development. Such repairs must be completed within the time frame directed by the Code Enforcement Officer or his designee. Such repairs must be completed in a manner satisfactory to the Code Enforcement Officer.

SECTION 17. DISCONTINUANCE AND DECOMMISSIONING OF
COMMUNICATION TOWERS

A. Discontinuance

The Code Enforcement Officer may mail, via certified mail, a written inquiry to the owner of any commercial telecommunications tower activity asking why that activity has been unused or out of service for twelve months. The owner must respond, in writing, to that inquiry within 30 days from the mailing date of the inquiry. In the response, the owner shall set forth reasons for the operational difficulty and provide a timetable for corrective action. The Code Enforcement Officer will then provide this written response to the Planning Board. If the Planning Board deems the timetable unreasonable, it shall notify the owner that it requires remedy or removal of the commercial project within a reasonable time frame.

In the event that the owner does not remove the tower(s) and all accessory equipment within that time frame the Town of Freedom shall effect their removal, and the cost of removal shall be a lien against the property.

B. Decommissioning

Any person owning or operating a commercial cell tower structure shall have a decommissioning plan, filed with the Town, which outlines the anticipated means and cost of removing the activity at the end of its serviceable life or the discontinuance of its use. The cost estimates shall be made by a contractor deemed, by the Planning Board, as competent to do so. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the activity and accessory facilities. The Planning Board may require a decommissioning escrow fund for any project valued over one million (1,000,000) dollars.

Article 8: Development Standards for Specific Activities

SECTION 1. ADULT BUSINESSES

The purpose of this section is to permit the establishment of adult businesses, as defined, in such manner and location as will protect the general welfare and preserve the community standard.

- A. Physical Separation: Adult businesses shall not be located within 2,000 feet of existing residences, educational or religious use, or child care center; and shall be separated from one another by a distance of at least 1,000 feet.
- B. Signs: In addition to the provisions of Section 7.11 of this Ordinance, signs for adult business shall not depict the human figure in any unclothed or suggestive manner. No sexually explicit message, materials, or activity shall be visible outside the building.

SECTION 2 . MATERIAL EXTRACTION OPERATIONS

A. Special Permit Requirements

Applications to the Planning Board for a five-year permit, in addition to the submission requirements outlined in Section 5.2 of this Ordinance, shall include the following elements:

1. A site plan including the following features:
 - a. Topography indicating not greater than ten (10) foot contour intervals, based on United States Geological Survey (USGS) data.
 - b. The location and slope of grades existing and proposed upon completion of the extraction operation.
 - c. Proposed fencing, buffer strips, signs, lighting, parking and loading areas, entrances and exits.
2. A written statement of the proposed operating procedure and working hours.
3. A five-year plan, showing new areas to be mined, and old areas to be reclaimed, together with estimates of volumes to be extracted, and detailed plans for reclamation of completed excavation.
- 4.. The Planning Board may require a hydrogeologic study to determine the effects of the proposed activity on groundwater movement and quality in the vicinity.

B. Development Standards

1. No part of any extraction operation shall be permitted within fifty (50) feet of any property or street line, except
 - a. Drainage ways to reduce run-off into or from the extraction area maybe allowed provided suitable erosion control measures are in place. Natural vegetation shall be left and maintained on the undisturbed land.
 - b. As agreed to by abutting property owners.
2. No slopes steeper than 2 feet horizontal to 1 foot vertical (2:1) shall be permitted at any extraction site unless a fence at least six (6) feet in height is erected to limit access to such locations.
3. The sides and bottom of cuts, fills, channels, and artificial watercourses shall be constructed and stabilized to prevent erosion or failure. Such structures are to be designed and built according to accepted Best Management Practices.
4. Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions. The developer shall obtain written approval from the Maine Department of Environmental Protection, and/or the Department of Inland Fisheries and Wildlife, as applicable.
5. The hours of operation at any extraction site may be limited, if necessary to ensure compatibility with neighboring residences.
6. All access points from the extraction site to public roads shall be treated with suitable materials to reduce dust and mud for a distance of at least 100 feet from such public roads.
7. The five-year reclamation plan shall show that within twelve (12) months following the completion of extraction operations at a site, ground levels and grades shall be established so that the restored drainage exits the site resembling pre-development volumes and locations. "Completion" means when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period. Debris, stumps, boulders, and similar materials shall be removed and disposed of on the property in an approved location or, in the case of inorganic material, buried and covered with a minimum of two (2) feet of soil. Only materials generated on-site may be buried or covered. Final slopes shall not exceed two feet horizontal to one vertical (2:1). All areas shall be properly restored to a stable condition adequate to meet the provisions of the *Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices*, published by the Cumberland County Soil and Water Conservation District, 1991, or most recent edition (see www.maine.gov-images.informe.org/dep/blwp/docstand/stormwater). Any temporary shelters or structures erected for operations and equipment shall be removed within thirty (30) days following completion of extraction operations.

C. Existing Operations not Grandfathered

Any mineral extraction process in lawful operation as of the effective date of this Ordinance must comply with the provisions herein within five (5) years. Within ninety (90) days of the enactment of this Ordinance, the Code Enforcement Officer shall notify, by certified mail, return receipt requested, the owners of all property which, to the best of his or her knowledge, contain existing operations, informing them of the requirements of this Section.

Any mineral extraction operation that has been discontinued for more than two (2) years as of the enactment of this Ordinance shall not resume operations until a Commercial Development approval has been obtained in accordance with this ordinance and all relevant performance standards have been met.

SECTION 3. LARGE SCALE PUMPING OR EXTRACTION OF GROUNDWATER,
SPRING WATER AND/OR WATER FROM AQUIFERS.

A. Purpose

The purposes of these requirements are: to protect the quality and quantity of groundwater, spring water and/or water in aquifers and their recharge areas located wholly or partially within the Town of Freedom; to insure that any large-scale water extraction is subjected to prior review and approval; to establish the ongoing sustainability and quality of said water supplies; and to avoid any interruption or degradation of water quality and quantity; and generally to protect the health, safety, and welfare of persons dependent upon such water supplies.

B. Large-Scale Water Extraction

1. Permit Inapplicability

No permit is required for the extraction of water which is to be used for standard agricultural purposes; domestic water supply to private residences; fire suppression; or for existing commercial activities as of the date of the adoption of this Ordinance.

2. Permit Required

The extraction of more than 5,000 gallons per day of ground water, spring water and/or water from aquifers or their recharge areas by any one entity or person, or consortium or association of entities or persons acting in concert, regardless of the number of extraction facilities utilized, shall require Commercial Development approval from the Planning Board in accordance with the procedures and requirements of this Ordinance and a written permit issued by the Code Enforcement Officer.

3. Application Requirements

- a. The application for a permit shall be in writing and be accompanied by site plans prepared by a licensed surveyor, licensed engineer, or similar appropriately-licensed professional.
- b. The application shall include, in addition to the standard submission requirements specified in this Ordinance:
 - (1) A statement of the total maximum daily quantity of water to be extracted, from all extraction points operated by the same individual, entity, consortium, or association of individuals or entities.
 - (2) The location(s) of the points of extraction.
 - (3) The method(s) of extraction.
 - (4) The proposed use for which the water is to be extracted, including the identity of any end user of the extracted water whose facilities (for use, processing, transporting, storage, bottling, sales or other activities) are located outside the Town of Freedom.
 - (5) A copy of any application, exhibits, and reports for such extraction filed or to be filed with any other municipal authority or any agency or department of the State of Maine, including as required by 22 MRSA 2660 et seq (transport of water for commercial purposes,) or under applicable Maine Department of Health and Human Services rules and regulations.
 - (6) A copy of any permit, approval, or denial for such extraction as may have been issued by any agency referred to in (5) above.
 - (7) A written report, certified to the Freedom Planning Board procured and paid for by the applicant, of a hydrogeologic investigation and study, conducted and prepared by a licensed professional hydro-geologist, geologist, hydrologist, registered professional engineer or other appropriately-licensed professional possessing comparable credentials and qualifications. The report must address at least the following:
 - (a) The rates of draw down and recharge of any aquifer or other ground water source as may have been established by a pumping or “stress test” or other similar testing regime in accordance with accepted standards within the geology and engineering professions.
 - (b) The characteristics of the aquifer or other ground water source, including rates of draw down and recharge, sustainable extraction rates, aquifer boundaries, recharge areas, impacts on the water table, and impacts on any and all existing water bodies including but not limited to lakes, ponds, rivers, streams, wetland areas, private wells, or other existing extraction locations within the zone of contribution.
 - (c) Possible effects on the aquifer or other ground water resources which might result in the disturbance of existing minerals such as, but not limited to, iron, manganese, arsenic, and uranium, and any health hazards raised by such disturbance(s) or other impacts including issues such as drinking water turbidity, clarity, and aroma.

- (d) Report shall include test results, showing flow and capacity of private wells of abutters to establish baseline data.
- c. The application shall be accompanied by:
- (1) Written notification of the application and an explanation of the intent, scope and location of the proposed water extraction in terms readily understandable to a layman to be addressed and mailed via certified mail, return receipt requested, to the following:
 - (a) The owners of record of parcels of land lying above the aquifer or other water source cited in the application.
 - (b) The owners of record of all parcels of land lying within 500 feet of the outside perimeter of the aquifer or other water source cited in the source cited in the application.
 - (c) The owners of record of all parcels of land having frontage on any body of water (whether lake, pond, river, stream, wetland, or other) within 500 feet of the outside perimeter of the aquifer or other water source cited in the application, even though such individual parcels may themselves lie more than 500 feet from the outside perimeter of said aquifer or other water source.
 - (d) For purposes of these notification requirements an applicant is entitled to rely on the information on file at the Freedom Town Office as represented by its most recent assessors' maps and the mailing addresses maintained by the Town as to the owners of the affected parcels shown thereon. Actual posting of the certified mail notices is not required until the application is declared or deemed to be complete.
 - (e) For good cause shown the above notice requirements may be modified by the Planning Board where, for example, it is established that a body of water, a portion of which lies within 500 feet of the outside perimeter of the aquifer or other water source, extends so far from the proposed extraction point(s) that actual having frontage on that body of water is not necessary.
 - (2) A small-scale site plan depicting at least the following:
 - (a) The limits (outside perimeter) of the aquifer or other water source cited in the application, and the bounds of the land of the applicant.
 - (b) The location of all water bodies located within 500 feet of the outside perimeter of the aquifer or other water source.
 - (c) The location(s) of the proposed extraction points.
 - (d) The existing networks of public or private roads leading to or from the extraction points(s).
 - (e) Any proposed new roads or driveways to be constructed for access to and egress from the extraction point(s), and the point(s) of intersection of such proposed roads or driveways with existing roads.

- (f) Any existing or proposed utility lines to be utilized in the extraction operation(s).
 - (g) The location and type of monitoring and test wells.
 - (h) Any means (such as, but not limited to, pipes, pipelines, and aqueducts) that is intended to transport extracted water from the extraction point(s) to the intended end user.
 - (i) Any other relevant details bearing on the proposed extraction process, the omission of which would tend to hinder the ability of the Planning Board, affected land owners, or the public, from developing a full understanding of the scope and impact of the proposal.
- (3) A large-scale site plan depicting at least the following:
- (a) A detailed plan of the extraction points including, but not limited to: well heads, pumping facilities, monitoring wells, test wells, buildings, sheds, paving, vehicular drives, parking and turn around areas, utility lines, fencing, access roads, access driveways, elevations and contour lines.
 - (b) Any other relevant details bearing on the proposed extraction process, the omission of which would tend to hinder the ability of the Planning Board, affected landowners, or the public, from developing a full understanding of the scope and impact of the proposal.

4. Performance Standards

No approval shall be granted any application until and unless the Planning Board finds that each of the following performance standards has been or will be met. The applicant bears the burden of establishing and demonstrating compliance with these standards. Applicant must also demonstrate to the Planning Board that it possesses the expertise and financial resources to provide continuing adherence to these standards.

a. Geologic and Hydrologic Standards

- (1) The quantity of water to be extracted will not cause undesirable changes in ground water flow patterns relating to the aquifer, its recharge areas, or other ground water sources within the Town.
- (2) The quantity of water to be extracted will not negatively impact, diminish or alter any surface waters within the Town, including during any periods of drought or near-drought.
- (3) The quantity of water to be extracted will not cause any ground water subsidence beyond the property lines of applicant's property.
- (4) The quantity of water to be extracted will not adversely affect the long-term sustainability of the aquifer, or its recharge areas, or other groundwater source, including during periods of drought or near-drought.

- (5) The proposed extraction will not create a health risk or issues such as drinking water turbidity, clarity or aroma resulting from the disturbance of existing minerals, or from any other cause, with ongoing follow up monthly testing for this purpose, results to be provided in writing to the CEO on at least a monthly basis.
- (6) The establishment of an ongoing follow up monitoring system and development of a system of recording and documenting extraction and recharge date, within the zone of contribution, to be reported in writing to the Freedom Code Enforcement Officer on at least a monthly basis. At least 25% of monitoring locations shall be at private wells located within the zone of contribution.

b. Impacts on the General Vicinity

- (1) The applicant assumes any and all liability arising out of the water extraction activities as set forth in 38 M.R.S.A. § 401-404.
- (2) To the extent the extraction facility(ies) will be served by any method to transport water (such as, but not limited to, pipes, pipelines, and aqueducts) from the extraction point(s) to the intended end user, such installations shall be sited and constructed in a manner which will not interrupt the public's use of any existing roadway, public facility, great pond, private property, and shall not pose a risk of damage to any property along or through which such installation traverses.
- (3) Activities incident to such extraction (including but not limited to: increased traffic volume; difference in type of traffic; parking; hours of operation; noise; and glare from lights), shall be evaluated in accordance with the general approval standards of this Ordinance and shall not create any negative impact on adjacent properties, or on the nearby vicinity as a whole.

c. Extraction for Commercial Purposes and/or Bulk Water Transport Out of Freedom

In addition to the foregoing performance standards, any application for an extraction permit which includes or contemplates the transport of water in excess of 10 gallons per day out of the Town of Freedom, must also meet the following standards and requirements:

- (1) The Planning Board shall receive a copy of any application filed with any state agency under the provisions of 22 MRSA 2660-A, or of the Bulk Water Transport Rules of the Maine Department of Health and Human Services, contemporaneous with its filing with the State, as well as a copy of any decision pertaining thereto.

Existing Operations not Grandfathered

Any water extraction process in lawful operation as of the effective date of this Ordinance must comply with the provisions herein within five (5) years. Within ninety (90) days of the enactment of this Ordinance, the Code Enforcement Officer shall notify, by certified mail, return receipt requested, the owners of all property which, to the best of his or her knowledge, contain existing operations, informing them of the requirements of this Section.

Any water extraction operation that has been discontinued for more than two (2) years as of the enactment of this Ordinance shall not resume operations until a Commercial Development approval has been obtained in accordance with this ordinance and all relevant performance standards have been met.

SECTION 4. TELECOMMUNICATIONS TOWERS

A. Location

Consideration shall be given to serving new communication service demands by use of existing towers (co-location) wherever practicable. Applicants for permits for new facilities shall demonstrate why location on an existing tower is not feasible. The Planning Board may condition new permits to require co-location of other new facilities which may be proposed, if feasible, and to ensure designs which facilitate co-location.

B. Design and Construction

1. No tower shall exceed 195 feet in height, as measured from the tip to the ground surface, including extensions and attachments.
2. New towers shall be designed in such a way as to facilitate co-location.
3. A new or expanded tower shall be placed on a lot owned by the operator of the facility or leased for a period of not less than ten (10) years, and shall be set back from all lot lines a minimum horizontal distance equivalent to 125% of the height of the tower.
4. New towers shall be constructed with materials and colors that match or blend in with the surrounding natural or built environment to the maximum extent practicable.
5. All towers and supporting structures must comply with structural standards established by the Electronic Industries Association/Telecommunication Industries Association. Compliance with these standards shall be certified by a registered professional engineer.

6. Towers shall be monopole construction with no guy wires.

SECTION 5. HOME OCCUPATIONS

A. Standards

2. Home occupations do not require a review or a commercial development permit.
3. All home occupations must meet the following performance standards. Any commercial use which does not or cannot meet these criteria must obtain a commercial development permit in accordance with this Ordinance.
 - (a) Off-street parking shall be provided for all employees and customer use.
 - (b) One sign no larger than 8 square feet may be erected on the premises.
 - (c) No more than 2,500 square feet of the dwelling and any accessory building shall be used for the home occupation.
 - (d) The residential character of the property shall be maintained.

1 Article 9: Definitions

Words and phrases, unless their context requires otherwise, shall be defined as follows: first as set forth below, second in accordance with their generally accepted technical meaning within the involved scientific disciplines, third as defined by Maine Statutes, and fourth their common dictionary definition.

Abutter: Any lot which is physically contiguous with the lot in question or within 500 feet horizontal distance of the lot line, even if only at a point. Also, any lot which is located directly across the public or private street from the lot in question.

Accessory building, accessory structure or use: A detached, subordinate building or structure, the use of which is clearly incidental and related to that of the principal building or structure and which is located on the same lot as that of the principal building, structure or use.

Adult Business: Any commercial enterprise, including but not limited to bookstores, amusement centers, video stores, and theaters, which as a substantial or significant portion of its enterprise rents, sells, or keeps for display books, videos, motion pictures or any other form of representation of sexually explicit material or activities. Sexually explicit means the depiction or display of nudity, where nudity is defined as the appearance of a human anus, pubic area, male genitals, or female genitals with less than a fully opaque covering; or a female breast with less than a fully opaque covering of any part of the areola; or human male genitals in a discernibly turgid state even if completely and opaquely covered.

Aggrieved Party: An owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted, or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

Agriculture (Agricultural Production): The production, keeping or maintenance for sale or lease, of plants and /or animals, including but not limited to forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products, livestock; fruits and vegetables; and ornamentals and green house products.

Applicant: A person, group of people, business or corporation applying for a permit under this Ordinance.

Aquifer: A saturated permeable geologic unit that can transmit significant quantities of water under ordinary hydraulic gradients.

Building: Any structure having a roof supported by columns or walls that is intended to shelter or house people, animals, business processes or activities, equipment, goods or materials of any kind or nature.

Building footprint: The area of land covered by a building. This area is measured from the exterior surface of the exterior walls at grade level exclusive of cantilevered portions of the building. Where the building is elevated above the grade level on posts or similar devices, the building footprint is the area the building would cover if it were located at ground level.

Campground: A plot of ground upon which 2 or more campsites are located, established, or maintained for occupancy by camping units of the general public as temporary living quarters for recreation, education, or vacation purposes, including erection of tents, trailers, recreational vehicles, lean-tos, overnight cabins, or similar structures and parking facilities.

Commercial: Any activity, structure or process that does not qualify as a home occupation and produces a product or service for sale.

Critical Natural Area: Any area identified and listed by the Natural Areas program of the Maine Department of Conservation as containing rare or unique botanical features or habitat for rare, threatened, or endangered plant species or rare and unique natural communities.

Developed Area or Disturbed Area: Any area on which a site improvement or change is made, including buildings, landscaping, parking areas and streets.

Development: Any man-made changes to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, or drilling operations.

Essential Service: The construction, alteration, and/or maintenance of gas, electric, communication facilities; steam, fuel, or water transmission; distribution, collection, supply or disposal systems. Such systems may include towers, poles, wires, mains, call boxes, traffic signals, hydrants, and similar accessories, but shall not include buildings which are necessary for the furnishing of such services.

Expansion of a structure: An increase in the floor area or volume of a structure, including all extensions such as, but not limited to attached: decks, garages, porches and greenhouses.

Expansion of use: The addition of one or more months to a use's operating season; or the use of more floor area or ground area devoted to a particular use.

Extraction (or “water extraction” or “extraction of water”): Withdrawal, removal, diversion, taking, or collection by any means of water from ground water sources, aquifers, springs, wells, pumps or similar means.

Extraction Point or Extraction Facility: The physical location where water is extracted, whether by well, pump, pipeline, catchments, or other method.

Farmland: A parcel of land meeting all the requirements for farmland classification as described in the current Maine Revenue Services' Farm and Open Space Tax Law.

Great Pond: Any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

Historic or Archeological Resource: Areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as an historic or archeological resource.

Home Occupation: An occupation or profession which is carried on in a dwelling unit or accessory building, which is clearly incidental and secondary to the residential use of the dwelling; carried on by a member of the family residing in the dwelling unit and no more than three fulltime employees; and, which does not alter the residential character of the neighborhood.

Impervious Surface: Land covered by buildings and associated constructed facilities, areas which have been or will be covered by a low permeability material, such as asphalt or concrete; and areas such as gravel roads and unpaved parking areas, which have been or will be compacted through design or use to reduce their permeability.

Large-Scale Water Extraction: Extraction of water from ground water sources, aquifers, springs, wells or similar in a total daily amount on any given day of 5,000 gallons or more, as extracted by the same individual or entity, or consortium or association of individuals or entities, regardless of the number of extraction facilities utilized.

Level of Service: A term used by traffic engineers, indicating a scale of “A” to “F”, measuring the volume of vehicular traffic in relation to the capacity of an intersection or road segment. Levels of service “E” to “F” describe road situations with severe problems attributable to traffic congestion.

Material (Mineral) Extraction Operation: The breaking of the surface soil in order to facilitate or accomplish the extraction or removal of more than 1,000 cubic yards of product (total of product and overburden) from the earth within 12 successive calendar months; any activity or process that for the extraction or removal of the product and

overburden; and the preparation, washing, cleaning or other treatment of that product so as to make it suitable for commercial, industrial or construction use, but it shall not include the excavation or grading preliminary to a construction project.

Occupiable: Space in a structure that can be lived in, worked in or used for any significant human purpose such as residences, places of worship, business establishments, schools, hospitals or municipal buildings.

Sign: An advertising message, graphic illustration, or insignia erected or inscribed for public view for the purpose of promoting the interests of the occupant of the premises or owner of the sign.

Sign Area: The surface area of that portion of the sign containing the advertising matter. Signs which have no separate sign surface shall be measured by taking the smallest area of a rectangle or circle which encloses the advertising matter. For two-sided signs, only one side of the sign shall be counted towards sign area.

Sign, canopy or projecting: A sign that is a part of, or attached to, an awning, canopy, or other fabric or plastic, over a door, entrance, window or outdoor service area. It also means a sign that is attached to the building wall and extends more than 6 inches from the face of such wall.

Sign, freestanding: A sign that is directly and permanently supported, and physically separated from any other structure.

Street, Public: An existing state, county, or town way; dedicated for public use .

Structure: Anything constructed or erected on the ground or which is attached to something located on the ground.

Substantial Start: The completion of 30% of a permitted structure or use measured as a percentage of estimated total cost.

Telecommunication Tower: Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guyed towers and monopoles for the purpose of transmitting or relaying radio frequency signals, including, but not limited to radio, television, cellular, and personal communication service frequencies. Towers established for personal use such as citizen band and ham radio operations, and which are less than 100 feet in height, shall not be included in this definition.

Water body or watercourse or surface water(s): Any river, stream, brook, pond, lake or wetland.

Wetland: An area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetland includes swamps, marshes, bogs, certain forest areas and similar areas.

Zone of Contribution: An area of an aquifer that contributes water to a well or other extraction point under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at approved yield with no recharge from precipitation). It is bounded by the groundwater divides that result from pumping the well and by the contact of the aquifer with less permeable materials such as till or bedrock. In some cases, streams or lakes may act as recharge boundaries. In all cases, the zone of contribution shall extend up gradient to its point of intersection with prevailing hydrogeologic boundaries (a groundwater flow divide, a contact with till or bedrock, or a recharge boundary).

