

*Town of Freedom
Commercial Development
Review Ordinance*

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Commercial Development Review Ordinance

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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).