Emergency Management Ordinance of the Town of Freedom

1. Short Title: This Ordinance shall be known and may be cited and referred to as the “Emergency Management Ordinance of the Town of Freedom”. Authorized under Title 37-B M.R.S.A, Section 782.
2. Definition: Emergency Management Director (EMD) shall mean the appointed town official responsible for performing the four phases of Emergency Management (preparedness, response, recovery, and mitigation) and for liaison with the Waldo County Emergency Management Agency (WOEMA).
3. Establishment: The Freedom Office of Emergency Management (OEM) and the position of Emergency Management Director for the town of Freedom is hereby created. The Selectmen may appoint additional OEM staff members, as needed.
4. Appointment, Term and Removal: The Selectmen shall appoint the EMD. This appointment shall be annual and made by June 1st of each year. The Selectmen may remove the EMD for cause.
5. Oath of the Emergency Management Director: Once the EMD has been appointed, the EMD shall take an oath of office before assuming any duties, pursuant to Title 30-A M.R.S.A., Section 2526.
6. Duties of the Emergency Management Director: The EMD shall:
 - A. Prepare and update a Hazard Risk and Vulnerability Assessment.
 - B. Prepare and maintain the Freedom Emergency Operations Plan.
 - C. Organize, activate and operate the Freedom Emergency Operations Center (EOC).
 - D. Prepare and maintain a list of disaster resources.
 - E. Develop procedures for the operation of the Freedom EOC.
 - F. Coordinate and maintain written disaster Mutual Aid Agreements with the approval of the Selectmen.
 - G. Provide Emergency Management training to town officials, planners, and responders.
 - H. Develop and implement a Disaster Exercise program
 - I. Develop and implement an Emergency Action Plan for Sandy Pond Dam.
 - J. Attend County Local Emergency Managers meetings.
 - K. Provide Disaster Preparedness information to town residents.
 - L. Complete and report Damage Assessments to WOEMA.
 - M. Complete and submit applications for FEMA disaster funds and grants.
7. Membership of the Emergency Operations Center: When directed by any one of the Selectmen or by the EMD, the EOC will be established and manned. At the discretion of the Selectmen or EMD, the following town officials may be included on the EOC staff:
 - A. Selectmen
 - B. Emergency Management Director
 - C. Town Clerk and Treasurer
 - D. Code Enforcement Officer
 - E. Town Constable
 - F. Fire Chief or Deputy
 - G. Fire Warden
 - H. Road Commissioner
 - I. Animal Control Officer
8. Establishment of the National Incident Management System: The Town of Freedom hereby establishes the National Incident Management System (NIMS) as the municipal standard for incident management. This system provides a consistent approach for Federal, State, and municipal governments to work together more effectively and efficiently to prevent, prepare for, respond to and recover from domestic incidents, regardless of cause, size or complexity. NIMS will utilize standardized terminology, standardized organizational structures, interoperable communications, consolidated action plans, unified command structures, uniform personnel qualification standards, uniform standards for planning, training, and exercising, comprehensive resource management, and designated incident facilities during emergencies or disasters. All Freedom emergency and disaster responders for incident management will utilize the NIMS Incident Command System (ICS).
9. Compensation: The EMD shall be compensated for duties rendered by an annual stipend appropriated at town meeting.
10. Training: The EMD may take necessary training as provided by the Waldo County Emergency Management Agency (WOEMA), Maine Emergency Management Agency (MEMA), and Federal Emergency Management Agency (FEMA).

Adopted at Special Town Meeting: June 7, 2006

Freedom Volunteer Fire Department Cost Recovery Ordinance

Section 1:

Title, Authority, Purpose, and Definitions

- A. **Title** – This ordinance shall be known and cited as the Freedom Volunteer Fire Department Cost Recovery Ordinance for the town of Freedom, Maine and will be hereinafter referenced to as the “Ordinance”.
- B. **Authority** – This ordinance is adopted pursuant to municipal home rule ordinance authority and title 30-A, M.R.S.A., Section 3001.
- C. **Purposes** – The Freedom Volunteer Fire Department is engaged in providing fire suppression, fire rescue and safety services in response to incidents; and in consideration of services rendered hereby desires to set the following Cost Recovery policy for Fire Department Services.
1. To protect the citizens of Freedom from potential expenses incurred through emergency response and services provided.
 2. To compensate the town of Freedom for use of town resources in response to fire caused by arson, illegal burning, traffic incidents, motor vehicle accidents and incidents involving operating under the influence (O.U.I.).
 3. To promote the health, safety, and general welfare of Freedom residents. Fire services will not be denied due to a person’s lack of adequate funds or insurance. No one should hesitate to call 9-1-1 if emergency services are needed.
- D. **Definitions**
- Arson:** The criminal act of deliberately setting fire to property.
- Costs:** Expenses incurred in/of emergency response, traffic control, extrication of victims, control of hazardous or other materials, control of fire, overall safety.
- Fire Chief:** The officer in charge of Fire Department operations.
- Illegal Burn:** A person who illegally set fire to property or goods without a permit or violates the conditions of a Maine Forest Service Open Burning Permit.
- Incident Commander:** A designated person responsible for all aspects of an emergency scene; including response, developing incident objectives, managing all incident operations, application of resources as well as responsible for all persons involved.
- Individual:** Any person, corporation, partnership, firm, organization, or other legal entity.

Freedom Volunteer Fire Department Cost Recovery Ordinance

Automatic Mutual Aid Agreement: An agreement the town may have with Thorndike, Montville, Palermo, Albion, Unity, or other towns to provide incident support and coverage on an as needed basis.

Motor Vehicle Accident: When a vehicle collides with another vehicle, pedestrian, animal, road debris, or other stationary obstruction, such as a tree or utility pole.

O.U.I.: Operation of a motor vehicle while under the influence of liquor or drugs.

Resident of the town of Freedom: Any individual domicile in the town of Freedom as of the date that the incident occurred and/or services were offered or rendered.

Traffic Incident: Any roadway event to which the Freedom Volunteer Fire Department was dispatched, or requested by Waldo County Communication Center, written mutual aid agreement, or any other state or local agency.

Third Party Agency: A third party agency will contract with the town of Freedom, Maine for the collecting funds occurred when the Freedom Volunteer Fire Department is dispatched.

Section 2:

Applicability, Conflicts, Effective Date and Amendments.

A. Applicability

1. The provisions of this ordinance shall govern all emergency incident scenes to which the Freedom Volunteer Fire Department is dispatched or requested by the Waldo County Communication Center, written mutual aid agreement, or any state or local agency to; control or confine hazardous materials, extinguish fire, or motor vehicle/traffic incident, or overall scene safety.
2. This ordinance shall be applicable to all individuals who receive emergency services provided by the Freedom Volunteer Fire Department as specified in this ordinance.

B. Responsibility

1. Individuals that are party to an incident and who own insurance policies covering emergency services shall cooperate fully with the Freedom Volunteer Fire Department Chief and/or the Incident Commander by providing full and complete information about themselves (names, addresses, phone numbers and e-mail addresses) and about their insurance coverage, including policy numbers, and names and contact information for their underwriters and agents. The information provided shall enable the

Freedom Volunteer Fire Department Cost Recovery Ordinance

Freedom Fire Chief to file claims with a third party agency for the recovery of Costs incurred during the incident.

2. In the event that the individual has no insurance, the Freedom Volunteer Fire Department will assume Cost and be covered by the department operating budget.
- C. **Effective Date** – This Ordinance shall take effect immediately upon the approval of a majority of Freedom voters casting their votes at open Town meeting or at referendum Town meeting.
- D. **Amendments** – The Select Board may amend the administrative procedures of this Ordinance after holding a public hearing. No such amendment shall materially alter the intent of this Ordinance. Upon adoption of this ordinance, Board of Selectmen with the advice of the Fire Chief is authorized to review and amend the fees as they deem in the best interest of the Town of Freedom.
- E. **Conflicts with other Ordinances** – This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, by law, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of the Fire Department Services, the provisions of this Ordinance shall control.

Section 3:

Administering and Collections

A. Administering Bodies and Agents

1. **Fire Chief:** The municipal Fire Chief of the town of Freedom, or his/her designated agent, hereinafter called the Fire Chief, shall be responsible for:
 - a. It shall be the duty of the Fire Chief to create an accurate invoice relating to this ordinance within twenty-four to seventy-two (24-72) hours from the date of incident and transmit said invoice to a third party agency for collections of funds.
 - b. A copy of such invoices and fees collected shall be submitted to the Municipal Officers to be maintained as record.
2. It shall be the duty of the Fire Chief to keep a complete record of all incident billing transactions for the Freedom Volunteer Fire Department, including individuals involved in the incident.
 - a. The Fire Chief is responsible for keeping an accurate record of funds received from a third party agency. Included in the duties, the Fire Chief shall deposit received funds into the account/fund agreed upon by the Fire Department and the town of Freedom.
 - b. The Fire Chief shall keep an up to date cost schedule for the Fire Department apparatus, equipment, materials, and manpower for billing purposes.

Freedom Volunteer Fire Department Cost Recovery Ordinance

Section 4:

Fees for Services

Waldo County Firefighter's Association schedule of fees for Municipal Fire Departments.

The Fire Department for the Town of Freedom has assigned the following charges for emergency services rendered:

Chargeable Item	Per Hour	Flat Rate
Personnel	\$15.00	N/A
Engines (Pumpers & Pumper/Tankers	\$150.00	N/A
Brush Truck (with pump & tank)	\$100.00	N/A
Chainsaws	\$10.00	N/A
Extrication (JAWS)	N/A	\$500.00
Life Flight Assist	N/A	\$400.00
Fuel Spill Response	N/A	\$250.00
Minimum call out fee for rolling to a scene when toned out	N/A	\$200.00
Fire Reports	N/A	\$25.00

Freedom Volunteer Fire Department Cost Recovery Ordinance

Given under our hands at _____, Maine this _____ the
"Purposed Town of Freedom, Maine Freedom Volunteer Fire Department Cost Recovery
Ordinance".

Selectmen of Freedom:

C Ronald Price _____

Stephen Bennett _____

Brian Jones _____

Fire Chief:

James Waterman _____

Town Clerk

Cynthia Abbott _____

FREEDOM FLOOD PLAIN MANAGEMENT ORDINANCE

CONTENTS

Article Page

- I. PURPOSE AND ESTABLISHMENT 2
- II. PERMIT REQUIRED 2
- III. APPLICATION FOR PERMIT3
- IV. APPLICATION FEE AND EXPERT’S FEE 5
- V. REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPEMTN PERMIT APPLICATIONS5
- VI. DEVELOPMENT STANDARDS 7
- VII. CERTIFICATE OF COMPLIANCE 13
- VIII. REVIEW OF SUBDIVISIONS AND DEVELOPMENT PROPOSALS 14
- IX. APPEALS AND VARIANCES 15
- X. ENFORCEMENT AND PENALTIES 18
- XI. VALIDITY AND SEVERABILITY 19
- XII. CONFLICT WITH OTHER ORDINANCES 19
- XIII. DEFINITIONS19
- XIV. ABROGATION 26

Effective date Dec. 8, 2005

ARTICLE I – PURPOSE AND ESTABLISHMENT

Certain areas of the Town of Freedom, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of Freedom, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of Freedom, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The Town of Freedom has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352 and 4401-4407.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Freedom having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the

designated flood hazard areas of the Town of Freedom, Maine.

The areas of special flood hazard, are identified by the Federal Emergency Management Agency in a map entitled, "Flood Insurance Rate Map – Town of Freedom, Maine, Waldo County," dated September 27, 1985, which is hereby adopted by a reference and declared to be a part of this Ordinance.

ARTICLE II – PERMIT REQUIRED

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

ARTICLE III – APPLICATION FOR PERMIT

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

- A. The name, address and phone number of the applicant, owner, and contractor;
- B. An address and a map indicating the location of the construction site;
- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- D. A statement of the intended use of the structure and/or development;
- E. A statement of the cost of the development including all materials and labor;
- F. A statement as to the type of sewage system proposed;
- G. Specification of dimensions of the proposed structure and/or development;

[Items H – K.2. apply only to new construction and substantial improvements.]

H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), or to a locally established datum, of the:

1. Base flood at the proposed site of all new or substantially improved structures, which in Zone A is determined:
 - a. from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Article VI. J. and VIII. D.;
 - b. from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
 - c. to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
- I. A description of an elevation reference point established on the site of all new or substantially improved structures;
- J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;
- K. The following certifications as required in Article VI by a registered professional engineer or architect that:
 1. a Flood proofing Certificate (FEMA Form 81-65, 01/03, as amended), to verify that the flood proofing methods for any non-residential structures will meet the flood proofing criteria of Article III.H.4; Article VI.G; and other applicable standards in Article VI;
 2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.K.2.a.;
 3. a certified statement that bridges will meet the standards of Article VI.L;

4. a certified statement that containment walls will meet the standards of Article VI.M;

L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and

M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV – APPLICATION FEE AND EXPERT’S FEE

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

An additional fee may be charged if the Code Enforcement Officer and/or Board of Appeals need the assistance of a professional engineer or other expert. The expert’s fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by a municipality at the expense of an applicant until the applicant has either consented to such a hiring in writing or been given the opportunity to be heard on the subject. An applicant who is dissatisfied with a decision of the Code Enforcement Officer may appeal that decision to the Board of Appeals.

ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer shall:

A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have, or will be met:

B. Utilize, in the review of all Flood Hazard Development Permit applications.

1. the base flood data contained in the “Flood Insurance Rate Map – Town of Freedom, Maine”, as described in Article I.

2. In special flood hazard areas where base flood elevation data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway date from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1; Article VI.J; and Article VII.D, in order to administer Article VI of this Ordinance; and

3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III. H. 1., the community shall submit that data to the Maine Floodplain Management Program in the State Planning Office.

C. Make interpretations of the locations of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;

D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;

E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;

F. If the application satisfies the requirements of the Ordinance, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:

1. a two-part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with a second Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, “as built”, for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, or H. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,

2. Issue a Flood Hazard Development Permit for Flood proofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the flood proofing standards of Article VI.G.1, 2., and 3. The application for this permit shall include a Flood proofing Certificate signed by a registered professional engineer or architect; or,

3. Issue a Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Article VI.I, mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.

G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances

granted under the provisions of Article IX of this Ordinance, and copies of Elevation Certificates, Flood proofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VII of this Ordinance.

ARTICLE VI – DEVELOPMENT STANDARDS

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

A. All Development – All development shall:

1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. use construction materials that are resistant to flood damage;
3. use construction methods and practices that will minimize flood damage; and,
4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.

B. Water Supply – All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.

C. Sanitary Sewage Systems – All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.

D. On Site Waste Disposal Systems – On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.

E. Watercourse Carrying Capacity – All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.

F. Residential – New construction or substantial improvement of any residential structure located within Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1; Article V.B.; or Article VII.D.

G. Non Residential – New construction or substantial improvement of any non-residential structure located within Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1; Article V.B.; or Article VII.D, or together with attendant utility and sanitary facilities shall:

1. be flood proofed to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1; Article V.B.; or Article VII.D, so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
2. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
3. Be certified by a registered professional engineer or architect that the flood proofing design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is flood proofed.

H. Manufactured Homes – New or substantially improved manufactured homes located within Zone A shall:

1. be elevated such that the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1; Article V.B.; or Article VII.D.
2. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
3. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 - a. Over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie

per side); or by,

b. Frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).

c. All components of the anchoring system described in Article VI.H.3.a. & b. shall be capable of carrying a force of 4800 pounds.

I. Accessory Structures – Accessory Structures, as defined in Article XIII, located within Zone A, shall be exempt from the elevation criteria required in Article VI.F. & G. above, if all other requirements of Article VI and all the following requirements are met. Accessory Structures shall:

1. be 500 square feet or less and have a value less than \$3000;

2. have unfinished interiors and not be used for human habitation;

3. have hydraulic openings, as specified in Article VI.K.2, in at least two different walls of the accessory structure;

4. be located outside the floodway;

5. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,

6. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

J. Floodways – Encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in a floodway which, in Zone A ravine areas, is the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain, unless and technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

1. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,

2. is consistent with the technical criteria contained in Chapter 5 entitled “Hydraulic Analyses,” Flood Insurance Study – Guidelines and Specifications for Study Contractors, (FEMA 37/ January 1995, as amended)?

K. Enclosed Areas Below the Lowest Floor – New construction or substantial improvement of any structure in Zone A that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, “stilts”, or crawlspaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

1. enclosed areas are not “basements” as defined in Article XIII;

2. enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either:

a. be engineered and certified by a registered professional engineer or architect; or

b. meet or exceed the following minimum criteria:

(1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;

(2) the bottom of all openings shall be no higher than one foot above the lowest grade; and,

(3) openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the entry and exit of floodwaters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;

3. The enclosed area shall not be used for human habitation; and

4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

L. Bridges – New construction or substantial improvement of any bridge in Zone A shall be designed such that:

1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1; Article V.B.; or Article VII.D; and

2. a registered professional engineer shall certify that:

a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.J; and

b. the foundation and superstructure attached thereto are designed to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

M. Containment Walls – New construction or substantial improvement of any containment wall located within Zone A shall:

1. have the containment wall elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1; Article V.B.; or Article VII.D.

2. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

3. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.

N. Wharves, Piers and Docks – New construction or substantial improvement of wharves, piers and docks are permitted in Zone A in and over water and seaward of the mean high tide if the following requirements are met:

1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and

2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

ARTICLE VII – CERTIFICATION OF COMPLIANCE

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

A. For New Construction or Substantial Improvement of any structure the applicant shall submit to the Code Enforcement Officer, and Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, or H.

B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this Ordinance.

C. Within 10 working days, the Code Enforcement Officer shall:

1. review the Elevation Certificate and the applicant's written notification; and,

2. upon determination that the development conforms with the provisions of this Ordinance, shall issue a Certificate of Compliance.

ARTICLE VIII – REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations and all projects on 5 or more acres, or in the case of manufactured home parks divided into two or more lots, assure that:

A. All such proposals are consistent with the need to minimize flood damage.

B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.

C. Adequate drainage is provided so as to reduce exposure to flood hazards.

D. All proposals include the base flood elevations, flood boundaries, and, in a ravine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.

E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood hazard Area are to be constructed in accordance with Article VI of this Ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

ARTICLE IX – APPEALS AND VARIANCES

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

A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

B. Variances shall be granted only upon:

1. a showing of good and sufficient cause; and,

2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,

3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,

4. A determination that failure to grant the variance would result in “undue hardship”, which in this sub-section means:

a. that the land in question cannot yield a reasonable return unless a variance is granted; and,

b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,

c. that the granting of a variance will not alter the essential character of the locality; and,

d. that the hardship is not the result of action taken by the applicant or a prior owner.

C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance, as it deems necessary.

D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:

1. other criteria of Article IX and Article VI.J. are met; and,

2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:

1. the development meets the criteria of Article IX, paragraphs A. through D. above; and,

2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure’s continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

F. Any applicant who meets the criteria of Article IX, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:

1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;

2. such construction below the base flood level increases risks to life and property; and,

3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use the land located in the floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

G. Appeal Procedure for Administrative and Variance Appeals

1. an administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.

2. upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

3. the Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.

4. the person filing the appeal shall have the burden of proof.

5. the Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.

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

7. any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

ARTICLE X – ENFORCEMENT AND PENALTIES

A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA §4452.

B. The penalties contained in Title 30-A MRSA §4452 shall apply to any violation of this Ordinance.

C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:

1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;

2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;

3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;

4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,

5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE XI – VALIDITY AND SEVERABILITY

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

ARTICLE XII – CONFLICT WITH OTHER ORDINANCES

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

ARTICLE XIII – DEFINITIONS

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law and to give this Ordinance its most reasonable application. Words used in the

present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word “may” is permissive; “shall” is mandatory and not discretionary.

Accessory Structure – means a small-detached structure that is incidental and subordinate to the principal structure.

Adjacent Grade – means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Area of Special Flood Hazard – means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Hazard Boundary Map cited in Article I of this Ordinance.

Base Flood – means the flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement – means any area of the building having its floor sub grade (below ground level) on all sides.

Building – see Structure.

Certificate of Compliance – A document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

Code Enforcement Officer – any person or board responsible for performing the inspection, licensing, and enforcement duties required by a particular statute or ordinance.

Development – means any change caused by individuals or entities to improved or unimproved real estate, including but not limited to the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities.

Elevated Building – means a non-basement building

a. built, in the case of a building in Zone A, to have the top of the elevated floor, elevated above the ground level by means of pilings, columns, posts, piers, or “stilts”, and

b. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zone A, Elevated Building also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters.

Elevation Certificate – An official form (FEMA Form 81-31, 09/97, as amended) that:

a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,

b. is required for purchasing flood insurance.

Flood or Flooding – means:

a. A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.

2. The unusual and rapid accumulation or runoff of surface waters from any source.

b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

Flood Elevation Study – means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Insurance Rate Map (FIRM) – means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Floodplain or Flood-Prone Area – means any land area susceptible to being inundated by water from any source (see flooding).

Floodplain Management – means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations – means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Flood proofing – means any combination of structural and non-structural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

Floodway – see Regulatory Floodway.

Freeboard – means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Functionally Dependent Use – means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship manufacturing facilities.

Historic Structure – means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district.
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By an approved state program as determined by the Secretary of the Interior, or
 2. Directly by the Secretary of the Interior in states without approved programs.

Locally Established Datum – means, for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where Mean Sea Level is too far from a specific site to be practically used.

Lowest Floor – means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistance enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI of this ordinance.

Manufactured Home – means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision – means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level – means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate map are referenced.

Minor Development – means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Article VI.I. mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials,

deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.

National Geodetic Vertical Datum (NGVD) – means the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called “1929 Mean Sea Level (MSL)”.

New Construction – means structures for which the “start of construction” commenced on or after the effective date of floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

100-year flood – see Base Flood.

Regulatory Floodway -

a. Means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and

b. In Zone A ravine areas, the floodway is considered to be the channel of a river or other watercourse and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

Ravine – means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special Flood Hazard Area – see Area of Special Flood Hazard.

Start of Construction – means the date the building permit was issued, provided the actual start date of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure – means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Substantial Damage – means, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement – means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures, which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local Code Enforcement Officer and which are the minimum necessary to assure safe living conditions; or

b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure’s continued designation as a historic structure, and a variance is obtained from the community’s Board of Appeals.

Variance – means a grant of relief by a community from the terms of a floodplain management regulation.

Violation – means the failure of a structure or development to comply with a community’s floodplain management regulations.

ARTICLE XIV – ABROGATION

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

60.3 (b)

TOWN OF FREEDOM, MAINE
MORATORIUM ORDINANCE REGARDING RETAIL RECREATIONAL MARIJUANA

WHEREAS, the legislative body of the Municipality of Freedom (the "Municipality") makes the following findings:

1. The Marijuana Legalization Act (the "Act") was approved by Maine voters in November 2016 and has been codified in the Maine Revised Statutes in Title 7, chapter 417; and
2. The unregulated location and operation of "Retail Marijuana Establishments" and "Retail Marijuana Social Clubs," as defined in 7 M.R.S.A. chapter 417, as well as other types of retail recreational marijuana activity within the Municipality raises legitimate and substantial questions about the impact of such activity, establishments and social clubs on the Municipality, including questions as to compatibility with existing land uses and developments in the municipality; potential adverse health and safety effects on the community; the possibility of illicit sale and use of marijuana and marijuana products to and by minors; and the possibility of unlawful use of marijuana and marijuana products; and
3. As a result of the foregoing issues, retail recreational marijuana activity, and the location and operation of Retail Marijuana Establishments and Retail Marijuana Social Clubs within the Municipality, have potentially serious implications for the health, safety and welfare of the Municipality and its residents; and
4. The Municipality currently has no regulations governing retail recreational marijuana activities, Retail Marijuana Establishments and Retail Marijuana Social Clubs, and existing ordinances are insufficient to prevent serious public harm that could result from the unregulated development of Retail Marijuana Establishments and Retail Marijuana Social Clubs and from other types of retail recreational marijuana activity; and
5. An overburdening of public facilities and resources, including public safety resources, is a reasonably foreseeable result of Retail Marijuana Establishments and Retail Marijuana Social Clubs locating in the Municipality and/or other types of retail recreational marijuana activity in the Municipality; and
6. The state's regulatory structure is unknown at this time as the Maine Legislature and state agencies have not developed final legislation or regulations governing Retail Marijuana Establishments and Retail Marijuana Social Clubs, and legislation amending the Act is pending; and
7. In the judgment of the legislative body of the Municipality, the foregoing findings and conclusions constitute an emergency within the meaning of 30-A M.R.S.A. § 4356 requiring immediate legislative action.

NOW THEREFORE, pursuant to 30-A MRSA § 4356, be it ordained by the Municipality as follows:

Section 1. Moratorium.

The Municipality does hereby declare a moratorium on all retail recreational marijuana activity, and the location, operation or licensing of any and all "Retail Marijuana Social Clubs" and "Retail Marijuana Establishments," as defined in 7 M.R.S.A. chapter 417, including but not limited to, retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, and retail marijuana testing facilities within the municipality. No person or organization shall engage in any retail recreational marijuana activity or develop or operate a Retail Marijuana Establishment or Retail Marijuana Social Club within the Municipality on or after the effective date of this Ordinance. During the time this moratorium ordinance is in effect, no officer, official, employee, office, administrative board or agency of the Municipality shall accept, process, approve, deny, or in any other way act upon any application for a license, building permit, any other type of land use approval or permit and/or any other permits or licenses related to a Retail Marijuana Establishment, Retail Marijuana Social Club or retail recreational marijuana activities.

Section 2. Pending Proceedings.

Notwithstanding 1 M.R.S.A. § 302 or any other law to the contrary, this Ordinance shall govern any proposed retail recreational marijuana activity and Retail Marijuana Establishments or Retail Marijuana Social Clubs for which an application for a building permit, certificate of occupancy, site plan or any other required approval has been submitted to the Municipality, whether or not a pending proceeding, prior to the enactment of this Ordinance.

Section 3. Medical Marijuana Act.

This Ordinance will not limit the privileges or rights afforded by the Maine Medical Use of Marijuana Act (22 M.R.S.A. §§ 2421 – 2430-B) to qualifying patients, primary caregivers, or registered dispensaries, including cultivation facilities associated with any of those classifications.

Section 4. Conflicts/Savings Clause.

Any provisions of the Municipality's ordinances that are inconsistent or conflicting with the provisions of this Ordinance are hereby repealed to the extent applicable for the duration of this moratorium. If any section or provision of this Ordinance is declared by any court of competent jurisdiction to be invalid, such a declaration shall not invalidate any other section or provision.

Section 5. Violations.

If any retail recreational marijuana activity is conducted, or Retail Marijuana Establishment or Retail Marijuana Social Club is established, in violation of this Ordinance, each day of any continuing violation shall constitute a separate violation of this Ordinance and the Municipality shall be entitled to all rights available to it pursuant to 30-A M.R.S.A. § 4452, including, but not limited to, fines and penalties, injunctive relief, and its reasonable attorney's fees and costs in prosecuting any such violations.

Section 6. Effective Date.

This Ordinance shall be effective retroactively to June 1st, 2017. A Marijuana Moratorium Ordinance was first discussed with the Chair of the Planning Board at a Select Board meeting on May 30, 2017. This ordinance shall remain in full force and effect from June 1, 2017, for a period of 180 days thereafter, unless extended pursuant to law or until a new and revised set of regulations is adopted by the Municipality, whichever shall first occur.

Notice is hereby given that the Registrar of Voters will be available at the Freedom Town Office on August 29, 2017 at 6:45 pm for any revisions of the list of voters.

Given unto our hands this 16th day of August, 2017.

Ronald Price
Selectman

Ron Price

Steve Bennett
Selectman

Steve Bennett

Brian Jones
Selectman

Brian Jones

Posted at Freedom Town Office, Freedom General Store, Freedom Post Office, and Freedom Fire Department.

Time: _____

Date: _____

Sallyann Hadyniak

Attest: _____
Cynthia Abbott, Freedom Town Clerk

Ordinance Prohibiting Retail Marijuana Establishments and Retail Marijuana Social Clubs in the Town of Freedom

Section 1. Authority.

This ordinance is enacted pursuant to the Marijuana Legalization Act, 7 M.R.S.A. c. 417; and Municipal Home Rule Authority, Me. Const., art. VIII, pt. 2; and 30-A M.R.S.A. § 3001.

Section 2. Definitions.

For purposes of this ordinance, retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, and retail marijuana social clubs are defined as set forth in 7 M.R.S.A. § 2442.

Section 3. Prohibition on Retail Marijuana Establishments and Retail Marijuana Social Clubs.

Retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities, and retail marijuana testing facilities, and retail marijuana social clubs, are expressly prohibited in this municipality.

No person or organization shall develop or operate a business that engages in retail or wholesale sales of a retail marijuana product, as defined by 7 M.R.S.A. § 2442.

Nothing in this ordinance is intended to prohibit any lawful use, possession or conduct pursuant to the Maine Medical Use of Marijuana Act, 22 M.R.S.A. c. 558-C.

Section 4. Effective date; duration.

This ordinance shall take effect immediately upon enactment by the municipal legislative body unless otherwise provided and shall remain in effect until it is amended or repealed.

Section 5. Penalties.

This ordinance shall be enforced by the municipal officers or their designee. Violations of this ordinance shall be subject to the enforcement and penalty provisions of 30-A M.R.S.A. § 4452.

TOWN OF FREEDOM NUISANCE ANIMAL ORDINANCE

Effective date July 7, 1998

Section 1. Purpose

The purpose of this ordinance is to insure public health, safety and tranquility and to protect the community from nuisance animals.

Section 2. Authority

This ordinance is adopted pursuant to and consistent with Municipal Home Rule Powers as provided for in Article VIII, Part 2, Section 1 of the Constitution of the State of Maine and Title 30-A MRSA Section 3001.

Section 3. Administration.

This ordinance shall be administered by the Animal Control Officer, who shall be responsible for investigating any complaints, issuing warnings, fines, summons and any other actions required pursuant to this ordinance.

Section 4. Nuisance animals.

(a) A dog, cat, or any other domestic animal shall be considered a nuisance if it: causes damage, defiles, soils or defecates on public walks, recreational areas, or private property other than the owner's, unless such waste is immediately removed and properly disposed of by the animal's owner or keeper, causes unsanitary and dangerous, or offensive conditions, causes a disturbance by excessive and uncontrolled barking or howling or other sounds common to its species; chases vehicles, or molests, attacks or otherwise interferes with any person or other domestic animals.

(b) No owner or keeper having custody of any nuisance animal, which causes any disturbance described in the preceding paragraph, shall allow such animal to continue nuisance behavior.

Section 5. Complaint, investigation and enforcement.

Upon written complaint by a person claiming disturbance by an alleged nuisance animal, signed by the complainant, the Animal Control Officer shall investigate the complaint. If, in the judgment of the Animal Control Officer, nuisance behavior has occurred, then he shall give written notice to the owner or keeper of the offending animal that such annoyance or disturbance must cease. The warning shall become part of the record. Thereafter, upon documented continuance of such annoyance or disturbance, the owner shall be guilty of a civil violation, and upon conviction thereof shall be punished by a fine of \$50.00 for the first offense. Each additional conviction after the first conviction shall be punished by fine of \$100.00. All fines assessed shall be recovered for use of the Town of Freedom through District Court.

Section 6. Effective date.

This ordinance shall become effective upon its approval by a majority vote of a Freedom Town Meeting.

FREEDOM PLANNING BOARD ORDINANCE

Effective date Mar. 8, 1989

1. ESTABLISHMENT:

Pursuant to Article VIII, Pt. 2, Sec. 1 of the Maine Constitution and 30 MRSA S. 2151-A, the Town of Freedom hereby establishes a Planning Board. The board which has been acting as a Planning Board for the Town of Freedom is hereby reestablished as the Planning Board for the purposes of adoption of the ordinance are hereby declared to be the acts of the legally constituted Planning Board of the Town of Freedom.

2. APPOINTMENT:

A. Board members shall be appointed by the Municipal Officers and sworn by the Clerk or other person authorized to administer oaths.

B. The Board shall consist of seven (7) members.

C. The term of each member shall be for five (5) years, except the initial appointments which shall be for one, two, three, four and five years respectively. The initial appointments shall be as follows: Two members shall be appointed for one (1) year terms; one member for a two (2) year term; one member for a three (3) year term; two members for four (4) year terms; and one member for a five (5) year term. Following the initial appointments all subsequent appointments shall be for five (5) year terms with the exception of an appointment to fill a vacancy.

D. When there is a permanent vacancy, the Municipal Officers shall within sixty (60) days of its occurrence, appoint a person to serve for the unexpired term. A vacancy shall occur upon the resignation or death of any member, or when a member ceases to be a voting resident of the Town, or when a member fails to attend four (4) consecutive regular meetings, or fails to attend at least 75% of all meetings during the preceding twelve (12) month period. When a vacancy occurs, the Chairman of the Board shall immediately so advise the Municipal Officers in writing. The Board may recommend to the Municipal Officers that the attendance provision be waived for cause, in which case no vacancy will then exist until the Municipal Officers may remove members of the Planning Board by unanimous vote, for cause, after notice and hearing.

E. A Municipal Officer may not be a member.

3. ORGANIZATION AND RULES:

A. The Board shall elect a Chairperson, Vice-Chairperson, and a Secretary from among its members. The term of all officers shall be one (1) year(s) with eligibility for re-election.

B. Any question of whether a member shall be disqualified from voting on a particular matter shall be decided "by a majority" vote of the members except the member who is being challenged.

C. The Chairman shall call at least one regular meeting of the Board each month.

D. No meeting of the Board shall be held without a quorum consisting of four (4) members. The Board shall act by majority vote, calculated on the basis of the number of members present and voting.

E. The Board shall adopt rules for transaction of business and the secretary shall keep a record of its resolutions, transactions, correspondence, findings and determinations. All records shall be deemed public and may be inspected at reasonable times.

4. DUTIES: POWERS:

A. The Board shall prepare a comprehensive plan as defined by 30 MRSA §4961.

B. The Board shall perform such duties and exercise such powers as are provided by the Freedom Town Ordinance and the laws of the State of Maine.

C. The Board may obtain goods and services necessary to its proper function within the limits of appropriations made for the purpose.

5. ADOPTION:

This ordinance shall become effective immediately upon adoption by the Voters of the Town of Freedom.

Readopted at Special Town Meeting: June 7, 2006

Freedom Recreation Committee Ordinance

A. Establishment:

The Town of Freedom Recreation Committee is hereby established.

B. Responsibilities:

1. Oversee the administration of all recreation activities within the Town of Freedom, including supporting the Little League and Farm League Teams that use Mitchell Field, and coordinating activities of Freedom Field Day.
2. Develop new recreation programs as needed.
3. Oversee the maintenance of all recreational facilities, including Freedom Park, Mitchell Field, and the Sandy Pond Boat Landing.
3. Develop new recreational facilities as needed.
4. Develop an annual budget request for presentation to the Freedom Budget Committee.
5. Be responsible for the administration of the recreation budget.
6. The Chairperson, or other member of the Recreation Committee acting on behalf of the Chair, shall make a report to the Selectmen at the first meeting in January, April, July, and October.

C. Membership:

1. Membership shall consist of five members. In the event that there are less than three members of the Recreation Committee, the duties of same shall be assumed by the Selectmen.
2. All members of the Recreation Committee shall be appointed by the Selectmen.
3. All members must be a resident of the town of Freedom.

D. Term:

1. For the purpose of implementing staggered terms, appointments for 2006, would be as follows: two appointments for three-year terms, two appointments for two-year terms, and one appointment for a one-year term.
2. The terms for all members, after the first two years, will be for three years.
3. Terms for Recreation members will start and end with the annual town meeting.

E. Absences & Removal:

1. Any member that anticipates an absence, should notify an officer of the committee prior to the meeting that he or she will be unable to attend.
2. If a member has four consecutive absences, or seven absences in one calendar year without prior notice to an officer, a note will be sent by the Chair of the Committee to the Selectmen requesting that the member be removed. The Selectmen will then appoint a replacement.

F. Officers:

1. Officers for the Recreation Committee shall be Chair, Vice-Chair, and Secretary/Treasurer.
2. Officers shall be elected annually at their first regular meeting following the annual town meeting.

G. Meetings:

1. The Recreation Committee shall meet every month at the town office.
2. Emergency meetings may be called by any one of the officers with 2 days notice to the other members.
3. The Chair, or other officer in the absence of the Chair, shall conduct the meeting.
4. The Secretary/Treasurer shall take attendance, keep minutes of all meetings, and distribute the same at the next meeting for acceptance by the committee.
5. All Recreation Committee records shall be maintained in a separate file at the town office.
6. The Secretary/Treasurer shall also obtain a Revenue & Expense Statement for the Recreation Committee from the Town Treasurer prior to every meeting.
7. Voting shall be by a majority of members present. A Quorum shall consist of three members.

H. Finances:

1. The Recreation Committee operates on a budget approved by the town at its annual meeting.
2. All bills and invoices shall be turned in to the Town Treasurer for approval by the Selectmen.
3. All receipts shall be turned in to the Town Treasurer for recording and deposit to the Recreation Account.
4. The Recreation Committee will not exceed their annual budget including receipts for that year.
5. The Town Treasurer shall maintain an interest bearing account at the town's bank for the Recreation Committee. This account shall be used for capital improvement projects.

Readopted at Special Town Meeting: June 7, 2006

FREEDOM RENTAL OCCUPANCY ORDINANCE

Effective date Aug. 7, 1991

Section I. Title and Authority

This ordinance, the Freedom Rental Occupancy Ordinance, herein referred to as the Ordinance, is adopted pursuant to the town's home rule authority as found in 30-A M.R.S.A. § 3001 et sec.

Section II. Purpose

The purpose of this Ordinance is to protect the health and safety of renters and the public, both residents and nonresidents of Freedom. Persons who occupy rental units, or who are cared for in dwellings they do not own, often do not have control over the conditions that determine their own, adjacent property owners', or the public's health and safety.

Section III. Scope

- A. Anyone seeking to rent to others two or more dwelling units within the town of Freedom must first obtain an Occupancy Permit for each dwelling unit from the Town of Freedom.
- B. Anyone seeking to rent to others more than two rooming units in one dwelling unit in the Town of Freedom must first obtain an Occupancy Permit from the Town of Freedom.
- C. Anyone seeking to use their dwelling unit or dwelling for day care of more than three children or adults must first obtain an Occupancy Permit from the Town of Freedom.
- D. Anyone seeking to rent to others a dwelling unit in a structure than has outstanding local or state citations for electrical, plumbing, fire or other safety violations in the preceding six months must first obtain an Occupancy Permit from the Town of Freedom even if that dwelling unit or structure would not be covered under the other terms of this Ordinance.
- E. Only an owner, or the owner's authorized agent, can obtain an Occupancy Permit.
- F. The provisions of this Ordinance apply to rental agreements begun after the effective date of this Ordinance. Any change in occupancy in the kinds of rental situations described in this Ordinance that occur subsequent to the effective date of this Ordinance will be governed by the requirements of this Ordinance.
- H. This Ordinance does not apply to any dwelling being rented for recreational purposes unless rental extends to over 120 days during any one-year period.
- I. The property owner, or agent, is responsible for notifying the Code Enforcement Officer of rental properties.

Section IV. Definitions

The following definitions shall apply unless the context clearly indicates another meaning. Common dictionary definitions shall apply to all other terms.

Dwelling shall mean a building occupied either wholly or in part for residence purposes. It may include one or more dwelling units.

Dwelling Unit shall mean one or more rooms arranged for the use of one or more individuals living together as one housekeeping unit, with cooking, living, and sleeping facilities contained in the unit. Sanitary facilities may be included in the unit or shared with others.

Rooming Unit shall mean not more than two rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes. Sanitary facilities may be included in the unit or shared with others.

Rental Unit shall mean any room or group of rooms inhabited by a person or persons who pay some form of monetary compensation to the owner of the structure or to the primary occupant of the dwelling unit.

Occupant shall mean a person who lives in a structure.

Primary Occupant shall mean either an owner who lives in his/her own dwelling unit or a person who lives in a dwelling unit and who pays rent directly to the owner or his/her representative for the full use of that dwelling unit. That full use may include the right to rent part of the dwelling unit to others.

Owner shall mean a person who holds recorded title to the property or any person having an equitable interest in the property, any person with a leasehold of five (5) years or more, or persons owning by a bond for deed.

Nuisance shall mean any source of filth or any condition, which may cause injury, whether or not the cause of sickness or injury but deemed to be potentially injurious to health and safety to occupants, adjacent property owners, or the public.

Section V. Application Process

A. The Applicant will apply to the Planning Board giving his/her name, address, and phone number as well as the name(s), address(es), and phone number(s) of the owner(s) of record, mortgage(s) of record, or other persons having a recorded interest in the property if different from or in addition to the Applicant.

B. After all documents as set forth below in Section VI have been submitted, all inspections made as set forth below in Section VI, and a fee of twenty-five dollars (\$25) per dwelling unit paid, the Freedom Planning Board must approve or reject the application within thirty (30) days. If State licensing fees have been paid for comparable State inspections for the situations described in Section III-C, the twenty-five dollars (\$25) application fee will be waived.

Section VI. Performance Standards

An Occupancy Permit will be approved by the Freedom Planning Board if:

A. The Freedom Code Enforcement Officer determines that the dwelling is structurally sound in accordance with the standards of the Freedom Building Ordinances.

B. The Freedom Code Enforcement Officer determines that wiring meets State and local electrical codes.

C. The Freedom Plumbing Inspector determines that all plumbing meets State and local plumbing codes and that the septic system is adequate for the structure's designed use; that is, that the building has only as many dwelling units or rooming units as its septic system is capable of accommodating.

D. The Freedom Code Enforcement Officer and the Freedom Fire Chief determine that all State and local fire safety regulations are met.

E. The Freedom Code Enforcement Officer determines that the dwelling unit(s), the structure containing the dwelling unit(s), and the property on which the structure is located, do not contain known health or safety hazards such as exposed asbestos fibers, malfunctioning electrical devices, unsafe abandoned appliances, inadequately covered wells, excessive use of particleboard in poorly ventilated living or sleeping areas, inadequate or heavily creosoted chimneys, rodent or vermin infestations, or any debris that is unsanitary, unsafe, or may constitute a fire hazard or a nuisance for occupants, adjacent residents, or the public.

F. Water supply meets State guidelines for potability. Applicant must submit a State water testing report confirming that the water meets these standards.

G. Radon level is within safe levels. Applicant must submit results of radon testing by a State approved laboratory.

The Planning Board may waive any of the above performance standards if the Applicant can establish that the standard presents an unnecessary hardship.

Section VII. Duration

The Occupancy Permit will remain in force for as long as the unit(s) or dwelling(s) and the property on which the structure is located conform to the specifications of this Ordinance, as long as the Permit Holder remains the same, and as long as the dwelling unit does not go unoccupied for more than twelve (12) consecutive months. The Permit Holder must report his/her and any owner's change of address or phone number to the Freedom Planning Board by certified mail. In the event that the property is sold, conveyed or otherwise transferred to a new owner, a new Occupancy Permit will be required if any conditions described in Section III exist and the former owner has been the Permit Holder. Every three years the Code Enforcement Officer will inspect the premises and if the performance standards described above in Section VI continue to be met and the Permit Holder pays a fee of twenty dollars (\$25), the Permit will be renewed for an additional three years. Occupancy Permits obtained because of the situation described in Section III-D would not need to obtain a renewal of the Occupancy Permit if that dwelling unit or structure would not otherwise be covered under the terms of this Ordinance.

Section VIII. Enforcement and Penalties

Occupancy as described in Section III without an Occupancy Permit shall be in violation of this Ordinance. In addition, violations of State and local plumbing, electrical, fire and other safety codes, structural inadequacy, or the presence of a nuisance may result in the revocation of the Occupancy Permit as well as further legal action including condemnation and eviction.

A. The Freedom Code Enforcement Officer and the Freedom Selectmen shall enforce this Ordinance. The Freedom Planning Board shall have the power to revoke the Occupancy Permit.

B. Failure to notify the Code Enforcement Officer of rental properties that come under the provisions of this ordinance shall result in a fine of fifty dollars (\$50) per unit.

1. Occupancy Without a Permit

a. If occupancy occurs as described in Section III without the required Occupancy Permit, the Code Enforcement Officer will notify the person in need of the Occupancy Permit that he/she must apply for an Occupancy Permit within thirty (30) days. If the person in need of the Permit fails to do so, the Code Enforcement Officer will notify the Freedom Planning Board.

b. Upon notification by the Code Enforcement Officer that occupancy continues after thirty (30) days without an Occupancy Permit, the person in need of the Occupancy Permit or his/her representative as well as the owner of the property, if different from the person in need of the Permit, shall be notified by the Freedom Planning Board that a hearing about this condition will take place. Date of the hearing will be set to give the person in need of the Permit enough time to arrange to attend the hearing or to acquire representation, that is, at least ten (10) days from the date of notification. If the person in need of the Permit or his/her representative fails to appear or appears at the hearing but fails to show cause why the Permit should not be applied for, effective thirty-five (35) days after the hearing a fine of fifty dollars (\$50) per day will be assessed to the person in need of the Permit until the Occupancy Permit is obtained or the unit is no longer inhabited.

2. Revocation of the Occupancy Permit

a. If any violation of State and local plumbing, electrical, fire and other safety codes, structural inadequacy, or the presence of a nuisance is brought to the attention of the Code Enforcement Officer, he shall notify the Permit Holder. If the violation is not corrected within a reasonable time (to be determined by the Code Enforcement Officer), he/she shall notify Freedom Planning Board.

b. Upon notification by the Code Enforcement Officer that one or more of the above violations continue to exist, the Freedom Planning Board will notify the Permit Holder at the above recorded address as well as the owner of the property, if different from the Permit Holder, that since the violation has not been corrected, the Permit will be subject to revocation at a public hearing of the Freedom Planning Board. Date of the hearing will be set to give the Permit Holder enough time to arrange to attend the hearing or to acquire representation, that is, at least ten (10) days from the date of notification. If the Per Holder or his/her representative fails to appear or appears at the specified hearing but fails to show cause why the Permit should not be revoked, the Permit will be revoked by a majority vote of the Freedom Planning Board effective twenty-one (21) days after the hearing. After revocation of the Occupancy Permit, a fine of \$50 per day will be assessed until the Permit is reinstated or the unit is no longer occupied. The Occupancy Permit may be reinstated by a majority vote of the Freedom Planning Board when the Code Enforcement Officer

3. Condemnation, Eviction and Other Legal Proceedings

If occupancy continues without benefit of an Occupancy Permit, the Selectmen may initiate condemnation, eviction or other legal proceedings. In this event the owner or the person responsible for the violation of this Ordinance will be liable for all court and other costs including interest and any costs incurred in the relocation of occupants. In the event of failure to pay the above penalties and the Selectmen must sue the person in need of an Occupancy Permit or the person whose Occupancy Permit has been revoked, that person must pay all court costs including interest in addition to the accumulated penalties.

Section IX. Severability

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

Section X. Effective Date

This Ordinance shall become effective when enacted by the voters of the Town of Freedom at a town meeting. Adopted at Special Town Meeting: Aug. 7, 1991.

Readopted at Special Town Meeting: June 7, 2006

Town of Freedom Subdivision Ordinance

Article I PURPOSES

The purposes of this ordinance are to assure the comfort, convenience, safety, health and welfare of the people in the town of Freedom, to protect the environment, and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the town of Freedom, Maine, the Planning Board shall consider the following criteria, and before granting approval shall make findings of fact that the provisions of this ordinance have been met and that the proposed subdivision will meet the guidelines of Title 30-A, M.R.S.A. §4404. The subdivision:

- 1.1 Will meet existing state and town standards for natural resource, water quality and flood protection and will not negatively impact the safety and health of town residents.
- 1.2 Will not cause soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.
- 1.3 Will not cause unreasonable public road congestion or unsafe conditions with respect to use of the public roads existing or proposed.
- 1.4 Will allow for adequate sewage waste disposal.
- 1.5 Will allow for adequate fire protection.
- 1.6 Will avoid adverse impact to state significant natural, cultural and historic resources.
- 1.7 Will not cause drainage problems on neighboring properties or roads.
- 1.8 Will be implemented by a subdivider who has adequate financial and technical capacity to meet the above stated standards.

Article II PRE-APPLICATION REVIEW

- 2.1 The applicant shall present to the Planning Board, at or before its regularly scheduled monthly meeting, a preliminary sketch plan showing the proposed layout of the subdivision and other features in relation to existing conditions. This is to assist the Planning Board in understanding the geographic context of the proposed subdivision. It is recommended that the sketch plan showing the outline of the proposed subdivision be superimposed on a topographic map or an aerial photograph of the land where it is located.
- 2.2 The subdivider or his/her duly authorized representative shall attend the meeting of the Board to present the sketch plan and other details of the proposed subdivision.
- 2.3 At this initial meeting, the applicant will describe the proposed subdivision and the Planning Board will review the proposal in light of the general purposes of this ordinance.
- 2.4 Within 30 days the Board will hold an on-site inspection of the property if deemed necessary, discuss with the applicant any potential concerns and/or recommendations concerning the subdivision, and offer an opportunity for the applicant to address these concerns.
- 2.5 The submittal or review of the sketch plan shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title I, M.R.S.A., §302.

Article III SUBDIVISION PLAN

- 3.1 After the Planning Board has discussed with the applicant its recommendations or findings, the applicant will file a Subdivision Application along with a Subdivision Plan (see 3.6 below) to begin the process of formal review of the proposed subdivision. An application fee of \$50 payable to the Town of Freedom shall accompany the application.
- 3.2 Any changes in town zoning or land use requirements made prior to the subdivision application must be incorporated into the Subdivision plan and be included in the requirements to be met by the subdivision.
- 3.3 The Subdivision Plan shall show the final surveyed layout of the Sketch Plan and address concerns made by the Board based upon the Purposes in Article I of this ordinance and General Standards in Article V.
- 3.4 The Applicant shall notify by certified mail the owners of all property abutting the proposed subdivision of the pending proposal before the Planning Board and when the Planning Board will be considering the proposal for approval or denial. This notification must be made at least 14 days prior to the scheduled meeting. Abutters to be contacted include all private owners directly abutting or across the road or street from the subdivision, all property owners whose land is crossed as a result of an easement granting access to this lot, and all owners of any private road accessing the property.
- 3.5 Within 30 days of receipt of a Subdivision Plan application form and fee, the Board shall notify the applicant in writing whether or not the application is complete and what, if any, additional submissions are required for a complete application. If the application is complete, the Planning Board will notify the applicant of the next Planning Board meeting at which the proposed plan will be discussed.
- 3.6 At least one copy of the Subdivision Plan shall be submitted to the Board chairman and shall include:
 - a. An aerial photograph or topographic map of the land, either marked or with an acetate overlay showing the general configuration of the subdivision lots, the number of acres within the proposed subdivision, location of the property lines, wooded and clear land, watercourses, wetland areas, existing buildings, utility poles, location of culverts, soil test sites, and other essential existing physical features. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.
 - b. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments.
 - c. A copy of any covenants, deed restrictions, easements, other rights-of-way and encumbrances intended to cover all or part of the lots in the subdivision.
 - d. A soil analysis (perc test) for a subsurface sewage disposal system shall be prepared by a licensed site evaluator and the location of test sites marked on the plan. The location of suitable sites must follow standard building permit requirements for location of septic sites in relation to neighboring lots and water wells.
 - e. If applicable, the location of any open space to be preserved for public or private use and a proposal for its improvement and management.
- 3.7 The Board may waive any submission requirement that it feels is unnecessary for reaching its findings of fact in approving or disapproving the proposed subdivision in accordance with the provisions of this ordinance and State statute.
- 3.8 The applicant shall notify the Town's road commissioner and fire chief of the proposed subdivision, the number of house lots or dwelling units planned, and request comments upon the adequacy of their department's existing facilities to service the subdivision. Their comments, if any, shall be submitted as part of the Subdivision Plan, and will be considered in regard to minimizing any potentially adverse impact of the subdivision to the town based on the Purposes stated in Article I of this ordinance. The Planning Board reserves the right to directly contact these officials if necessary.
- 3.9 If a public hearing is deemed necessary by the Board, the hearing will be scheduled at least 30 days before a final determination on the Subdivision Application. The Board shall have notice of the date, time and place of the hearing given to the applicant and published at least 2 times in a newspaper of general circulation, with the first notice published at least 7 days before the hearing. An additional fee shall be charged to the applicant to cover the costs of advertising.

3.10 The Board shall within 30 days after a public hearing, if held, or within 60 days of a complete Subdivision Plan application, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, make findings of fact on the application, and approve, approve with conditions, or deny the Subdivision Plan. If the Board finds that any of the standards of the statute or this ordinance have not been met, the Board shall either deny the application or approve the application with conditions to ensure that all of the standards will be met by the subdivision.

3.11 It is expected that the subdivider will use professional services as required for development of the subdivision to meet these and all state standards for subdivision and land use development (e.g. wetland buffers, septic design, etc.)

3.12 If the plan is approved, the subdivision remains in effect indefinitely, regardless of a change in ownership, subject to the following conditions:

- a. If there is a zoning change and lots remain to be sold, the remaining lots may adhere to the originally approved zoning standards for up to 5 years from the zoning change.
- b. Lots within the subdivision that are unsold 5 years after a zoning change must adhere to the most recent zoning standards.

Article IV ENFORCEMENT

4.1 Development of a subdivision without Board approval shall be a violation of law. Any person, firm, corporation, or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by these regulations shall be punished by a fine of not less than \$100, and not more than \$2,500 for each conveyance, offering or agreement. The Town of Freedom may institute proceedings to enjoin the violation of this ordinance, and may collect attorney's fees and court costs if it is the prevailing party.

4.2 No lots may be sold until all conditions referenced in the approved subdivision plan are met.

Article V GENERAL STANDARDS

5.1 Lots shall conform to the requirements in Freedom Building Ordinance, other related town ordinances and all existing state regulations. In a subdivision, dwellings may be clustered in a residential development up to a density not to exceed the average minimum lot size in the land use district in which it is located. Such clustering is encouraged in order to reduce the number of driveways into a subdivision and to maintain rural character. The subdivision cannot result on the creation of any landlocked lots without deeded access.

5.2 Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus soil from roads, parking areas, and building excavations.

5.3 Sufficient vegetation shall be left intact to prevent soil erosion, however, normal thinning, landscaping, and cutting trees to provide access to direct sunlight is permitted. Forestry activities or extensive cutting or clearing shall follow state guidelines. An existing buffer of trees is to be maintained for a depth of at least 50 feet alongside state and town road frontage. The intention is to preserve existing character of wooded roads in the town.

5.4 The subdivision shall be designed so as to minimize access points to any public road, utilizing side roads and combining driveways where reasonable. Clustering home sites along a shared driveway is encouraged.

5.5 Subdivision roads shall conform to the provisions of minimum state road standards and be sufficient for town emergency vehicles for fire, etc. Also, the Board may require that the developer, a Homeowners' Association, or other responsible party with the ability to collect revenue from lot owners be made legally responsible for the maintenance of the road as a condition of subdivision approval. This may occur when a subdivision is on a road that is not maintained by the town.

5.6 The subdivision will provide for adequate off-road parking for anticipated residents, customers, guests and deliveries. Parking areas shall not be permitted within the buffer area described in 5.8 below.

5.7 For all subdivisions, a buffer strip of at least 50 feet shall be maintained along the exterior property boundaries. No structures, roads or utilities may be placed in the buffer strip except that they may cross a buffer strip to provide services to the development. Within the first 25 feet of the buffer strip, as measured from the exterior boundary of the development, existing visual screening shall be maintained. Screening may consist of natural or landscaped vegetation.

Article VI WAIVERS

Where the Board makes written findings of fact that there are special circumstances involving a proposed subdivision or a portion thereof, it may waive certain requirements or standards to permit a more practical and economical development, provided the public health, safety and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of this ordinance.

Article VII SEVERABILITY

If any portion of this ordinance shall be held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

Article VIII APPEALS

All decisions of the Planning Board, pursuant to this ordinance, may be appealed within 30 days to the Board of Appeals in accordance with the Board of Appeals Ordinance for the Town of Freedom. This Board shall have the authority to grant a variance from the terms of this ordinance, where necessary, to avoid undue hardship, provided there is no substantial departure from the intent of this ordinance and remains consistent with other applicable laws.

Article IX AMENDMENTS

At any time this ordinance is amended, the Town Clerk, upon advice from the Planning Board, is authorized to insert and/or delete amended language, insert and/or delete clearly inconsistent references caused by such amendments, renumber sections of the amended ordinance in a logical and appropriate fashion, and correct typographical errors, provided such changes do not result in any substantive alteration in the meaning of the ordinance.

Restricting Vehicle Weight on Posted Roads

Section 1. Purpose and Authority: The purpose of this "Ordinance Restricting Vehicle Weight on Posted Ways" (hereinafter, the "Ordinance") is to prevent damage to town ways and bridges in the Town of which may be caused by vehicles of excessive weight, to lessen safety hazards and the risk of injury to the traveling public, to extend the life expectancy of town ways and bridges, and to reduce the public expense of their maintenance and repair. This Ordinance is adopted pursuant to 30-A M.R.S.A. § 3009 and 29-A M.R.S.A. §§ 2395 and 2388.

Section 2. Definitions: The definitions contained in Title 29-A M.R.S.A. shall govern the construction of words contained in this Ordinance. Any words not defined therein shall be given their com-mon and ordinary meaning.

Section 3. Restrictions and Notices: The municipal officers may, either permanently or seasonally, impose such restrictions on the gross registered weight of vehicles as may, in their judgment, be necessary to protect the traveling public and prevent abuse of the highways, and designate the town ways and bridges to which the restrictions shall apply.

Whenever notice has been posted as provided herein, no person may thereafter operate any vehicle with a gross registered weight in excess of the restriction during any applicable time period on any way or bridge so posted unless otherwise exempt as provided herein.

The notice shall contain, at a minimum, the following information: the name of the way or bridge, the gross registered weight limit, the time period during which the restriction applies, the date on which the notice was posted, and the signatures of the municipal officers. The notice shall be conspicuously posted at each end of the restricted portion of the way or bridge in a location clearly visible from the traveled way.

Whenever a restriction expires or is lifted, the notices shall be removed wherever posted. Whenever a restriction is revised or extended, existing notices shall be removed and replaced with new notices. No person may remove, obscure or otherwise tamper with any notice so posted except as provided herein.

Section 4. Exemptions: Vehicles that are exempt from the Maine Department of Transportation's "Rules and Regulations Restricting Heavy Loads on Closed Ways" dated December 31, 1996 and amended on March 4, 1998, a copy of which is attached hereto and is hereby incorporated as part of this Ordinance [Attachment F to this Information Packet], are exempt from this Ordinance.

Section 5. Permits: The owner or operator of any vehicle not otherwise exempt as provided herein may apply in writing to the municipal officers for a permit to operate on a posted way or bridge notwithstanding the restriction. The municipal officers may issue a permit only upon all of the following findings:

- (a) no other route is reasonably available to the applicant;
- (b) it is a matter of economic necessity and not mere convenience that the applicant use the way or bridge; and
- (c) the applicant has tendered cash, a bond or other suitable security running to the municipality in an amount sufficient, in their judgment, to repair any damage to the way or bridge which may reasonably result from the applicant's use of same.

Even if the municipal of officers make the foregoing findings, they need not issue a permit if they determine the applicant's use of the way or bridge could reasonably be expected to create or aggravate a safety hazard or cause substantial damage to a way or bridge maintained by the municipality. They may also limit the number of permits issued or outstanding as may, in their judgment, be necessary to preserve and protect the highways and bridges.

In determining whether to issue a permit, the municipal officers shall consider the following factors:

- (a) the gross registered weight of the vehicle;
- (b) the current and anticipated condition of the way or bridge;
- (c) the number and frequency of vehicle trips proposed;
- (d) the cost and availability of materials and equipment for repairs;
- (e) the extent of use by other exempt vehicles; and
- (f) such other circumstances as may, in their judgment, may be relevant.

The municipal officers may issue permits subject to reasonable conditions, including but not limited to restrictions on the actual load weight and the number or frequency of vehicle trips, which shall be clearly noted on the permit.

Section 6. Administration and Enforcement: This Ordinance shall be administered and may be enforced by the municipal officers or their duly authorized designee [such as road commissioner, code enforcement officer or law enforcement officer].

Section 7. Penalties: Any violation of this Ordinance shall be a civil infraction subject to a fine of not less than \$250.00 nor more than \$1000.00. Each violation shall be deemed a separate offense. In addition to any fine, the municipality may seek restitution for the cost of repairs to any damaged way or bridge and reasonable attorney fees and costs. Prosecution shall be in the name of the municipality and shall be brought in the Maine District Court.

Section 8. Amendments: This Ordinance may be amended by the municipal officers at any properly noticed meeting.

Section 9. Severability, Effective Date: In the event any portion of this Ordinance is declared invalid by a court of competent jurisdiction, the remaining portions shall continue in full force and effect. This Ordinance shall take effect immediately upon enactment by the municipal officers at any properly noticed meeting.

MMA Legal Services 4/99

ORDINANCE GOVERNING THE LARGE SCALE PUMPING OR EXTRACTION OF GROUNDWATER, SPRING WATER AND/OR WATER FROM AQUIFERS WITHIN THE MUNICIPALITY OF FREEDOM, MAINE

Article I. Purpose

The purpose of this ordinance is to protect the quality and quantity of groundwater, spring water and/or water in aquifers and their recharge areas located wholly or partially within the Town of Freedom, to insure that any large scale water extraction is subjected to prior review and approval so as to establish the ongoing sustainability and quality of said water supplies and the avoidance of any interruption or degradation of water quality and quantity to members of the general public within the town, and generally to protect the health, safety and welfare of persons dependent upon such water supplies.

Article II. Authority

This ordinance is adopted and enacted pursuant to the Maine Constitution, Article VIII, Part Second, 30 A MRSA 2101 et seq (“Municipal Home Rule”), and 30A MRSA 3001 – 3006 (“Ordinance Power”).

Article III. Definitions

Words and phrases, unless their context requires otherwise, shall be defined as follows: first as set forth below, second in accordance with their generally accepted technical meaning within the involved scientific disciplines, third as defined by Maine Statutes, and fourth their common dictionary definition.

“Aquifer” means a saturated permeable geologic unit that can transmit significant quantities of water under ordinary hydraulic gradients.

“Extraction” (or “water extraction” or “extraction of water”) means withdrawal, removal, diversion, taking, or collection by any means of water from ground water sources, aquifers, springs, wells, pumps or similar.

“Extraction point” or “Extraction facility” means the physical location where water is extracted, whether by well, pump, pipeline, catchment, or other similar method.

“Large scale water extraction” means extraction of water from ground water sources, aquifers, springs, wells or similar in a total daily amount on any given day of 5000 gallons or more, as extracted by the same individual or entity, or consortium or association of individuals or entities, regardless of the number of

extraction facilities utilized.

“Reviewing authority”, “reviewing agency”, “Board of Selectmen” and “Boards” are used interchangeably in this ordinance and have the same meaning.

“Water bodies” or “surface water(s)” means lakes, ponds, river, streams, wetlands and similar.

“Zone of Contribution” means that area of an aquifer that contributes water to a well or other extraction point under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at approved yield with no recharge from precipitation). It is bounded by the groundwater divides that result from pumping the well and by the contact of the aquifer with less permeable materials such as till or bedrock. In some cases, streams or lakes may act as recharge boundaries. In all cases the zone of contribution shall extend upgradient to its point of intersection with prevailing hydrogeologic boundaries (a groundwater flow divide, a contact with till or bedrock, or a recharge boundary).

Article IV. Large Scale Water Extraction

A. Permit Required

The daily (meaning on any given day) extraction of more than 5000 gallons of ground water, spring water and/or water from aquifers or their recharge areas by any one entity or person, or consortium or association of entities or persons acting in concert, regardless of the number of extraction facilities utilized, shall require a written permit issued by the Board of Selectmen, after public hearing and opportunity for public comment.

B. Inapplicability

The requirement of review and approval shall not apply to extraction of water which is to be used within the Town of Freedom for standard agricultural purposes; drinking water and domestic water supply to private residences within the Town of Freedom; fire suppression; or for on site residential, commercial and industrial purposes within the Town of Freedom to the limit of their historical use of water which exist as of the date of the adoption of this ordinance.

C. Application Requirements

1. The application shall be in writing and be accompanied by site plans prepared by a licensed surveyor, licensed engineer, or similar appropriately licensed

professional.

2. The application shall include:

(a) evidence of applicant's right, title and interest in and to the property(ies) from which the water is to be extracted. If such evidence is other than outright ownership and title as evidenced by a deed duly recorded in the Waldo County Registry of Deeds, the entire document/documentation (other than reference(s) to purchase price and financing terms, which may be redacted) whether by lease, option, contract or otherwise establishing right, title and interest shall be submitted with the application.

(b) a statement of the total maximum daily quantity of water to be extracted, from all extraction points operated by the same individual or entity, or consortium or association of individuals or entities.

(c) the location(s) of the points of extraction.

(d) the method(s) of extraction.

(e) the proposed use for which the water is to be extracted, including the identity of any end user of the extracted water whose facilities for use, processing, transporting, storage, bottling, sales or other similar activities are located outside the Town of Freedom.

(f) a copy of any application and exhibits and reports for such extraction filed or to be filed with any other municipal authority or any agency or department of the State of Maine, including as required by 22 MRSA 2660 et seq (transport of water for commercial purposes,) or under applicable Department of Human Services rules and regulations.

(g) a copy of any permit, approval, or denial for such extraction as may have been issued by any agency referred to in (f) above.

(h) a written report, certified to the Freedom Board of Selectmen procured and paid for by the applicant, of a hydrogeologic investigation and study, conducted and prepared by a licensed professional hydrogeologist, geologist, hydrologist, registered professional engineer or other appropriately licensed professional possessing in the judgment of the Board of Selectmen comparable credentials and qualification. The report must address at least the following.

(1) the rates of draw down and recharge of any aquifer or other ground water source as may have been established by a pumping or "stress test" or other similar testing regime in accordance with accepted standards within the geology

and engineering professions.

(2) The characteristics of the aquifer or other ground water source, including rates of draw down and recharge, sustainable extraction rates, aquifer boundaries, recharge areas, impacts on the water table, and impacts on any and all existing water bodies including but not limited to lakes, ponds, rivers, streams and wetland areas and private wells or other existing extraction locations within the zone of contribution.

(3) Possible effects on the aquifer or other ground water resources which might result in the disturbance of existing minerals such as, but not limited to, iron, manganese, arsenic, and uranium, and any health hazards raised by such disturbance(s) or other impacts including issues such as drinking water turbidity, clarity and aroma.

3. The application shall be accompanied by:

(a) Written notification of the application and an explanation of the intent, scope and location of the proposed water extraction in terms readily understandable to a layman to be addressed and mailed to, via certified mail, return receipt requested, the following:

(1) The owners of record of parcels of land lying above the aquifer or other water source cited in the application,

(2) The owners of record of all parcels of land lying within 500 feet of the outside perimeter of the aquifer or other water source cited in the application,

(3) The owners of record of all parcels of land having frontage on any body of water whether lake, pond, river, stream or wetland within 500 feet of the outside perimeter of the aquifer or other water source cited in the application, even though such individual parcels may themselves lie more than 500 feet from the outside perimeter of said aquifer or other water source.

(4) For purposes of these notification requirements an applicant is entitled to rely on the information on file at the Freedom Town Office as represented by its most recent assessors' maps and the mailing addresses maintained by the Town as to the owners of the affected parcels shown thereon. Actual posting of the certified mail notices is not required until the application is declared or deemed to be complete. See D (6) below.

(5) For good cause shown the above notice requirements may be modified by the Board of Selectmen where, for example, it can be established that a body of water, a portion of which lies within 500 feet of the outside perimeter of the

aquifer or other water source, extends so far from the proposed extraction point(s) that actual notice to the owners of all land having frontage on that body of water is not necessary.

(b) A small-scale site plan depicting at least the following:

(1) The limits (outside perimeter) of the aquifer or other water source cited in the application, and the bounds of the land of the applicant.

(2) The location of all water bodies located within 500 feet of the outside perimeter of the aquifer or other water source.

(3) The location(s) of the proposed extraction points.

(4) The existing network of public or private roads leading to or by the extraction point(s).

(5) Any proposed new roads or driveways to be constructed for access to and egress from the extraction point(s), and the point(s) of intersection of such proposed roads or driveways with existing roads.

(6) Any existing or proposed utility lines to be utilized in the extraction operation(s).

(7) The location and type of monitoring and test wells.

(8) Any existing or proposed pipes, pipelines, aqueducts or similar that are intended to facilitate transport of extracted water from the extraction point(s) towards the intended end user, if any part of the extracted water is ultimately to be transported outside the geographic limits of the Town of Freedom.

(9) Any other relevant and material detail(s) bearing on the proposed extraction process the omission of which would tend to hinder the ability of the reviewing authority, affected land owners or the public from developing a full understanding of the scope and impact of the proposal.

(c) A large-scale site plan depicting at least the following:

(1) A detailed plan of the extraction point(s) including without limitation well heads, pumping facilities, monitoring or test wells, buildings, sheds, paving, vehicular drives, parking and turn around, utility lines, fencing, access roads or driveways, elevation and contour lines.

(2) Any other relevant and material detail(s) bearing on the proposed extraction process the omission of which would tend to hinder the ability of the reviewing

authority, affected landowners or the public from developing a full understanding of the scope and impact of the proposal.

D. Application Process

1. The entire application, including studies, reports, site plans and all other items referred to in Article IV (C) above shall be submitted to the Board of Selectmen in triplicate.

2. The Board of Selectmen shall have thirty (30) days from the date of submission to conduct a preliminary review of the application solely for the purpose of determining whether the application is complete as required by this ordinance. For good cause shown, and upon receipt of confirmatory independent technical advice, the Board of Selectmen may waive one or more of the application details upon a determination that such details are unnecessary, unobtainable as a practical matter or duplicative and that such waiver would not tend to hinder the ability of the Board, affected landowners or the public from developing a full understanding of the scope and impact of the proposal.

3. If within said thirty (30) day period the Board of Selectmen deem the application incomplete in any material or relevant respect it shall so inform the applicant by the best practical means, either by writing or verbally at a regularly scheduled meeting of the Board at which the applicant or its duly authorized representative is present after which the applicant shall have a reasonable period of time, not to exceed sixty (60) days to complete its application in accordance with this ordinance, upon failure of which the application shall be deemed withdrawn.

4. If by the end of said thirty (30) day period for review for completeness the Board of Selectmen have not informed the applicant the application is incomplete it shall as a result be deemed complete, in which case the Board shall schedule a public hearing on the application at a date not later than sixty (60) days from the date the application was originally submitted, or not later than sixty (60) days from the date a supplemented application originally deemed incomplete, was reviewed for completeness and declared (or deemed by the passage of a thirty (30) day period) complete.

5. Any review of the application by the Board of Selectmen or its agents for completeness is preliminary only and is not to be deemed a substantive review, and confers no vested rights upon the applicant or under the application. Substantive review shall not be deemed to occur until the convening of a public hearing on the application under this ordinance.

6. Applicant's obligations of written notification via certified mail of property

owners as set forth in Article IV (C) (3) above shall not accrue until the application is declared or deemed complete under this ordinance.

E. Review Process; Hearing Process

1. The completed application shall be reviewed by the Board of Selectmen at a public hearing convened for that purpose, pursuant to 15 days' published notice in a newspaper of general circulation within the Town of Freedom and posting of notice at three conspicuous public places within the Town, and upon confirmation on the hearing date that certified mail notice has been sent to all affected landowners as previously set forth in this ordinance.

2. The Board of Selectmen shall be entitled to adopt whatever procedural rules for the hearing, including the imposition of reasonable time limits for the presentations of the applicants, opponents if any, and the general public, it deems appropriate, fair and reasonably calculated to afford a full consideration of the issues pertaining to the application.

F. Decision; Performance Standards

1. Upon the adjournment of the public hearing the Board of Selectmen shall schedule a public session of the board, to occur not later than thirty (30) days from the final adjournment of the public hearing, to deliberate and render a decision.

2. The Board of Selectmen's decision may be:

(a) to approve the application;

(b) to deny the application; or

(c) to approve the application conditionally, with conditions or stipulations upon the satisfactory completion of which the application will be finally approved. Provided however, any approval (conditional or unconditional) shall require the Board's determination that the applicant has satisfied all of the performance standards set forth below.

(d) any approval shall specify that it is only for a daily extraction total not exceeding the maximum daily quantity set forth in the application, and any increase in such daily totals shall require further application and review in accordance with this ordinance.

3. The Board shall issue a written decision with findings of fact and rulings and conclusions not later than thirty (30) days from the date on which it votes at a

public session to approve, deny or approve with conditions, and a copy of such written decision shall thereupon promptly be provided to applicant, and otherwise be available publicly.

4. Any extraction authority granted hereunder shall be for a period not to exceed three (3) years, but may be renewed subject to the same criteria contained herein.

With respect to an application for a permit renewal if, after notice and hearing as referred to in Article IV (E) above, the reviewing authority finds the following, a renewal permit for another three (3) year period shall be issued:

(a) there is no increase in the permit holder's extraction activities in terms of the quantity of water to be extracted; and

(b) there is no change in the location or configuration of the extraction facility; and

(c) there has been no material failure by the permit holder to comply with any conditions of the expiring permit; and

(d) there has been no material failure by the permit holder to meet the performance standards applicable to the expiring permit; and

(e) there is no significant, credible evidence that the permit holder's continuing operations would be unable to meet the performance standards of the ordinance during any renewal period.

Any application for a renewal permit must be filed with the reviewing authority not less than 90 days prior to the expiration of the existing permit.

Article V. Performance Standards

No approval shall be granted any application until and unless the reviewing authority shall have affirmatively found that each of the following performance standards has been or will be met, the burden of establishing and demonstrating compliance with which is solely the applicant's. Applicant must also demonstrate to the reviewing authority that it possesses the expertise and financial resources to provide continuing adherence to these standards.

A. Geologic and Hydrologic Standards

1. The quantity of water to be extracted will not cause undesirable changes in ground water flow patterns relating to the aquifer, its recharge areas, or other ground water sources within the Town.

2. The quantity of water to be extracted will not negatively impact, diminish or alter any surface waters within the Town, including during any periods of drought.

3. The quantity of water to be extracted will not cause any ground subsidence beyond the property lines of applicant's property.

4. The quantity of water to be extracted will not adversely affect the long-term sustainability of the aquifer, or its recharge areas, or other groundwater source, including during periods of drought.

5. The proposed extraction will not create a health risk or issues such as drinking water turbidity, clarity or aroma resulting from the disturbance of existing minerals, or from any other cause, with ongoing follow up monthly testing for this purpose, results to be provided in writing to the Freedom Board of Selectmen on at least a monthly basis.

6. The establishment of an ongoing follow up monitoring system and development of a system of recording and documenting extraction and recharge date, within the zone of contribution, to be reported in writing to the Freedom Code Enforcement Officer on at least a monthly basis. At least 25% of monitoring locations shall be at private wells located within the zone of contribution.

B. Impacts on the General Vicinity

1. The applicant assumes any and all liability for the loss, interruption, degradation or interference with the preexisting beneficial domestic use of groundwater by a land owner or lawful land occupant, or other public or private water supply, caused by applicant's withdrawal or extraction of water.

For purposes of this section "beneficial domestic use", "groundwater" and "preexisting use" shall be as defined by 38 M RSA 404 – 1 A-C.

For purposes of this section liability of applicant shall be for compensatory damages only, and shall be limited to the following:

(a) all costs necessary to restore the landowner or lawful land occupant to a status which is reasonably equivalent in terms of quantity and quality of ground water, made available on a similarly accessible and economic basis;

(b) compensatory damages for loss or damage to property, including, without limitation, the loss of habitability of residence, caused to the landowner or lawful land occupant by reason of the interference prior to restoration of the status provided for a subparagraph (a); and

(c) reasonable costs, including expert witness and attorney fees incurred in initiating and prosecuting an action when necessary to secure a judgment granting the relief provided for under this section.

The reviewing authority shall require the furnishing of a bond or other performance guaranty it deems of equivalent security to secure the applicant's obligations under this section.

2. Provision shall be made for vehicular access to extraction facility(ies) and for circulation, loading and unloading upon the lot in such a manner as to safeguard against hazards to traffic and pedestrians on adjacent streets or roads, to avoid traffic congestion and traffic safety hazards, or other safety risks.

3. Driveways or access roads to the extraction facility(ies) shall conform to minimum Town Road standards and approved by the road commissioner for meeting standards for public health and safety.

4. Additional vehicular demand on existing town roads or public easements occasioned by the operation of the extraction facility(ies) will not exceed the capacity of those roads, or cause the premature failure, aging or diminished utility of those roads.

5. To the extent the extraction facility(ies) will be served by pipes, pipelines, aqueducts or similar that such installations will be sited and constructed in a manner which will not interrupt the public's use of any existing roadway, interrupt the public's access to any public facility, great pond or similar, interrupt private access to private property, or pose the risk of damage to any property along or through which such installation traverses as a result of any failure or malfunction which might cause ponding, erosion, run off or similar.

6. The proposed extraction and activities incident to such extraction such as increased traffic (volume and type), parking, hours of operation, noise, glare from lights, or similar potential for nuisances are unlikely to cause a negative impact on adjacent properties, and the nearby vicinity as a whole.

C. Extraction for Commercial Purposes and/or Bulk Water Transport Out of Freedom

In addition to the foregoing performance standards, any application for an extraction permit, which includes or contemplates the transport of water in excess of 10 gallons per day out of the Town of Freedom, must also meet the following standards and requirements:

1. The Town must have received a copy of any application filed with any state agency, under the provisions of 22 MRSA 2660-A, or the Bulk Water Transport Rules of the Department of Human Services, contemporaneous with its filing with the State and a copy of any decision pertaining thereto.
2. Transport of the water will not constitute a threat to public health, safety or welfare,
3. Water is not available naturally in the location, to which it will be transported,
4. Failure to authorize transport of the water would create a substantial hardship to the potential recipient of the water, and
5. The water withdrawal will not adversely affect existing uses of groundwater or surface water resources, including private wells.

Article VI: Independent Expert Assistance

If the reviewing authority reasonably determines it requires independent expert assistance to assist it in its preliminary review of the application, or in evaluating the substance of the application at a public hearing, or in developing appropriate conditions of approval, it may engage the services of such expert assistance, to serve as the reviewing authority's own expert. To the extent the projected or estimated cost of such assistance exceeds the existing town appropriation for such assistance, if any, the applicant shall be required to pay to the Town, in advance of the scheduling of any public hearing, a sum equal to said projected or estimated cost, the failure of which payment shall excuse the reviewing authority from scheduling any public hearing until such payment is made in full.

Article VII: Concurrent Jurisdiction

As applicable, jurisdiction of the Board of Selectmen under this ordinance is concurrent with such jurisdiction as may presently be vested in the Freedom Planning Board and/or the Freedom Board of Appeals and the Freedom Code Enforcement Office/Local Plumbing Inspector and is not intended to divest them of existing jurisdiction as applicable, but rather establishes and imposes additional requirements and procedures as set forth herein.

Article VIII: Enforcement and Severability

This ordinance may be enforced by the municipal officers of the Town of Freedom under 30 A MRSA 4452, the fines and penalties set forth therein to apply hereto. Should any section or provisions of this ordinance be declared by a court of competent jurisdiction to be invalid such decision shall not invalidate or

affect the enforcement of any other section or provision of this ordinance.

As an additional means of enforcement, the Board of Selectmen may suspend or revoke any permit issued hereunder if it determines, after notice and hearing, that it was issued in error or upon incomplete or false information, or that applicant has failed to comply with any conditions of approval, and upon such suspension or revocation all water extraction addressed by said permit shall cease until a new approval or permit is obtained under this ordinance by the applicant.

Any appeal of any suspension or revocation of a permit shall be to the Board of Appeals.

Article IX: Effective Date

This ordinance shall become effective immediately upon its adoption and enactment by vote of the legislative body of the town at a town meeting.

Adopted at Annual Town Meeting: March 25, 2006

Town of Freedom Wind Turbine Ordinance

11/16/2012

Town of Freedom Maine Wind Turbine Ordinance

1.0 Title.....	2
2.0 Purpose.....	2
3.0 Authority.....	2
4.0 Conflicts with Other Ordinances, Laws and Regulations.....	2
5.0 Validity and Severability.....	2
6.0 Effective Date.....	2
7.0 Applicability.....	2
8.0 Definitions	3
9.0 Classification of Wind Turbines and Meteorological Towers	6
10.0 Permit Requirement.....	7
11.0 Permitting Authority.....	7
12.0 Operational License.....	8
13.0 Standards for Setbacks, Noise, Shadow Flicker, and Mitigation Waivers.....	9
14.0 Standards for all Wind Turbines (Type 1, 2, 3, and 4)	12
15.0 Additional Standards for Type 2, 3 and 4 Wind Turbines	12
16.0 Additional Standards for Type 3 and 4 Turbines	14
17.0 Application Submission Requirements and Procedural Time Frames for Type1,2,3&4.....	21
18.0 Professional Services	26
19.0 Application Changes	26
20.0 Cumulative Effect of Multiple Permits.....	26
21.0 Appeals.....	27
22.0 Complaints/ Violations/ Enforcement	27
23.0 Decommissioning Standards:	30
24.0 Community Owned Wind.....	31
25.0 Jurisdiction Across Multiple Municipalities	33
26.0 Ethical Standards.....	33
Appendix A -- Noise Measurement Standards and Procedure	35
Appendix B – Type 1 Small Wind Turbine Submission Standards and Fees.....	37
Appendix C – Type 2 Intermediate Wind Turbine Submission Standards and Fees.....	38
Appendix D – Type 3 Large Wind Turbine Submission Standards and Fees	39
Appendix F – Mitigation Waiver Form.....	43

TOWN OF FREEDOM WIND TURBINE ORDINANCE

1.0 Title

This Ordinance shall be known as the Town of Freedom Wind Turbine Ordinance (Ordinance).

2.0 Purpose

The purpose and intent of this Ordinance is to protect the public safety, health and welfare of the residents and property owners of the Town of Freedom who may be affected by the development and operation of a Wind Turbine or Wind Turbine Project, and to support and promote appropriate wind energy development consistent with the goals of the Freedom Comprehensive Plan.

3.0 Authority

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution (Municipal Home Rule), the provisions of Title 30-A M.R.S.A. Section 3001 (Home Rule), and the provisions of the Planning and Land Use Regulation Act, Title 30-A M.R.S.A. Section 4312, etc. seq. (*Comprehensive Planning and Land Use Regulation, or "Growth Management Act"*).

4.0 Conflicts with Other Ordinances, Laws and Regulations

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute from any jurisdiction, the more restrictive provision shall control.

5.0 Validity and Severability

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

6.0 Effective Date

This Ordinance shall become effective upon the date of its passage.

7.0 Applicability

- 7.1 This Ordinance applies to any Wind Turbine that is the subject of a permit or Operational License application pending before, or filed with the Town of Freedom on or after the effective date of the Ordinance.
- 7.2 Wind Turbines already constructed and in operation prior to the effective date of this Ordinance are exempt from this Ordinance, as long as any changes or upgrades made to the existing turbines conforms to the definition of Routine Maintenance. Any changes to the existing turbines that do not conform to the definition of Routine Maintenance shall comply with the provisions of this Ordinance. Any expansion of a Wind Turbine Project's total area of use, generating capacity, or number or rating of turbines, as well as addition of any supporting facilities, is subject to and shall comply with the provisions of this Ordinance regarding expansions.

8.0 Definitions

Abandonment of an Operational License means that the Owner/Operator has failed to operate a Wind Turbine or Wind Turbine Project to convert wind to electricity for a period of twelve consecutive months, whether the reason for not producing electricity is within the Owner/Operator's control or not.

Abandonment of an Application means the Applicant has failed to provide the necessary information required for an application within the deadlines outlined in Section 17.0.

Ambient Noise means the all-encompassing sound associated with a given environment, at a specified time, being usually a composite of sounds from many sources at many directions, near and far, including the specific development of interest.

Applicant is the legal entity, including successors and assigns that files an application under this Ordinance.

Blade Reflection means the intermittent reflection of the sun off the surface of the blades of a Wind Turbine.

Community Owned Wind means a Wind Turbine Project that meets any one of the following criteria:

- 1) Town of Freedom owning 51% or more of the project,
- 2) Town of Freedom owning less than 51% of the project but in which the Town of Freedom serves as the managing partner,
- 3) The majority of the direct financial benefits of the project accruing to all of the residents of the Town of Freedom, exclusive of any tax considerations.

Community Owned Wind may include or incorporate consumer-owned transmission and distribution utilities, rural electric cooperatives, municipal electric districts, or other electrical generation and transmission models established by State law to facilitate and encourage local electrical generation. Community Owned Wind does not include partial or minority municipal ownership of Wind Turbine Projects without the Town of Freedom being the managing partner.

DEP Certification means a certification issued by the Department of Environmental Protection pursuant to Title 35-A M.R.S.A. §3456 for a Wind Turbine Project that is subject to this Ordinance.

Enforcing Authority means the Code Enforcement Officer of the Town of Freedom.

Good Utility Practice means any of the practices, methods and acts with respect to the safe operation of the Wind Turbine or Wind Turbine Project engaged in or approved by a significant portion of the electric utility industry and, in particular, those portions of the industry with experience in the construction, operation, and maintenance of wind turbines during the relevant period; or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability and safety.

Ice Throw – means accumulated ice buildup on the blades of a Wind Turbine that is or can be thrown during normal spinning or rotation.

Meteorological Tower (MET Tower) means a meteorological tower used for the measurement of wind speed.

Mitigation Waiver means a legally enforceable, written agreement between the Applicant and a Non-participating Landowner in which the non-participating landowner waives certain setback, noise or other protections afforded in the Ordinance.

Nacelle means the frame and housing at the top of the tower that encloses the gearbox and generator.

Nameplate Capacity means the electrical power rating of an individual wind turbine as certified by the manufacturer and normally expressed in watts, kilowatts (kW), or megawatts (MW).

Noise means any sound produced by a Wind Turbine Project. Noise does need to be loud to constitute an interference with the health and well-being of residents.

Non-participating Landowner means any landowner other than a Participating Landowner.

Occupied Building means any structure that is, or is likely to be, occupied by persons or livestock. This includes, but is not limited to dwellings, places of business, places of worship, schools, and barns.

Operational License means a license or a license renewal issued by the Code Enforcement Officer to operate a Type 3, or Type 4 Wind Turbine Project in accordance with this Ordinance.

Owner/operator means the person or entity with legal ownership of the Wind Turbine Project, including successors and assigns, that has the authority and responsibility to operate the Wind Turbine Project on a day-to-day basis. An Owner/operator must have the legal authority to represent and bind.

Participating Landowner means one or more persons that hold title in fee to the property on which the Wind Turbine Project is proposed to be located pursuant to an agreement with the development Owner/operator.

Permit means a permit granted by the Planning Board to construct a Wind Turbine Project. A permit does not authorize operation of a Type 3 or Type 4 Wind Turbine Project. For Type 3 and Type 4 Wind Turbine Projects, an Operational License must be obtained after completion of construction.

Permitting Authority means the Code Enforcement Officer or Planning Board, designated as responsible for conducting the review of a particular Wind Turbine application

Person means an individual, corporation, partnership, firm, organization or other legal entity.

Routine Maintenance means any maintenance that could be defined as a repair of components to existing wind turbines, or the replacement of existing components as long as the resulting replacement would not increase name plate capacity, blade length, or turbine height.

Scenic or Special Resource means a scenic resource of state or national significance, as defined in Title 35-A M.R.S.A. §3451(9), any site registered in the National Registry of Historic Places.

Setback means the minimal allowable horizontal distance as measured from the center of a Wind Turbine to a defined point (i.e., a property line or an Occupied Building).

Setback Area means the entire land base that falls within a specified setback.

Shadow Flicker means alternating changes in light intensity caused by the movement of wind turbine blades casting shadows on the ground or a stationary object.

Shadow Flicker Receptor means any Occupied Building on a Non-participating Landowner's property plus an additional 100 foot boundary surrounding the exterior of the Occupied Building, the entire outdoor public area surrounding schools, churches and public buildings, and public roads with a posted speed limit greater than 25 mph.

Sight Line Representation means a line depicted in profile extending from an observer's eye to the lowest point of a viewed tower.

Significant adverse effect, with regard to wildlife protection, means an increase in species morbidity or mortality, or habitat fragmentation, which is deemed by a qualified wildlife biologist to be of concern for a particular species.

Sound is a fluctuation of air pressure which is propagated as a wave through air.

Structure has the same meaning as in 38 MRSA § 482.

Tower means the freestanding structure on which the wind measuring or energy conversion system is mounted.

Turbine Height means the distance measured from the surface of the tower foundation to the highest point of any turbine rotor blade measured at the highest arc of the blade.

Wind Turbine means a wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and includes the nacelle, rotor, tower and pad transformer if any.

Wind Turbine Project means one or more Wind Turbines and all related and supporting items including but not limited to all buildings, structures, electrical equipment, substations, transmission lines, access roads, parking lots, areas to be stripped or graded, and areas to be landscaped or screened.

9.0 Classification of Wind Turbines and Meteorological Towers

For the purpose of administering the permitting process, all Wind Turbines and Wind Turbine Projects will be classified and permitted according to the following definitions:

9.1 Wind Turbine Classifications:

Type 1 –Small Wind Turbine means a wind turbine with a nameplate capacity less than 10 kW, and a turbine height less than 150 feet.

Type 2 –Intermediate Wind Turbine means a wind turbine with a nameplate capacity between 10 kW and 100 kW, and a turbine height less than 150’.

Type 3 –Large Wind Turbine means up to three wind turbines with a nameplate capacity less than 1 MW, and a turbine height less than 300’, regardless of whether approval is required by the Department of Environmental Protection under 35-A M.R.S.A. §3451, et seq. (Expedited Permitting of Grid-Scale Wind Energy) or Title 38 M.R.S.A § 481, et seq. (Site Location of Development Act).

Type 4 – Industrial Wind Turbine means one or more wind turbines with a Nameplate capacity of greater than or equal to 1 MW, and/or a turbine height greater than 300’, regardless of whether approval is required by the Department of Environmental Protection under 35-A M.R.S.A. §3451, et seq. (Expedited Permitting of Grid-Scale Wind Energy) or Title 38 M.R.S.A § 481, et seq. (Site Location of Development Act).

These classifications are summarized in Table 1 below.

Table 1: Classification of Wind Turbines

Type/Scale	Nameplate Capacity	Turbine Height	Maximum Number of Turbines	Special Conditions
Type 1, Small Wind Turbine	<= 10 kW	and <150’	1	N/A
Type 2, Intermediate Wind Turbine/	<= 100 kW	and < 150’	1	N/A
Type 3, Large Wind Turbine/ Development	< 1 MW	and < 300’	<= 3	N/A
Type 4, Industrial Wind Turbine/ Development	>=1 MW	or >= 300’	N/A	Or > 3 Large Wind Turbines

9.2 Meteorological Towers (MET Towers)

MET towers shall be permitted under the same standards as a Type 1 Wind Turbine for MET towers less than 100 feet and Type 2 for MET towers greater than or equal to 100 feet. A permit for a temporary MET tower shall be valid for a maximum of one year after which a single extension of up to one year may be granted. The MET tower shall be removed within 90 days of the expiration of the permit.

10.0 Permit Requirement

- 10.1 A permit is required for all Wind Turbines and Wind Turbine Projects built in the Town of Freedom after the effective date of this Ordinance.
- 10.2 The Planning Board will aggregate, to the fullest and most practical extent possible, and pursuant to Section 27.0, all Wind Turbines to be held under common or related ownership into a single Wind Turbine Project. With the exception of Community Owned Wind projects, separate corporate legal structures under common or joint ownership or under common or joint control will be deemed to be a single project for purposes of permit and licensing notwithstanding separate corporate legal ownership.
- 10.3 Receipt of a permit under this Ordinance does not relieve the Owner/operator from the responsibility to obtain any other such permits or approvals as required under the Town of Freedom Land Use Ordinance or pursuant to other State or Federal law.

11.0 Permitting Authority

- 11.1 The Town of Freedom Code Enforcement Officer (CEO) is authorized to review all Type 1 Wind Turbine applications and may approve, reject or approve such applications with conditions in accordance with the standards of the Ordinance.
- 11.2 The Town of Freedom Planning Board (Planning Board, or “PB”) is authorized to review all Type 2, 3 and 4 Wind Turbine applications and may approve, reject or approve such applications with conditions in accordance with the standards of the Ordinance.
- 11.3 Maine Department of Environmental Protection (DEP) approval may be required for a Wind Turbine Project. The Planning Board shall consider, at a minimum and to the extent applicable, pertinent findings in the DEP certification when making its determination.

Table 2: Summary of Permitting Review and Authority

Type	CEO	PB	Town
1	Yes	N/A	If Town Property or Ownership
2	N/A	Yes	If Town Property or Ownership
3	N/A	Yes	If Town Property or Ownership
4	N/A	Yes	If Town Property or Ownership

- 11.4 The applicant is to provide evidence of Town approval to use Town property and evidence of approval of the Town:
 - Any Wind Turbine or Wind Turbine Project to be built on property owned by the Town.
 - Any Type 2, 3 or 4 Wind Turbine to be partially or totally owned by the Town.

12.0 Operational License

- 12.1 An Operational License is required for the operation of all Type 3 and Type 4 Wind Turbine Projects.
- 12.2 Applications for an Operational License shall be submitted to the Code Enforcement Officer.
- 12.3 An Operational License shall be valid for five years, at which point a renewal license must be sought.
- 12.4 The granting of an Operational License is conditional upon the following criteria:
 - 12.4.1 To be granted an initial or renewed Operational License, the Wind Turbine Project must successfully pass an inspection for structural and operational integrity conducted by a Maine licensed professional engineer. The inspection shall be conducted after construction is completed but before operations begin. Success will be demonstrated by submission of a copy of the engineer's inspection report to the Code Enforcement Officer. If the report specifies that repairs, maintenance or changes to safety procedures are necessary, the owner shall provide the Code Enforcement Officer with proof that the repairs have been completed, a written schedule for any recommended maintenance, and documentation of any updated safety procedures.
 - 12.4.2 Applications for renewal of an Operational License, shall be submitted to the Enforcing Authority 6 months prior to the expiration of the prior license. All inspections shall be completed and reports provided to the Code Enforcement Officer at the time the renewal application is submitted.
- 12.5 Failure to comply with the provisions of this Ordinance may result in the suspension or revocation of the Operational License pursuant to Section 23.
- 12.6 An Operational License shall be deemed abandoned if the Wind Turbine Project's operation has ceased for twelve consecutive months. An Operational License expires immediately upon abandonment.
- 12.7 An Operational License shall automatically transfer upon transfer of ownership of the Wind Turbine Project, provided notice has been given to the Code Enforcement Officer in accordance with this Ordinance.
- 12.8 An Operational License shall automatically terminate upon any amendment to a permit, and a new Operational License shall be obtained before operations begin in accordance with the amendment.
- 12.9 Fees
 - 12.9.1 The application fee for an Operational License is \$1,000.
 - 12.9.2 The annual fee for an existing Operational License is \$250.00. This must be paid by the owner/operator and will be used to support the Town's enforcement and oversight of the project.

13.0 Standards for Setbacks, Noise, Shadow Flicker, and Mitigation Waivers

13.1 Setback Standards

13.1.1 Setback standards for Type 1 Wind Turbines:

- a. Non-participating Landowner Property Lines –Type 1 Wind Turbines less than or equal to 100' shall be set back from the property line of any Nonparticipating Landowner a distance of no less than 1.5 times the turbine height. Type 1 Wind Turbines greater than 100' and less than 150' shall be set back from the property line of any Non-participating Landowner a distance of no less than 3 times the turbine height. Non-participating property owners may waive this setback with a written Mitigation Waiver. (See Section 13.4 - Mitigation Waiver), but in no event shall any Wind Turbine be located at a distance from an Occupied Building that is less than the height of the Turbine.
- b. Public Roads - Type 1 Wind Turbines shall be set back from any public road, from the edge of the right of way, a distance no less than 1.5 times the turbine height.

13.1.2 Setback standards for Type 2, 3, and 4 wind turbines:

- a. Non-participating Landowner Property Lines – Type 2, 3 and 4 Wind Turbines To protect the health, safety and welfare of the citizens of Freedom, Turbines shall be set back from the property line of any non-participating land owner a distance of no less than 13 times the turbine height. Nonparticipating property owners may waive this setback with a written Mitigation Waiver (see Section 13.4 - Mitigation Waiver), but in no event shall any WindTurbine be located at a distance from an Occupied Building that is less than the height of the Turbine.
- b. Public Roads - Type 2, 3 and 4 Wind Turbines will be set back from any public road, from the edge of the right of way, a distance no less than 4 times the turbine height.

13.1.3 Setbacks from Scenic or Special Resources:

All Wind Turbines exceeding 80 feet or average tree height on site, whichever is greater, must be set back a minimum of 2,500 feet from any Scenic or Special Resource as defined in Section 8.

Table 3: Summary of Setback Standards

Turbine Type	Non-participating Property Line	Public Roads	Special Resources
Type 1 <=100'	1.5x Turbine Height	1.5x Turbine Height	2500' if greater than 80' or tree height
Type 1 >100' and < 150'	3x Turbine Height	3x Turbine Height	2500' if greater than 80' or tree height
Type 2,3&4	13x Turbine Height	4x Turbine Height	2500' if greater than 80' or tree height

13.2 Noise Standards

13.2.1 Noise Standards for Type 1 and 2 wind turbines:

For Type 1 and Type 2 Wind Turbines, audible noise levels (dBA) at any property line due to wind turbine operations shall not exceed 35 dB(A) from 6 AM (8 AM on Sundays) to 8:30 PM and 30 dB(A) from 8:30 PM to 6 AM (8 AM on Sundays). Property owners may waive this noise restriction with a written Mitigation Waiver. (see Section 13.4 -Mitigation Waiver).

13.2.2 Noise Standards for Type 3 and 4 wind turbines:

- a. Audible noise levels (dBA) due to wind turbine operation shall not exceed either of the following two conditions:
 1. The pre-construction ambient noise level by more than 5dBA as measured at any property line. Pre-construction ambient noise studies shall be conducted, by the applicant, for all properties located within 2 times the setback of proposed wind turbine site.
 2. The audible noise levels will not exceed 40 dBA during the day or 35 dBA during the night.
- b. Low frequency noise levels (dBC) due to wind turbine operation as measured inside an occupied building or at any property line will not exceed:
 1. 20 decibels (measured as dBC) above the pre-construction ambient noise level (measured as dBA). Pre-construction ambient noise studies shall be conducted, by the applicant, for all properties located within 2 times the setback of proposed wind turbine site.
 2. 50 dBC.

Property owners may waive these noise restrictions with a written Mitigation Waiver. (see Section 13.4 Mitigation Waiver)

Noise measurement standards and procedures that must be used are contained in Appendix A.

13.2.3 Violations and Enforcement

- 13.2.3.1 A serious noise violation is defined as three (3) verified noise complaints as defined by a written or verbal complaint received by the Code Enforcement Officer attributed to the operation of a Wind Turbine within a period of one month or less with a measurable noise level greater than:
 - 1) 10 dBA above the noise limits listed in section 13.2.1 for Type 1 and Type 2 Turbines; or
 - 2) 10 dBA above pre-construction ambient noise levels or 50 dBC inside or at an Occupied Building. For serious violations the Owner/operator will respond within five (5) days of the complaint. Testing, if necessary, will be paid for by the Owner/operator and hired independently by the Town, and will commence within ten working days

of the complaint. Testing will be conducted for a minimum of a one-month period according to the measurement standards and procedures in Appendix A. The Owner/operator is responsible for mitigating the problem within ten (10) days from the Code Enforcement Officer's final determination of any cause attributed to the operation of the Wind Turbine. Failure to mitigate the problem will result in the Wind Turbine being declared unsafe and emergency shutdown procedures will be implemented per Section 22.4 of this Ordinance.

13.2.3.2 Noise violations not determined to be a serious violation pursuant To Section 13.2.3.1 shall be managed pursuant to Section 22.6. Testing, if necessary, shall be hired by the Enforcing Authority and will be paid for from the testing escrow account. Testing will be conducted for an appropriate period of time and conducted according to the measurement standards and procedures set forth in Appendix A. The Owner/operator is responsible for mitigating the problem within 30 days from a final determination of any cause attributed to the operation of the Wind Turbine Project. Mitigation involving significant construction or physical modification may have up to 90 days to be completed pursuant to Section 16.4.1.

13.3 Shadow Flicker and Blade Reflection

13.3.1 Wind Turbines shall be designed and sited so that shadow flicker and/or blade reflection will not fall on a shadow flicker receptor as defined in Section 8. The flicker or reflection shall not exceed 10 hours per year for any given receptor.

13.3.2 Violations and Enforcement

13.3.2.1 A serious shadow flicker or blade reflection violation is defined as: 1) three (3) days of shadow flicker or blade reflection, in any one month falling on an Occupied Building receptor that, if annualized, will be estimated to be more than 20 hours per year. The predictive annualized calculation for Occupied Buildings shall assume clear weather, but take into account seasonal tracking of the sun. For serious violations the Owner/operator will respond within five (5) days of the complaint. Field verification and modeling, if necessary, will be hired by the Enforcing Authority and paid for from the testing escrow account. The Owner/operator is responsible for mitigating the problem within ten (10) days from the Code Enforcement Officer's final determination of any cause attributed to the operation of the Wind Turbine. Failure to mitigate the problem will result in the Wind Turbine being declared unsafe and emergency shutdown procedures will be implemented per Section 22.4 of this Ordinance.

13.3.2.2 Shadow flicker and blade reflection not determined to be a serious violation pursuant to Section 13.3.1, shall be managed pursuant to Section 22.6. Field verification and modeling, if necessary, will be hired by the Enforcing Authority and paid for from the testing escrow account. The Owner/operator is responsible for mitigating the problem within 30 days from a final determination by the Code Enforcement Officer of any cause attributed to the operation of the Wind Turbine Project. Mitigation involving significant construction or physical modification may have up to 90 days to be completed pursuant to Section 16.4.1.

13.4 Mitigation Waiver

Non-participating Landowners may waive specified protections of setbacks, noise and shadow flicker in this Ordinance using the Mitigation Waiver format in Appendix F, as negotiated between the wind turbine Applicant and the Non-participating Landowner. Copies of executed Mitigation Waivers must be included with the submission of the wind turbine application. The Mitigation Waiver must be recorded in the Waldo County Register of Deeds, describe the benefited and burdened properties and run with the land. The deed must advise all subsequent owners of the burdened property.

14.0 Standards for all Wind Turbines (Type 1, 2, 3, and 4)

14.1 Building Codes

All components of the Wind Turbine Project shall conform to relevant and applicable local, state and national building codes.

14.2 Electrical Components and Interconnections

All electrical components of the Wind Turbine and Wind Turbine Project shall conform to relevant and applicable local, state, and national codes.

14.3 Signal Interference

Wind Turbine Projects shall be designed and sited to prevent the disruption or loss of radio, telephone, television, or similar signals. Additional standards must be met for Type 3 and 4 Wind Turbines (See section 16.7)

14.4 Guy wires

Bird flight diverters must be installed on any tower with guy wires.

15.0 Additional Standards for Type 2, 3 and 4 Wind Turbines

15.1 Appearance and Visibility Standards

15.1.1 Wind Turbines shall be a non-reflective, non-obtrusive color such as white, off white or gray, or as may otherwise be required by another governmental agency with jurisdiction over the Wind Turbine Project.

15.1.2 The design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend the site to the natural setting and existing environment.

15.1.3 Wind Turbines shall not be artificially lighted, except to the extent consistent with Federal Aviation Administration recommendations or other applicable authority that regulates air safety or as is otherwise required by another governmental agency with jurisdiction over the Wind Turbine Project. Additional lighting standards must be met for Type 3 and Type 4 Wind Turbines (see Section 16.2.6).

15.1.4 Wind Turbines shall not be used to support signs and shall not display advertising except for reasonable and incidental identification of the turbine manufacturer, facility owner and operator, and for any appropriate warnings.

15.2 Safety Standards

15.2.1 Design

The design of the Wind Turbines and Wind Turbine Project shall conform to applicable industry standards, including those of the American National Standards Institute, and shall comply with standards promulgated by Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd WindEnergies or other similar certifying organizations appropriate for the turbines' size and classification. If two standards are in conflict, then the most restrictive shall apply.

15.2.2 Access

All ground-mounted electrical and control equipment and all access doors to a Wind Turbine shall be labeled and secured to prevent unauthorized access. A Wind Tower shall not be climbable up to fifteen (15) feet above ground surface.

15.2.3 Warnings

A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.

15.2.4 Controls and Brakes

Each Wind Turbine shall be equipped with a redundant braking system that includes both aerodynamic over-speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall operate in fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over-speed protection.

15.2.5 Blade Clearance

The minimum distance between the ground and all blades of a Wind Turbine shall be 25 feet as measured at the lowest arc of the blades.

15.3 Liability Insurance

The Applicant or its designee shall annually provide certificates of a current general liability policy for the Wind Turbine and/or Wind Turbine Project that covers bodily injury and property damage with limits in an amount commensurate with the scope and scale of the Turbine or Project as determined by the Planning Board, as part of the application, with the Town of Freedom named as additional insured. The amount may not be unreasonable as determined by industry standards.

16.0 Additional Standards for Type 3 and 4 Turbines

16.1 Financial Performance Standards

The Applicant must demonstrate that the Wind Turbine Project is financially viable and that the Owner/operator has the financial ability to complete the project. Proof of financial viability shall include proof of financing, where applicable.

16.2 Environmental Impact Standards

16.2.1 Environmentally Sensitive Area

The plan for the Wind Turbine Project shall reflect the natural capabilities of the site to support development. Environmentally sensitive areas, including but not limited to wetlands, steep slopes, watersheds, floodplains, significant wildlife habitats, fisheries, habitat for rare or endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers will be maintained and preserved to the maximum extent. The Applicant shall demonstrate appropriate measures for protecting these resources, including both during construction and post construction.

16.2.2 Wildlife Protection

Relation to DEP Certification and Permitting

If DEP has issued a Site Location of Development Act permit for a Type 3 Wind Turbine or Wind Turbine Project there is a rebuttable presumption that the development meets the requirements of section 16.2.1 and 16.2.2. If a DEP Site Location of Development permit is required for a Type 4 Wind Turbine or Wind Turbine Project, the Planning Board may take the DEP's findings under advisement to determine compliance with Section 16.2.1 and 16.2.2.

- 16.2.2.1 The Applicant shall demonstrate that the Wind Turbine or Wind Turbine Project will not have a significant adverse effect on area wildlife and wildlife habitat. Such analysis shall include adverse effects to birds, bats, game animals, and habitat fragmentation. In addition, the Applicant must demonstrate that the Wind Turbine Project will have no significant adverse effect on rare, threatened or endangered wildlife. The wildlife and habitat analysis must include appropriate pre-construction field studies and at least three sets of corresponding post-construction field studies conducted at periodic intervals within 3 years after the Wind Turbines become operational as outlined in Section 16.5.4. These studies will be conducted by a qualified wildlife biologist hired by the Town of Freedom and paid for by the Applicant. In making its determination under this section the Planning Board shall also consider the written comments and/or recommendations, if any, of the Maine Department of Inland Fisheries and Wildlife (MDIFW) and the Maine Natural Areas Program (MNAP).

16.2.2.2 If the post-construction field studies demonstrate significant adverse effect to birds, bats, game animals or habitat fragmentation, the Town, and the Owner/operator shall develop an appropriate mitigation plan. The Owner/operator will be responsible for the full cost of implementing the mitigation plan.

16.2.3 Raptor Habitat

To the extent practicable, the creation of artificial habitat for raptors or raptor prey shall be minimized. In making its determination under this subsection the Planning Board shall consider comments and recommendations, if any, provided by the Maine Department of Inland Fisheries and Wildlife.

16.2.4 Erosion Control

The Wind Turbine Project shall be designed, constructed and maintained in accordance with accepted erosion and sedimentation control methods. The acceptability of the proposed methods will be reviewed utilizing the "Maine Erosion Control Handbook for Construction: Best Management Practices", March 2003, as amended. Whenever sedimentation is caused by stripping vegetation or grading it shall be the responsibility of the Owner/operator to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at the Owner/operator's expense as quickly as possible.

16.2.5 Groundwater Protection

The Wind Turbine Project shall not adversely affect the quality or quantity of groundwater. The Applicant shall demonstrate to the Planning Board's satisfaction that there are no unusual risks to the groundwater created by the project. The Board may require, as a condition of permit approval, that spill prevention and control measures be installed, and that all activities involving potentially permeable pollutants, including at delivery and transfer points, be conducted under cover and over an impervious surface surrounded by dikes. If a Wind Turbine foundation is proposed in a bedrock area, a baseline of all wells, springs and certified public water sources within a half-mile radius of the foundation shall be established. If degradation or contamination occurs, permanent remedies shall be the responsibility of the Owner/operator.

16.2.6 Light Pollution

The Wind Turbine Project shall be designed to minimize the amount of nighttime light pollution. The Applicant shall provide a plan showing lighting on and around all Wind Turbines and Associated Facilities. Lighting on Wind Turbines shall be illuminated to Federal Aviation Administration (FAA) minimal standards using only red rather than white lights, if possible. The minimum number of Wind Turbines shall be illuminated, per FAA rules. Lighting shall be shielded from ground view to FAA maximum standards.

16.3 Scenic or Special Resource Standards

- 16.3.1 Except as otherwise provided in this subsection, if a Type 3 or Type 4 Wind Turbine is proposed for location in, or is visible from, a Scenic or Special Resource, the Applicant shall provide the Planning Board with a visual impact assessment that addresses the evaluation criteria in subsection 16.3.3. There is a rebuttable presumption that a visual impact assessment is not required for those portions of a Type 3 or Type 4 Wind Turbine Project that are located more than 3 miles, measured horizontally, from a Scenic or Special Resource. However, the Planning Board may require a visual impact assessment for portions of the Type 3 or Type 4 Wind Turbine Project located more than 3 miles and up to 8 miles from a Scenic Resource if it finds that a visual impact assessment is needed to determine if there is the potential for unreasonable adverse effects on the Scenic or Special Resource. Any interested person must submit information intended to rebut the presumption to the Planning Board within 30 days of acceptance of the application as complete. The Planning Board shall determine if the presumption is rebutted based on a preponderance of evidence in the record.
- 16.3.2 A permit for a Type 3 or 4 Wind Turbine Project shall be denied if the Planning Board determines, based on consideration of the evaluation criteria in subsection 16.3.3, that the Type 3 or Type 4 Wind Turbine will have an unreasonable adverse effect on the scenic character or existing uses related to scenic character of that Scenic or Special Resource.
- 16.3.3 In making its determination pursuant to subsection 16.3.2, and in determining whether an Applicant for a Type 3 or 4 Wind Turbine located more than 3 miles from a Scenic Resource must provide a visual impact assessment in accordance with subsection 16.3.1, the Planning Board shall consider:
- a. The significance of the potentially affected Scenic or Special Resource;
 - b. The existing character of the surrounding area;
 - c. The Type 3 or Type 4 Wind Turbine Project's purpose and the context of the proposed activity;
 - d. The extent, nature and duration of potentially affected public uses of the Scenic or Special Resource and the potential effect on the public's continued use and enjoyment of the Scenic or Special Resource; and
 - e. The scope and scale of the potential effect of views of the Wind Turbine Project on the Scenic or Special Resource, including but not limited to issues related to the number and extent of Wind Turbines visible from the Scenic or Special Resource, the distance from the Scenic or Special Resource and the effect of prominent features of the Wind Turbine Project on the landscape.

16.3.4 Relation to DEP Certification and Permitting

If the DEP has issued a Site Location of Development Act permit for a Type 3 Wind Turbine Project, there is a rebuttable presumption that the development meets the requirements of Sections 16.3.1, 16.3.2 and 16.3.3 as they pertain to a scenic or special resource considered by the DEP. If a DEP Site Location of Development permit is required for a Type 4 Wind Turbine or Wind Turbine Project, the Planning Board may take the DEP's findings under advisement to determine compliance with Sections 16.3.1, 16.3.2 and 16.3.3.

16.4 Construction/Design Standards

16.4.1 General Construction Standards

All Wind Turbines shall be constructed in compliance with Good Utility Practice for Wind Turbines. In the event that, after inspection by a qualified expert in Good Utility Practice, the Town concludes that any of the Wind Turbines was not constructed in compliance with Good Utility Practice or constitutes a danger to persons or property, then upon notice being provided, Owner/operator shall have 90 days to bring the non-compliant Wind Turbine(s) into compliance with such standards. If 90 days is insufficient time to cure the non-compliance, the Owner/operator shall present a plan to the Town describing the reason for the delay and the time frame for the cure to be put in place.

16.4.2 Electrical Design Standards

On-site power and transmission lines shall be placed underground. Wind Turbines shall be engineered according to Good Utility Practice to absolutely prevent transient ground currents and stray voltage. The Applicant shall demonstrate how these standards will be met prior to permit approval.

16.4.3 Transmission Line Standards

The Applicant must, after consultation with the Maine Public Utility Commission (PUC), prepare a written report documenting all anticipated changes, modifications or up-grades to the public utility grid within the Town of Freedom due to the Wind Turbine Project. The consultation shall include any needed modifications or changes to the utility grid, regulatory approvals necessary, and alternatives available. The written report must include necessary approvals from the PUC, proof of leases or required right of ways for transmission lines, and any alternatives to the final plan considered. The report must document the residual capacity remaining in the local utility grid that is available for use by other local electrical generating projects.

16.4.4 Geological Stability

Wind Turbines shall not be constructed on areas of geological instability. The Applicant shall demonstrate that this standard is met.

16.5 Operational Performance Standards

16.5.1 General Performance Standards

All Wind Turbines shall be operated and maintained consistent with Good Utility Practice for comparable facilities.

16.5.2 Repairs and Maintenance

The Owner/operator shall be required to repair and replace the wind turbine generator and associated equipment consistent with Good Utility Practice as needed to keep the Wind Turbine and Associated Facilities in good repair and operating condition.

16.5.3 Inspections

Wind Turbines shall be inspected after construction is completed but before becoming operational, and at least every five years thereafter, for structural and operational integrity by an independent Maine licensed professional engineer not employed by the Owner/operator and approved by the Code Enforcement Officer. The Owner/operator shall submit a copy of the inspection report to Code Enforcement Officer. If such report recommends that repairs or maintenance are to be conducted, the owner shall provide the Code Enforcement Officer a written schedule for the repairs or maintenance. Failure to complete the repairs or maintenance in accordance with the schedule shall be deemed a violation of this Ordinance.

16.5.4 Wildlife Protection

The wildlife and habitat analysis outlines in Section 16.2.2.1 must have at least three sets of corresponding post-construction field studies conducted at periodic intervals within 3 years after the Wind Turbines become operational. These studies will be conducted by a qualified wildlife biologist hired by the Town of Freedom and paid for by the Applicant.

16.6 Public Safety and Health Standards

16.6.1 Fire Protection

The Applicant shall prepare a plan in consultation with the Town of Freedom fire department as part of the permitting process. The plan shall address all activities at the Wind Turbine Project from the start of construction through the end of power generation and the final removal and restoration of the site, and shall describe a response plan to address all identified potential fire, rescue and hazardous materials scenarios. The Owner/operator shall ensure that the Wind Turbine Project complies with the following control and prevention measures and assumes responsibility for all associated incremental costs:

- i. Use of fire proof or fire resistant building materials and buffers or fire retardant landscaping around Wind Turbines and Wind Turbine Projects as appropriate.

- ii. Incorporation of a self-contained fire protection system to address nacelle fires or a written explanation of why this standard would create an undue hardship.
- iii. Maintenance of firebreak areas as appropriate, cleared of vegetation maintained as a fire/fuel break as long as the Wind Turbine is in operation.
- iv. All private road access to the Wind Turbine Project shall be brought up to Town of Freedom minor roads standards, as per the Freedom Land Use Ordinance Section 7, to accommodate fire and rescue vehicles and paid for by the Owner/Operator.
- v. Provision for any additional firefighting or rescue personnel, services, training, materials, or vehicles as may be required to address any emergency related to the Wind Turbine Project that is beyond the current capabilities and duties of the local fire department.

16.6.2 Hazardous Wastes:

The Owner/operator shall be responsible for compliance with all ordinances, state regulations and laws applicable to the generation, storage, cleanup, and disposal of hazardous wastes generated during any phase of the project's life.

16.6.3 Blasting

Owner/operator shall not undertake any blasting in connection with the construction of the Wind Turbine Project unless Applicant has notified the Town and submitted a blasting plan consistent with applicable laws and regulations. The plan must be reviewed and approved by the Enforcing Authority before any blasting may take place.

16.7 Communications and Electromagnetic Interference Standards

16.7.1 Wind Turbine Projects shall be sited and operated so that they do not interfere with emergency (fire, police/sheriff, ambulance) radio two way communications (base stations, mobile, and hand held radios, including digital) and/or paging, television, telephone (including cellular and digital), microwave, satellite (dish), navigational, internet or radio reception to neighboring areas. The Owner/operator of the project shall be responsible for the full cost of any remediation necessary to provide equivalent alternate service or correct any problems, including relocation or removal of the Wind Turbine, and any and all related transmission lines, transformers, and other components related to the interference.

16.7.2 The Owner/operator of the Wind Turbine Project shall respond within one day to any request for communications interference investigation by any emergency agency (fire, police/sheriff, ambulance). Testing shall commence within two days of the request. The Owner/operator is responsible for mitigating any interference within two days from the determination of interference attributed to the operation of the Wind Turbine.

16.7.3 The Owner/operator of the Wind Turbine Project shall respond within five business days to any request for communications interference investigation by a property owner or resident within a three-mile radius of the Wind Turbine Project. Testing shall commence within ten business days of the request. The owner/operator is responsible for mitigating any interference within ten business days from the determination of interference attributed to the operation of the Wind Turbine.

16.8 Ground Transportation Standards

16.8.1 The Applicant shall identify all public ways to be used within the Town of Freedom to transport equipment and parts for construction, operation or maintenance of the Wind Turbines.

16.8.2 A qualified third party engineer, hired by the Planning Board and paid for by the Applicant, shall document road conditions prior to construction. The engineer shall document road conditions again thirty (30) days after construction is complete or as weather permits.

16.8.3 The Planning Board will determine the potential cost to bring the roads back into shape and require that the applicant provide the town with a performance bond that will be released only upon the completion of construction.

16.8.4 Any road damage caused by the Applicant or its contractors shall be promptly repaired at the Owner/operators expense.

16.8.5 The Applicant shall demonstrate that it has appropriate financial resources to ensure the prompt repair of damaged roads.

16.9 Reporting Requirements:

16.9.1 Extraordinary Events.

The Owner/operator shall notify the Code Enforcement Officer of any extraordinary event within 24 hours of that event. "Extraordinary events" shall include but not be limited to tower collapse, catastrophic turbine failure, fires, leakage of hazardous materials, unauthorized entry to the tower base, thrown blade or hub, any serious injury to a Facility worker or other person that requires emergency medical treatment, or other event that impacts the public health and safety of the Town or its residents.

16.9.2 Change of Owner/operator

The Owner/operator will notify the Town of Freedom of a pending change of ownership in writing 90 days before the effective change.

16.9.3 The Owner/operator must provide copies of reports from safety inspections required by Section 16.5.3 within 30 days of each inspection.

16.9.4 The Owner/operator must provide copies of liability insurance required by Section 15.3 annually prior to relicensing.

17.0 Application Submission Requirements and Procedural Time Frames for Type 1,2,3 & 4

17.1 Type 1 Application

17.1.1 Pre-application Meeting

The Applicant shall schedule a pre-application meeting with the Code Enforcement Officer. The meeting will be used to review the scope of the proposed project and submission requirements. The meeting may be scheduled up to six months prior to submission of the application.

17.1.2 Application Submission

The Applicant shall submit an application to the Code Enforcement Officer. The Code Enforcement Officer will conduct an on-site inspection and collect any required fees associated with the application. Submission requirements and fees for a Type 1 Application are outlined in Appendix B. The Town Clerk will establish a file for the application. The Town Clerk will notify, in writing, all abutters.

17.1.3 Completeness Review

The Code Enforcement Officer shall notify the Applicant within 30 days from the date of submission whether the application is complete. If the application is deemed to be incomplete the Code Enforcement Officer shall indicate the additional information needed. The application shall be deemed abandoned unless the Applicant provides the information requested, or submits in writing the reason for any delay within 30 days from the date of notice indicating the application is incomplete, unless the Code Enforcement Officer has granted an extension of time.

17.1.4 Final Determination

A decision to approve or reject the application, or to approve the application with conditions, shall be made by the Code Enforcement Officer within 30 days from the date of completion. The Code Enforcement Officer's decision must be based on whether the application complies with the requirements of the Ordinance.

17.1.5 Public Hearings

Public hearings for Type 1 Wind Turbines are not required. Non-participating landowners within 1.5x Turbine height may request a meeting with the CEO to review compliance with the applicable standards, but any information provided to the Code Enforcement Officer in such a meeting shall be shared with the Applicant to allow its response.

17.2 Type 2 Applications

17.2.1 Pre-application Meeting

A pre-application meeting with the Planning Board shall be scheduled at a regularly scheduled public Planning Board meeting. At the meeting the Applicant will review the type and scope of the project and the Planning Board will review Ordinance Standards and submission requirements. The Planning Board will establish an application file at this time.

17.2.2 Determine Submission Requirements

Within 30 days of the pre-application meeting the Planning Board shall inform the Applicant in writing of the submission requirements for the application. The submission requirements for Type 2 Wind Turbine Projects are listed in Appendix C. The Planning Board may add to the submission requirements if, given the special characteristics of the planned Wind Turbine Project, additional information is needed to protect the general health, safety, and welfare of the Town or its residents or to adequately review the performance standards set forth in this Ordinance. The Planning Board may, independently and without influence or petition from the Applicant or Applicants representative, modify or waive submission requirements that would not be applicable and would not adversely affect abutting property owners or the general health, safety and welfare of the Town or its residents. The reasoning supporting changes to submission requirements must be substantiated in Board minutes and filed with the Applicant.

17.2.3 Application Submission

The Applicant has up to 120 days after the determination of submission requirements to submit a completed application with the required fees to the Town Clerk. The application shall be deemed abandoned unless the application has been received within 120 days of the determination of submission requirements. The Town Clerk will forward the application to the Planning Board.

17.2.4 Completeness Review

The Planning Board shall notify the Applicant within 30 days from the date of submission whether the application is complete. Specific studies may be required for a consideration of completeness including but not limited to noise studies, DEP certification and permitting, and environmental impact studies. If the application is deemed to be incomplete the Planning Board shall indicate the additional information needed. The application shall be deemed abandoned unless the Applicant provides the information requested, demonstrates that additional time is needed to complete required studies, or submits in writing the reason for any delay within 30 days from the date of notice indicating the application is incomplete.

17.2.5 Site Inspection

The Planning Board and Applicant shall set a mutually agreeable time for the Planning Board to inspect the site. The inspection will be scheduled within 30 days of the Completeness review unless rendered impractical due to seasonal conditions. Site visits will normally be postponed if there is more than one foot of snow on the ground. The site inspection will be treated as a public meeting of the Planning Board with appropriate notices given to the community. While the Planning Board may set additional requirements for the site inspection at the pre-application meeting, the Applicant shall, at minimum, flag the location of the proposed Wind Turbine and relevant property boundaries. The Applicant or a representative will accompany the Planning Board to describe the project and answer any questions.

17.2.6 Public Hearing

The Planning Board shall schedule a public hearing to be held within 30 days of the determination of completeness on the Wind Turbine Project. The hearing may be continued from time to time as necessary to allow full review of the Project, and does not need to be concluded within 30 days.

17.2.7 Notice to Abutters

In addition to any required public notices, the Planning Board shall prepare a notice to abutting property owners and property owners within a distance of 2x the setback of the Wind Turbine. The notice will briefly describe the proposed Wind Turbine Project and notify the recipient of the date, time and place of the site inspection. The notice will be sent by certified mail with mailing costs paid for by the Applicant.

17.2.8 Final Planning Board Determination

A decision to approve or reject the application in accordance with the provisions of this Ordinance, or to approve the application with conditions, shall be made by the Planning Board within 30 days from the date of the conclusion of the public hearing.

17.3 Type 3&4 Applications

17.3.1 Pre-application Meeting

A pre-application meeting with the Planning Board will be scheduled at a regularly scheduled public Planning Board meeting. At the meeting the Applicant will review the type and scope of the project and the Planning Board shall review Ordinance Standards and submission requirements. The Planning Board will establish an application file at this time.

17.3.2 Determine Submission Requirements

Within 30 days of the pre-application meeting the Planning Board shall inform the Applicant in writing of the submission requirements for the application. The submission requirements for Type 3&4 Wind Turbine Projects are listed in Appendix D. The Planning Board may add to the submission requirements if, given the special characteristics of the planned Wind Turbine Project, additional information is needed to protect the general health, safety, and welfare of the Town or its residents or to adequately review the performance standards set forth in this Ordinance. The Planning Board may, independently and without influence or petition from the Applicant or Applicants representative, modify or waive submission requirements that would not be applicable and would not adversely affect abutting property owners or the general health, safety and welfare of the Town or its residents. The reasoning supporting changes to submission requirements must be substantiated in Board minutes and filed with the Applicant.

17.3.3 Application Submission

The Applicant has up to 180 days after the determination of submission requirements to submit a completed application with the required fees to the Town clerk. The application shall be deemed abandoned unless the application has been received within 180 days of the determination of submission requirements. The Town Clerk will forward the application to the Planning Board.

17.3.4 Completeness Review

The Planning Board shall notify the Applicant within 60 days from the date of submission whether the application is complete. Specific studies may be required for a consideration of completeness including but not limited to noise studies, DEP certification and permitting, and environmental impact studies. If the application is deemed to be incomplete the Planning Board shall indicate the additional information needed. The application shall be deemed abandoned unless the Applicant provides the information requested, demonstrates that additional time is needed to complete required studies, or submits in writing the reason for any delay within 30 days from the date of notice indicating the application is incomplete.

17.3.5 Site Inspection

The Planning Board and Applicant will set a mutually agreeable time for the Planning Board to inspect the site. The inspection will be scheduled within 30 days of the Completeness review unless rendered impractical due to seasonal conditions. Site visits will normally be postponed if there is more than one foot of snow on the ground. The site inspection is a public meeting of the Planning Board with appropriate notices given to the community. While the Planning Board may set additional requirements related to the ordinance for the site inspection at the pre-application meeting, the Applicant shall, at minimum, flag the location of the proposed Wind Turbine(s) and relevant property boundaries. The Applicant or a representative will accompany the Planning Board to describe the project and answer any questions.

17.3.6 First Public Hearing

The Planning Board shall schedule a public hearing to be held within 30 days of the site inspection on the Wind Turbine Project.

17.3.7 Notice to Abutters

In addition to any required public notices for the site inspection and first public hearing, the Planning Board will prepare a notice to abutting property owners and property owners within a distance of 2x the setback of the Wind Turbine Project. The notice will briefly describe the proposed Wind Turbine Project and notify the recipient of the dates, times and places of the site inspection and first public hearing. The notice will be sent by certified mail with mailing costs paid for by the Applicant.

17.3.8 Second Public Hearing

The Planning Board will schedule a second public hearing to be held within 60 days of the determination of completeness on the Wind Turbine Project, at which meeting the application will be reviewed for compliance with the permitting standards under this Ordinance. The hearing may be continued from time to time as necessary to allow full review of the Project, and does not need to be concluded within 60 days.

17.3.9 Notice to Town of Freedom

In addition to any required public notices for the second public hearing, the Planning Board will prepare a notice to all residents and property owners in the Town of Freedom. The notice will briefly describe the proposed Wind Turbine Project and notify the recipient of the date, time and place of the second public hearing.

17.3.10 Final Planning Board Determination

A decision to approve or reject the application in accordance with the provisions of this Ordinance, or to approve the application with conditions, will be made by the Planning Board within 60 days from the date of conclusion of the public hearing.

18.0 Professional Services

- 18.1 In reviewing an application for compliance with this Ordinance for Type 3 or Type 4 the Permitting Authority may retain professional services as necessary to assist with its review, including but not limited to those of an attorney, engineer, biologist, or land use planner. Within fourteen (14) days of filing an application the Applicant shall deposit in a joint escrow account with the Town an amount equal to one half of one percent of the estimated cost of the project. If the amount drops below 25% of the initial escrow amount, the Applicant upon notice shall submit an additional one half of one percent of the estimated cost of the project, as partial payment for the appropriate Town expenses in hiring consultants and experts, as the Permitting Authority shall, at its discretion, deem necessary. If at any time the balance of this fund falls below 25% of the initial escrow amount for a period of 30 days after notification the application shall be considered to have been withdrawn. The balance of the escrow account shall be returned to the Owner/operator after all expenses have been paid, and after a permit is granted or the Applicant has withdrawn.
- 18.2 After construction, the Applicant shall deposit in a joint escrow account with the Town, an amount equal to one quarter of one percent of the estimated cost of the project. This shall be known as the testing escrow account. The funds in this account are available to the Code Enforcement Officer to use testing mandated by this ordinance.

19.0 Application Changes / Changes to an Approved Wind Turbine Project

- 19.1 Throughout the permit process, the Applicant shall promptly notify the Permitting Authority of any changes to the information contained in the permit application.
- 19.2 Material changes may not be made to a Wind Turbine Project from the point an application is determined to be complete and following approval of a permit, without initiating a new application process. Material changes include, but are not limited to, increasing the number of Wind Turbines, increasing Turbine Height, changes to the location of Wind Turbines, or material changes to Associated Facilities. Non-material changes require a permit modification as determined by the Permitting Authority. The Permitting Authority shall have sole discretion for determining what is a material or non-material change.

20.0 Cumulative Effect of Multiple Permits

The Town of Freedom reserves the right to limit the total number of Type 3 and Type 4 applications that are under review for approval at any given time. As a guideline:

- 20.1 The Permitting Authority will process no more than 2 Type 3 or Type 4 applications at the same time, or the deadline for submission and review may be modified correspondingly to reflect the increased workload of multiple permits.

21.0 Appeals

- 21.1 The Board of Appeals shall have the power to hear and decide administrative appeals filed with the Board within 30 days from a decision, on an appellate basis, where it is alleged by an aggrieved party that there is a clear error in any order, requirement, decision, or determination made by, or failure to act by, the Reviewing Authority.
- 21.2 The Board of Appeals may reverse the decision of the Permitting Authority only upon finding that the Permitting Authority committed a clear error. The Board of Appeals may only review the record of the proceedings before the Permitting Authority. The Board of Appeals shall not receive or consider any evidence that was not presented to the Permitting Authority, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Permitting Authority's proceedings is inadequate, the Board of Appeals may remand the matter to the Permitting Authority for additional fact finding.
- 21.3 For the purposes of hearing appeals for Type 1 and Type 2 permits, at a minimum, all property owners and residents within the maximum setback standard shall be deemed to have interested party standing and be granted a reasonable and appropriate amount of time to present information and rebuttals. For Type 3 and Type 4 permits, all property owners and residents of the Town shall be deemed to have interested party standings and be granted a reasonable and appropriate amount of time to present information and rebuttals.

22.0 Complaints/ Violations/ Enforcement

22.1 General Standard

It shall be unlawful for any person, firm or corporation to violate or fail to comply with or take any action that is contrary to the terms of this Ordinance, or any permit or Operational License issued under this Ordinance, or cause another to violate or fail to comply or take any action which is contrary to the terms of this Ordinance or any permit issued under this Ordinance.

22.2 Enforcing Authority

The CEO shall serve as the Enforcing Authority for all Wind Turbine Projects.

22.2.1. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person or entity responsible for such violation, indicating the nature of the violation, and order the action necessary to correct it, including discontinuance or unlawful use of land, buildings, structures, or work being done. A copy of such notices shall be filed with the Town Clerk, to be maintained as a permanent record.

22.2.2. The Code Enforcement Officer shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit or license approvals. The Code Enforcement Officer shall investigate all complaints in a timely manner.

22.2.3. The Code Enforcement Officer shall issue all Operational Licenses and renewals, consistent with the terms and conditions as provided herein.

22.2.4. The Municipal Officers are hereby authorized to enter into consent agreements for the purpose of eliminating violations of this Ordinance and recovery of appropriate fines prior to or during Court actions.

22.2.5. The Code Enforcement Officer may appoint qualified representatives to investigate complaints. The reasonable costs and fees for the qualified representative will be paid by the Owner/operator and as a condition of licensing and may include engineers, consultants, and other professionals.

22.3 Enforcement & Penalties

22.3.1 Standards in this Ordinance will be enforced through a series of enforcement option which may include but are not limited to

- 1) Emergency shutdown;
- 2) 5 day response to serious violations with a 10 day mitigation period;
- 3) 30 day complaint resolution with a 30 day mitigation period;
- 4) Suspension or revocation of Operational License; and
- 5) Prosecution and penalties as set forth in 30-A M.R.S.A. § 4452.

22.3.2 Any person or entity that violates the terms or conditions of this Ordinance or the terms and conditions of any permit or license issued pursuant to this Ordinance shall pay the reasonable attorney fees incurred by the Town of Freedom to prosecute said violation, including filing fees, expert fees and costs.

22.3.3 Each day of violation shall be a separate violation, for which penalties pursuant to 30-A MRSA 4452, as amended, may be assessed.

22.3.4 The Code Enforcement Officer may seek temporary and/or permanent injunctive relief as he or she deems appropriate, consistent with Maine law, in any prosecution for unlawful use of property, or for violation of the terms and conditions of a permit or license, or for any violation of the terms and conditions of this Ordinance.

22.4 Emergencies and Emergency Shutdown

The Owner/operator shall be required to immediately cease operations for the duration of any Emergency. Emergency shall mean a proven condition or situation as determined by the Enforcing Authority caused by the Wind Turbine or Wind Turbine Project that presents an imminent physical threat of danger to life or significant threat to property. A Wind Turbine Project that is found to present an imminent physical threat of danger to life or significant threat of damage to property shall be immediately shut down and repaired or otherwise made safe and certified so by a professional engineer prior to resumption of operation. The Enforcing Authority shall have the right to access all Wind Turbines to verify conditions and/or repair progress with reasonable notice to the Wind Turbine owner/operator. Within 24 hours of an occurrence of a tower collapse, turbine failure, property damage or contamination, fires, thrown blade or hub, collector or feeder line failure, injured Wind Turbine worker or private person, the Owner/operator shall notify the Enforcing Authority of the occurrence and proposed remedial action.

22.5 Serious Violations of Standards

The Owner/operator of the Wind Turbine Project shall respond within five business days to any complaints of serious violations of standards, deemed by the Enforcing Authority to have merit. Serious violations shall include but not be limited to:

- 1) 3 verified noise complaints within a period of 1 month or less with a measurable noise level greater than;
 - a.) For Type 1 and Type 2, greater than 45 dBA daytime and 40 dBA nighttime;
 - b.) For Type 3 and Type 4, 10 dBA above pre-construction ambient noise at an Occupied building or 50 dBC at an Occupied Building;
- 2) Serious violations of Shadow Flicker or Blade Reflection standards projected to be in excess of 20 hours annually at an Occupied Building;
- 3) Contamination of potable groundwater sources used for domestic or livestock water supplies,
- 4) Complaints of communication/electromagnetic interference; and
- 6) Any complaints of hazardous waste spills.

Testing, paid for by the Owner/operator, will commence within ten working days of the complaint. Except as noted for interference with emergency communications, the Owner/operator is responsible for mitigating the problem within ten business days from the final determination of any cause attributed to the operation of the Wind Turbine Project. Pursuant to Section 16.7.2, interference with emergency communications must be responded to in one day and mitigated within 2 days.

22.6 Other Violations

If the Code Enforcement Officer determines that a violation of the Ordinance or the permit has occurred, and the violation is determined neither to be an emergency pursuant to Section 22.4, nor a serious violation pursuant to Section 22.5, the Enforcing Authority shall provide written notice to the Owner/operator alleged to be in violation of this Ordinance or permit. The Enforcing Authority and the involved parties shall engage in good faith attempts to resolve the issues. Such attempts shall be conducted within thirty (30) days of the written notice of violation. The Owner/operator shall pay for any necessary testing if the Owner/operator is subsequently determined to be in non-compliance. The Owner/operator is responsible for mitigating the problem within 30 days from the final determination of any cause attributed to the operation of the Wind Turbine Project. Mitigation involving significant construction or physical modification may have up to 90 days to be completed pursuant to Section 16.4.1.

22.7 Suspension or revocation of Operational License

If an Owner/operator fails to comply with any provision of this Ordinance by failing to reach agreement to resolve a violation with the Code Enforcement Officer after the expiration of the mitigation periods defined in Section 22.5 and Section 22.6, the Code Enforcement Officer may suspend or revoke the Operational License, after notice and opportunity for hearing. The Owner/operator has the right to appeal the suspension or revocation of the Operational License as per Section 21.0.

22.8 Other Remedies

The Code Enforcement Officer may order other remedies as he or she deems necessary to assure the safe operation of the Wind Turbine Project in accordance with this Ordinance.

22.9 Identifying Violations and Registering Complaints

22.9.1 Pursuant to Section 16.9.1, the Owner/operator will report to the Enforcing Authority all extraordinary events within 24 hours of their occurrence.

22.9.2 For Type 1 and 2 Wind Turbines the CEO will receive complaints. Complaints will be forwarded to the CEO in a timely manner.

22.9.3 For Type 3 and Type 4 Wind Turbines the Town will maintain, at the Owner/operator's expense, a system for recording and investigating all complaints related to the Wind Turbine Project. The system must be able to receive complaints 24 hours a day, 365 days a year. A permanent record of all complaints, investigations and outcomes will be maintained. The Owner/operator will designate a representative and method to receive and respond to complaints from the Town 24 hours a day, 365 days a year. Complaints for Type 3 and 4 Wind Turbine Projects will be referred to the Code Enforcement Officer in a timely manner.

23.0 Decommissioning Standards:

- 23.1 The Owner/operator shall, at its expense, complete decommissioning of the Wind Turbine Project within:
- 1) twelve (12) months after the end of the useful life of the Wind Turbine as determined by the Owner/operator or;
 - 2) as specified in the materials provided at the time of application or;
 - 3) pursuant to remedies described in Section 22.8, The Wind Turbine will be presumed to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months.
- 23.2 Decommissioning shall include removal of wind turbines and foundations to a depth of 36 inches. All buildings, cabling, electrical components, roads, and any other associated facilities shall be removed unless, at the end of the Turbine or Wind Turbine Project's useful life, as determined in accordance with section 23.1, the Applicant provides written evidence of plans for continued beneficial use of these components of the Wind Turbine Project.
- 23.3 Except as otherwise provided by section 23.2, disturbed earth shall be graded and re-seeded, unless the Participating Landowner of the affected land requests otherwise in writing. Any alterations to Town roads or property during decommissioning must be approved by the Town.
- 23.4 Special Decommissioning Standards for Type, 3 and 4 Wind Turbine Projects

- 23.4.1 An independent and certified Professional Engineer shall be retained to estimate the total cost of decommissioning (“Decommissioning Costs”) without regard to salvage value of the equipment and the cost of decommissioning net salvage value of the equipment (“Net Decommissioning Costs”). The Planning Board shall review the estimates and determine the amount of decommissioning funds that must be guaranteed prior to operation of the Wind Turbine Project. Additional estimates by an independent and certified Professional Engineer shall be submitted to the Code Enforcement Officer every fifth year after approval, along with the application for renewal of the Operational License, and additional funds shall be guaranteed at that time if necessary in accordance with the revised estimate.
- 23.4.2 The Owner/operator shall post and maintain decommissioning funds in an amount equal to Net Decommissioning Costs; provided that at no point shall decommissioning funds be less than twenty five percent (25%) of Decommissioning Costs. The decommissioning funds shall be posted and maintained with a bonding company or Federal or State-chartered lending institution chosen by the Owner/operator and Participating Landowner posting the financial security, provided that the bonding company or lending institution is authorized to conduct such business within the State and is approved by the Town of Freedom, whose approval shall not be unreasonably withheld. Adequate funds shall be posted or guaranteed before the Code Enforcement Officer may issue an Operational License to the Owner/operator.
- 23.4.3 Decommissioning funds may be in the form of a performance bond, surety bond or other similar form of financial assurance as may be acceptable to the Town of Freedom, whose approval shall not be unreasonably withheld.
- 23.4.4 If the Owner/operator fails to complete decommissioning within the period prescribed by Section 23.1, then the Participating Landowner shall have an additional six (6) months to complete decommissioning.
- 23.4.5 If neither the Owner/operator, nor the Participating Landowner completes decommissioning within the periods prescribed by Sections 23.4.1 and 23.4.4 the Wind Turbine or Wind Turbine Project shall be deemed to be in violation of this Ordinance and the Town of Freedom may take such measures as necessary, including court action, to ensure the completion of decommissioning.
- 23.4.6 The escrow agent may release the decommissioning funds when the Owner/operator has demonstrated and the Enforcement Authority concurs that the decommissioning has been satisfactorily completed, or upon written approval of the Town in order to implement the decommissioning plan.

24.0 Community Owned Wind

- 24.1 Pursuant to Title 35-A M.R.S.A. §3402, the Town of Freedom encourages the development of appropriately sited Community Owned Wind Turbine Projects.
- 24.2 Section 24.0 is governed by the definition of Community Owned Wind pursuant to Section 8 of this Ordinance. Nothing in this definition or in Section 24.0 precludes the Town from entering into Wind Turbine Projects in which the Town is a minority owner or general partner. However, by definition, these types of business models are not considered Community Owned Wind.
- 24.3 A request to pursue a Community Owned Wind Project can be initiated by:
 - 1. The Planning Board provided a majority of the Board has so voted;

2. Request of the municipal officers;
 3. Written petition of at least 25 voters registered to vote in Freedom;
 4. The majority of the voters at a Town meeting.
- 24.4 A request or decision to lease Town property to a wind company as part of a Type 4 Industrial Wind Turbine applications shall automatically trigger a feasibility study, unless the Town specifically votes to forgo the study.
- 24.5 After a request is initiated or triggered by Section 24.5, the Selectmen shall be authorized to conduct a feasibility study for the Community Owned Wind Project. The Selectmen will establish a steering committee to conduct the feasibility study. The steering committee shall be authorized to hire appropriate professional consultants to assist with the feasibility study, within financial guidelines established in the Town budget or, if possible, through outside grant funding. The feasibility study shall include but not be limited to:
1. Measuring local wind resources through the use of MET towers or using other methods to identify wind resources.
 2. Identifying best options for Wind Turbine technology consistent with project scale and local ordinances.
 3. Identifying best options for financial performance and financial risk management.
 4. Identifying best options for ownership and legal structure.
 5. Identifying best options for financing including but not limited to state funding, municipal bonds, equity partners, bank financing, state and federal grants.
 6. Identifying best options for daily management and governance of the project.
 7. Identifying opportunities to maximize local financial benefit to both the Town and Town residents, including but not limited to: profit sharing, net metering, tax incentives, and local ownership and investment.
 8. Identifying opportunities for public-private partnerships and methods for competitive bidding and issuing requests for proposals (RFP).
 9. Identifying a project time line and recommended next steps to be taken.
- 24.6 The feasibility study, including collection of 12 months of wind data, must be completed within 18 months from the date of request.
- 24.7 The final feasibility study shall be approved by the full Planning Board and presented to the Town at a special Town meeting and made available to all Town residents.
- 24.8 Action to pursue a Community Owned Wind Project shall require approval of the Selectmen, ongoing communication with Town residents through newsletters and mailings, appropriate public hearings and final Community Owned Wind Project approval by majority vote at a Town meeting. The process shall do everything reasonable to maximize open, transparent public participation.
- 24.9 All work related to a Community Owned Wind Project, if adopted, shall be contracted for using a competitive bidding process.

24.10 The Town of Freedom may partner with other municipalities in creating a Community Owned Wind Turbine Project, if together the municipalities create a legal structure giving the combined municipalities majority ownership or control and the majority of the direct financial benefits accrue to all of the residents of the municipalities.

24.11 All Community Owned Wind Projects shall be subject to review as required for other Wind Turbine Projects under this Ordinance.

24.12 Bidding and Contracting

All bidding, contracts and employment for Community Owned Wind Projects must be awarded through a process of public notice and competitive bidding. The Town of Freedom reserves the right to accept or reject any or all bids.

25.0 Jurisdiction Across Multiple Municipalities

Review of permits for Wind Turbine Projects that are located within more than one municipal jurisdiction shall be coordinated to the fullest extent possible across town boundaries, while at the same time maintaining each individual Town's right to individual Home Rule.

25.1 This Ordinance applies to Wind Turbine Projects located wholly or partially in the Town of Freedom to the fullest extent allowable by municipal, state, and federal law.

25.2 Approval to build or operate a Wind Turbine or Wind Turbine Project applies only to that portion of the Wind Turbine Project located within the boundaries of the Town of Freedom. However, the application must take into account the entire Wind Turbine Project across municipal boundaries, including but not limited to the total number of Wind Turbines, Turbine Height, Wind Turbine location and all other relevant facts and data that may directly or indirectly effect the operation and viability of that portion of the Wind Turbine Project located in the Town of Freedom.

25.3 Setback, Noise, Shadow Flicker and Mitigation Waiver standards for Wind Turbines and Wind Turbine Projects located and operated in the Town of Freedom shall apply to Occupied Buildings, property lines, and roads irrespective of Town boundaries. For the purpose of this section a resident of a neighboring town is afforded the same protections as a resident of Freedom.

25.4 The Town Clerk shall forward notice of Wind Turbine permit applications within 10 days of receipt, and notice of hearings and public meetings 10 days in advance, to the Selectmen and Planning Boards of adjacent communities for all Type 2, 3 and 4 Wind Turbine or Wind Turbine Projects if the neighboring community, or an Occupied Building within the neighboring community, is located within a defined Setback of this Ordinance.

26.0 Ethical Standards

26.1 Transparency, Public Participation and Highest Ethical Standards

All public deliberations and decisions regarding Wind Turbine Projects and Community Owned Wind shall be conducted in an open, transparent manner that encourages the broadest public participation and adherence to the highest ethical standards.

26.2 Public Access

All deliberations concerning Wind Turbine Projects and Community Owned Wind, whether in writing or conducted verbally, by the Planning Board, Selectmen, Appeals Board, and any subcommittees or working groups of the aforementioned bodies shall fully comply with the letter and spirit of State law regarding Freedom of Access pursuant to Title1; Chapter 13; Subchapter 1. Specifically, all deliberations regarding Wind Turbine Projects between members of the Planning Board, Selectmen, Appeals Boards and any subcommittees and working groups shall be conducted at public meetings, which have been duly posted. Exceptions will be made only for: 1) appropriately recorded and executed executive sessions; and 2) communicating the minimal information necessary to set up and facilitate public meetings. Detailed minutes of deliberations and decisions concerning Wind Turbines and Community Owned Wind will be recorded and posted. Copies of all correspondence and e-mails will be made available to the public with the exception of those publically identified and disclosed as being subject to “attorney-client privilege” by the Town attorney. All documents, correspondence and e-mails generated by consultants on behalf of the Planning Board, the Selectmen, Appeals Board, their subcommittees and working groups shall be part of the public record.

26.3 Conflicts of Interest

26.3.1 The process to develop, permit and administer Wind Turbine or Community Owned Wind Projects shall be governed by a strict ethical code for conflicts of interest. No elected or appointed Town official or Town employee, their immediate family members, or their employees, who has a conflict of interest shall be directly or indirectly involved in the planning process or decision-making process for Wind Turbine Projects. Conflicts of interest include but are not limited to:

- 1) Having a lease or other agreement as a Participating Landowner for a Wind Turbine or transmission right-of-way;
- 2) Having an identified financial arrangement with a wind development company including a signed Mitigation Waiver with financial remuneration,
- 3) Serving as a paid representative of a wind development company, or a written or verbal promise for future employment or contracts from a wind development company;
- 4) Being directly or indirectly affiliated as an Applicant or intended Owner/operator with a pending application for Type 3 or Type 4 Wind Turbine Project;
- 5) Knowing there is a substantial opportunity to accept bids, receive remuneration, or employment valued at greater than \$10,000 on behalf a wind development company or as a subcontractor or employee of the Community Owned Wind Project;
- 6) Individuals with a conflict of interest must identify the conflict of interest and recuse themselves from all direct and indirect planning and decision-making regarding Wind Turbine Projects or Community Owned Wind, with the exception of voting and debating as a private citizen at any public meeting and public hearings.

Appendix A - Noise Measurement Standards and Procedures

1. A qualified independent acoustical consultant shall conduct all noise studies. The acoustical consultant shall be hired by and report to the Permitting Authority during the permitting review stage, and by the Code Enforcement Officer for review of any suspected violations or for review of an Operational License.
2. Sound level meters and calibration equipment must comply with the latest version of the American National Standards Institute "American Standard Specifications for General Purpose Sound Level Meters" (ANSI Standard S1.4) and shall have been calibrated at a recognized laboratory within one month prior to the initiation of the study.
3. Except as specifically noted otherwise, measurements shall be conducted in compliance with ANSI Standard S12.18-1994 "Outdoor Measurements of Sound Pressure.
4. Prior to permit application approval, a pre-construction ambient noise level study shall be conducted at each Occupied Building within 2 miles of any proposed Wind Turbine.
5. The tests shall be conducted using both an A-weighting scale (dBA) and low frequency C weighting scale (dBC).
6. Tests shall be reflective of seasonal changes to vegetation and atmospheric conditions. At a minimum one set of tests should be performed during each of the four (4) calendar seasons of the year.
7. All measuring points shall be located in consultation with the property owners and such that no significant obstruction blocks noise and vibration to the site.
8. Outdoor noise level measurements must be taken at 6 feet above the ground and at least 15 feet from any reflective surface.
9. Duration of measurements shall be a minimum of ten continuous minutes for each criteria at each location.
10. Measurements must be made when the wind levels are less than 4.5 mph and with appropriate wind screening for the recording device.
11. Measurements should be obtained during representative weather conditions when the Wind Turbine noise is most noticeable, including periods of temperature inversion most commonly occurring at night.
12. Measurements shall be taken at each of the following three time periods:
 - Day (10 a.m. – 2p.m.)
 - Evening (7p.m. -11 p.m.)
 - Night (12 midnight – 4 a.m.)
13. Each measurement shall be replicated during the same time period over three different days within the same season for a total of 9 measurements per location per season (i.e., three daytime measurements in the winter, three evening measurements in the winter, three night time measurements in the winter). The lowest of the three measurements per time period, per season, will be used to determine the pre-construction ambient noise for that time period and season.

14. For each measurement the following minimum criteria will be recorded:

- L_{max} , L_{eq} , L_{10} and L_{90} in dBA¹
- L_{max} , L_{eq} , L_{10} and L_{90} in dBC
- A narrative description of any intermittent noises registered during each measurement
- Wind speed and direction at time of measurement
- Description of weather conditions at time of measurement
- Description of topography and contours relative to proposed or actual Wind Turbines

15. A 5 dBA and/or a 5 dBC penalty shall be applied for short duration repetitive noise or repetitive impulse noise. This is a characteristic “thumping” or “whooshing” sometimes exhibited by larger Wind Turbines. Per Maine TA Bulletin #4, intermittent noise is a more serious nuisance than constant noise.

16. A 5 dBA penalty shall be applied for tonal noise. This is a single or limited frequency noise (vs. broadband noise) associated with mechanical noise artifacts (i.e. high pitched whining, screeching, buzzing). Per Maine TA Bulletin #4, noise over a narrow frequency is a more serious nuisance than broadband noise.

17. For sites being measured with existing Wind Turbines two sets of measurements are required: 1) one set with the Wind Turbine(s) off and; 2) one set with the Wind Turbine(s) running.

18. For nuisance complaints after the Wind Turbines are operational, the measurement points, season, time, and duration of measurements shall be selected in consultation with the affected property owner. If requested by the property owner, continuous measurements may be taken for longer periods of time to capture intermittent nuisance noise patterns.

19. When conducting their pre-construction noise prediction analysis, the Applicant shall make specific reference to: 1) the unique aspect of the mountainous contours and terrain of the area and its effect on noise predictability and 2) line source noise predictions (emanating from a line of Wind Turbines) in addition to the traditional single point source predictions.

20. Any noise level falling between two (2) whole decibels shall be deemed the higher of the two.

¹ L_{max} - the maximum noise level measured; L_{eq} – average noise level for a given period time; L_{10} – Sound level exceeded 10% of the time; L_{90} Sound level exceeded 90 % of the time, generally equivalent to ambient noise.

Appendix B – Type 1 Small Wind Turbine Submission Standards and Fees

Application Fee: \$25

The Applicant shall submit a written application, which shall include:

1. The Applicant's name, contact information and designation of Owner/operator if different from Applicant.
2. Location of the proposed Wind Turbine including tax map lot number.
3. General description of the proposed Wind Turbine Project including nameplate capacity of turbine, turbine height, manufacturer's specifications for turbine and tower, and proposed use of electricity to be generated (i.e., on-site use, net metering, etc.)
4. Written description and map demonstrating that the Wind Turbine meets the setback requirements of this Ordinance. Include a plot sketch showing Wind Turbine, all nearby structures in the Setback Area, all adjacent Occupied Buildings, property lines and public roads.
5. Written description of how the Wind Turbine Project will comply with noise standards. Manufacturer's noise specifications or similar documentation are adequate.
6. Line drawing of electrical components and description of how the Project will comply with applicable electrical codes.
7. Design of tower, anchoring system and wind rating. If guy wires will be used, provide a declaration that bird diverters will be used (these are inexpensive colored plastic flags that clip to guy wires to increase the wires' visibility to birds).
8. Description of blade clearance and any potential hazards from blade throw or tower collapse.
9. Written description of Wind Turbine braking system.
10. Written description of how Wind Turbine will be designed and/or sited to prevent shadow.
11. For owner designed, owner built, or owner modified systems the CEO may require field testing to measure Wind Turbine noise, additional electrical design review or tower construction review.
12. Attach executed Mitigation Waiver agreements, if any.
13. Other documentation identified by the Code Enforcement Officer during the pre-application Meeting or completeness review as necessary to allow adequate review of the applicable performance standards..
14. Signed affidavit that Applicant has read and is familiar with the Town of Freedom Wind Turbine Ordinance and agrees to abide by its provisions, as may be amended from time to time.

Appendix C – Type 2 Intermediate Wind Turbine Submission Standards and Fees

Application Fee: \$100

The Applicant shall submit a written application, which shall include:

1. The Applicant's name, contact information and designation of Owner/operator.
2. Location of the proposed Wind Turbine including tax map lot number.
3. General description of the proposed Wind Turbine Project including nameplate capacity of turbine, turbine height, manufacturer's specifications for turbine and tower, and proposed use of electricity to be generated (i.e., on-site use, net metering, etc.).
4. Written description and map demonstrating that the Wind Turbine meets setback requirements. Include a plot sketch showing Wind Turbine, all nearby structures in Setback Area, all adjacent Occupied Buildings, property lines and public roads.
5. Written description of how the Wind Turbine Project will comply with noise standards. Manufacturer's noise specifications or similar documentation are adequate.
6. Line drawing of electrical components and description of how project will comply with applicable electrical codes.
7. Design of tower, anchoring system and stability rating. If guy wires will be used, provide a declaration that bird diverters will be used (these are inexpensive colored plastic flags that clip to guy wires to increase the wires' visibility to birds).
8. Description of blade clearance and any potential hazards from blade throw or tower collapse.
9. Written description of Wind Turbine braking system.
10. Written description of how Wind Turbine will be designed and/or sited to prevent shadow
11. Written description of how the Wind Turbine Project will comply with Section 15.1 "Appearance and Visibility Standards".
12. Written description of how Wind Turbine Project meets or will meet Section 15.2 "Safety Standards".
13. For owner designed, owner built, or owner modified systems the Permitting Authority may require field-testing to measure Wind Turbine noise, additional electrical design review by a certified electrician, or tower construction review by a certified engineer.
14. Proof of Liability Insurance.
15. Contract with Maine licensed professional engineer to conduct post construction structural and operational inspection and written agreement by Applicant to submit proof of successful inspection as a condition of permitting before operating Wind Turbine Project.
16. Other documentation identified by the Permitting Authority during the pre-application meeting or completeness review as necessary to allow adequate review of the applicable performance standards.
17. Attach executed Mitigation Waiver agreements, if any.
18. Signed affidavit that Applicant has read and is familiar with the Town of Freedom Wind Turbine Ordinance and agrees to abide by its provisions as may be amended from time to time.

Appendix D – Type 3&4 Large Wind Turbine Submission Standards and Fees

Type 3 Application Fee*: \$1000

Type 4 Application Fee* \$5000

Professional Fees Escrow*: one half of one percent of the estimated cost of the project

Road Damage Bond*: The value of the bond will be determined by the Planning Board.

Decommissioning Fund*: A performance bond or a cash escrow account held by the Town with 5% of the estimated cost of decommissioning to be added by the Owner/Operator on an annual basis shall be acceptable surety, the total amount to be based on the estimated cost of completing the decommissioning and site restoration in accordance with the approved plan, adjusted for inflation, and as approved by the Planning Board.

Other:

All information in this application, unless specified, will become part of the public record. Information submitted by the Applicant must be continuously updated throughout the application process as changes are made or new information becomes available.

The Applicant shall include a written application, which shall include:

1. Applicant's name and contact information.
2. Legal Owner/operator and contact information.
3. Description of the legal structure of the Wind Turbine Project including a corporate organizational chart, ownership and equity structure, and all investors.
4. Description of the proposed Wind Turbine Project that includes the number of Wind Turbines, the nameplate capacity, Turbine Height and manufacturer's specifications for each Wind Turbine, the aggregate generating capacity of the entire project, and a description of associated facilities.
5. Location map(s) of the project showing the location of the each Wind Turbine, associated facilities, all property under partial or total control of the Applicant including easements and those under lease with Participating Landowners, roads, municipal boundaries, proximity to Scenic or Special Resource features in the Town of Freedom and major geographical features.
- 6 . Detailed site plan showing the location of each Wind Turbine and Associated Facility and any of the following features located within 1.5 x the required setback: property boundaries, required setbacks, topographic contour lines (maximum 20-foot interval), buildings (identify use), roads, driveways, right-of-ways, overhead utility lines, Scenic or Special Resources, tree cover, wetlands, streams, water bodies, areas proposed to be cleared of vegetation or re-graded, and areas proposed to be significantly excavated or blasted.
- 7 . Copies of all Participating Landowner agreements and easement agreements. Only dollar amounts may remain confidential.
8. Copies of any deeds or purchase agreements for land owned or under option by the Owner/operator.
9. Receipt showing payment of application fees and escrow for professional and public hearing fees.*

10. Proof of financing.
11. Reference list of all previous Wind Turbine Projects with which the Owner/operator has been affiliated.*
12. Proof of compliance with all required setbacks. The Applicant shall work with the Permitting Authority to complete a pre-construction noise study per Appendix A. This study must be completed before the permit can be approved.
13. A detailed noise prediction model for worst-case noise scenarios based on wind speed and wind direction for the Wind Turbine Projected. The study shall be projected onto a contour map for a minimum of two miles from each Wind Turbine. Worst-case scenarios for each Occupied Building within the 2-mile radius shall be reported in table form. The model will address the unique mountainous terrain of the area. Noise predictions will include both single source and line source origination. All underlying assumptions and algorithms in the model will be documented.
14. The Wind Turbine manufacturer's noise emission specifications for each Wind Turbine model.
15. A shadow flicker and blade reflection model for the proposed Wind Turbine Project. The model will provide a worst-case scenario (100%) seasonal representation for each Occupied Building within two miles of any Wind Turbine. The model will calculate maximum hours of shadow flicker and blade reflection in table form for each Occupied Building.
16. Copies of all executed Mitigation Waiver agreements concerning Setbacks, Noise and Shadow Flicker/Blade Reflection. Only dollar amounts may remain confidential.
17. Written demonstration that the Wind Turbine Plan is consistent with the Freedom Land Use Ordinance.
18. Documentation showing compliance with Section 16.2.1 "Environmentally Sensitive Areas", both during construction and post construction.**
19. Documentation showing compliance with Section 16.2.2 "Wildlife Protection" and with Section 16.2.3 "Raptor Habitat".
20. Documentation showing compliance with Section 16.2.4 "Erosion Control" Documentation must include a construction site erosion plan and storm water runoff control plan that minimizes potential adverse impacts on streams and wetlands.
21. Documentation showing compliance with Section 16.2.5 "Groundwater Protection".
22. Documentation showing compliance with Section 16.2.6 "Light Pollution".
23. Written evidence that the Environmental Coordinator of the Maine Department of Inland Fisheries and Wildlife and the Maine Natural Areas Program have both been notified of the pending application and the location and Turbine Height of all proposed Wind Turbines.
24. A Location of Development permit from the Maine Department of Environmental Protection (DEP) pursuant to Title 35-A M.R.S.A. §3451, Title 35-A M.R.S.A. § 3456 and Title 38 M.R.S.A § 482 if required.
25. A visual impact assessment pursuant to Section 16.3.*

26. Photographs of existing conditions of each Wind Turbine and associated facility site.
- A Sight Line Representation shall be drawn that shows the lowest point to the Wind Turbine visible from each location. Each sight line shall be depicted in profile, drawn at one-inch equals 40 feet. The profiles shall show all intervening trees and physical structures.
 - Each Sight Line shall be illustrated by one four-inch by six-inch color photograph of the current view.
 - Each of the existing condition photographs shall have the proposed Wind Turbines superimposed on it to accurately simulate the Wind Turbine Project when built.
 - Elevations of the tops of any structures on the subject property relative to the elevation of the Wind Turbine(s)
 - The height and elevation relative to the Wind Turbine(s) of trees, both existing and proposed, that are to provide visual buffering. In the case of trees to be planted, the proposed height at the time of planting as well as the projected mature height is to be provided. [State Model Ordinance]
27. Written narrative regarding how the Project will comply with 15.1 "Appearance and Visibility Standards".
28. Written narrative regarding how the Project will comply with 15.2 "Safety Standards". Provide a written description of emergency and normal shut down operations.
29. Submit contract with Maine licensed professional engineer to conduct post construction structural and operational inspection and written agreement by Applicant to submit proof of successful inspection as a condition of permitting before operating Wind Turbine Project
30. Proof of ability to obtain Liability Insurance for the Project, and applicable limits.
31. Timeline showing all aspects of the construction.
32. Photographs and detailed drawings of each Wind Turbine, including foundation design. Details must be provided of all significant excavation and blasting.
- 33 Demonstrate compliance with Section 16.4.3 "Transmission Line Standards". A map shall be provided showing all transmission lines and rights-of-way that will need to be built or upgraded to accommodate the Wind Turbine Project. Applicant shall submit copies of signed letters of intent to grant easements, long-term leases or other property rights from involved landowners and any governmental unit responsible for access, approval or construction of electric transmission and distribution lines, whether part of the Wind Turbine Project or part of the local electrical distribution grid. The Applicant shall submit an affidavit stating that no property will need to be taken by eminent domain to facilitate transmission lines necessary to support the project.
34. A geological report from a registered geotechnical engineer demonstrating that the soils can support the Wind Turbines and the underlying ground is geologically stable. The report shall include a slope stability analysis and any underlying fault zones.

35. A written summary of all routine operation and maintenance procedures for the Wind Turbine Project.
36. Demonstrate compliance with Section 16.6 "Public Safety and Health Standards". Provide an estimate of required new equipment and training to be provided.
37. Document all potential hazardous wastes that will be used on the Wind Turbine Project, and how these wastes will be transported, handled, stored, cleaned up if spilled, and disposed of during any phase of the project's life.
38. A communication/electromagnetic interference study prepared by a registered professional engineer showing that the proposed Wind Turbine Project will comply with Section 16.7 "Communication/Electromagnetic Interference Standards". The Owner/operator shall sign an affidavit stating that the Owner/operator shall be responsible for the full cost remediation to remain in compliance with this Section.
39. Demonstrate compliance with Standard 16.8 "Ground Transportation Standards" Before and after photographs or videos of the roadways, in a format approved by the Permitting Authority, shall be submitted as part of the documentation process.
40. An affidavit agreeing to comply with all provisions in Section 16.9 "Reporting Requirements".*
41. A decommissioning plan in compliance with Section 23.0 "Decommissioning Standards".
42. If the Wind Turbine Project crosses multiple municipal jurisdictions the Applicant shall demonstrate compliance with Section 25.0.
43. Applicant shall deliver a letter by certified mail to the owner of any property that the Applicant proposes to be restricted by the permit. The letter will state that the Applicant has filed an application, list future development that will be restricted, and to what extent it will be restricted, on abutting properties by virtue of the permit being granted. Examples of restrictions include, but are not limited to, Occupied Buildings within the setback area without a Mitigation Waiver, building structures (i.e. Wind Turbines or cell towers that the Wind Turbine Project would interfere with), zones in which future telecommunication installations can expect interference from the Wind Turbine Project.
44. Proof that the Applicant has notified the following agencies via certified mail and received any necessary permits or permissions for the project:
 - Federal Aviation Administration.
 - U.S. Department of Defense facilities located within 50 miles from the proposed Wind Turbine Project.
45. Other relevant studies, reports, plans, information, certifications and approvals as may be reasonably requested by the Permitting Authority to ensure compliance with this Ordinance.
46. Signed affidavit from the Owner/operator that Applicant has read the Town of Freedom Wind Turbine Ordinance and agrees to abide by its provisions, as may be amended from time to time.

* May be waived for Community Owned Wind Turbine Projects.

Appendix F – Mitigation Waiver Form

THIS DECLARATION OF COVENANT is made by _____ (collectively, "Grantor"), the owner(s) of a certain lot or parcel of kind situated in the Town of Freedom and State of Maine, more particularly described in the deed dated _____ and recorded at the _____ (hereinafter referred to as the "Servient Land").

WHEREAS _____ having a mailing address at _____ ("Grantee"), plans to construct and operate a wind power project, including wind turbine generators and towers and related equipment, facilities, infrastructure and substructures (hereinafter referred to as the "Wind Power Project"), on lands near the Servient Land, including (without limitation) the lands described on the attached Exhibit A;

WHEREAS, the Wind Power Project may include activities that produce annoyance, inconvenience, or discomfort to Grantor in connection with its 'use and enjoyment of the Servient Land; and

WHEREAS, Grantor has agreed to grant a perpetual negative covenant to Grantee, whereby Grantor covenants and agrees not to object to the Wind Power Project operations;

Now, THEREFORE, for good and valuable consideration received, Grantor hereby grants a perpetual negative covenant to Grantee, whereby Grantor covenants and agrees for itself, its heirs, successors and assign, not to object to the Wind Power Project, or to any activities arising from the construction or operation of the Wind Power Project that produce annoyance, inconvenience, or discomfort to Grantor in connection with its use and enjoyment of the Servient Land. Without limiting the generality of the foregoing, Grantor hereby: (a) agrees not object to visual impacts, sound (including, without limitation, sound that exceeds otherwise applicable state or local maximum sound level limits for the Servient Land), shadow flicker, cell tower interference, or construction or operation impacts made or arising in connection with the Wind Power Project; and (b) waives, releases, and forever discharges Grantee from any action, claim, suit or proceeding in equity, law and/or administrative proceeding that Grantor may now have or may have in the future against Grantee (including, without limitation, any claim of negligence, public or private- nuisance, trespass, or infliction of emotional distress) relating to any effect of the construction or operation of the Wind Power Project upon Grantor's use and enjoyment of the Servient Land.

This Declaration of Covenant shall extend to, be binding upon and shall inure to the benefit of heirs, personal representatives, successors and assigns of the parties hereto. The burden of the negative covenant hereby granted shall run with the Servient Land. The benefit of the negative covenant hereby granted is not appurtenant to any particular property, but shall be transferable in whole or in part, and may be sold, leased, assigned, pledged, and mortgaged by Grantee, it being the intent of the parties that such benefit maybe transferred to any successors or assignees of Grantee that own or operate the Wind Power Project, as it may be modified, divided or expanded.

The benefit of the negative covenant hereby granted may be enforced by Grantee, its successors and assigns, by any appropriate legal or equitable remedy. In the event that Grantee, its successors or assigns, shall bring an action against Grantor, it's successors or assigns, by reason of a breach or violation of this negative covenant by Grantor, it's successors and assigns, the substantially prevailing party in such action shall be entitled to recover their reasonable attorneys' fees and court costs incurred in such action from the substantially non-prevailing party.

Witness our hands and seals _____ day of _____, _____

In the presence of: GRANTOR

Print _____

STATE OF: _____

COUNTY OF: _____

Personally appeared the above-named _____
and acknowledged the foregoing instrument to be his/her/their free act and deed.

Before me,

Notary Public/Attorney-at-Law

Print Name: _____

My Commission Expires: _____

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