

# **FREEPORT TOWN CHARTER**

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**CHARTER OF THE TOWN OF FREEPORT**

**ARTICLE I**

**GRANT OF POWERS TO THE TOWN**

1.01 **Powers of the Town**

The inhabitants of the Town of Freeport shall continue to be a municipal corporation by the name of the Town of Freeport. The town shall have all powers possible for a municipality to have under the Constitution and laws of Maine.

1.02 **Construction**

The powers of the town under this charter shall be construed liberally in favor of the town, and the specific mention of particular powers in the charter shall not be construed as limiting in any way the general power stated in this article.

1.03 **Intergovernmental Relations**

The town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or civil divisions or agencies thereof, or with the United States or any agency thereof.

## **ARTICLE II**

### **TOWN COUNCIL**

#### **2.01 Composition, Eligibility, Election and Terms**

(a) Composition There shall be a town council of seven members. Three shall be nominated and elected by the qualified voters of the town at large and one shall be nominated and elected by the qualified voters of each of the four council districts as provided by Article VII.

(b) Eligibility Only qualified voters of the town shall be eligible to hold the office of councilor. District councilors shall reside in the districts from which they have been elected.

(c) Election and Terms Councilors shall be elected to serve staggered three year terms. At each regular municipal election councilors shall be elected to fill the positions of those whose terms expire.

#### **2.02 General Powers and Duties**

All powers of the town shall be vested in the council except as otherwise provided by law or this charter. The council shall provide for the exercise thereof and for the performance of all duties and obligations imposed on the municipality by law. The council shall be the municipal officers of the town.

#### **2.03 Appointments**

The following officials and boards shall be appointed by a majority vote of the members of the town council: town manager, town attorney, board of assessment review, planning board, board of appeals and other boards when such appointment is required by state statute or municipal ordinance. The council may, where appropriate and where not prohibited by law, vest in the town manager all or part of the duties of any office.

#### **2.04 Investigations**

The council may make investigations into the affairs of the town and the conduct of any town department, office or agency. For this purpose the council shall enact an ordinance providing for the compulsory attendance of witnesses, the administering of oaths, the taking of testimony and the compulsory production of evidence.

#### **2.05 Judge of Qualifications**

The town council shall be the judge of the election and qualifications of its members and for such purposes shall have power to subpoena witnesses and require production of records, but the decision of the council in any such case shall be subject to review by the courts.

2.06 **Prohibitions**

(a) **Holding Other Office:** Except where clearly authorized by law, or pursuant to an agreement under the Interlocal Cooperation Act, no councilor shall hold other town office or town employment during the term for which the councilor was elected to the council, and no former councilor shall hold any compensated appointive town office or employment until one year after the expiration of the term for which the councilor was elected to the council.

(b) **Appointments and Removals:** Neither the council nor any of its members shall in any manner dictate the appointment or removal of any town administrative officials or employees whom the manager or any of the manager's subordinates are empowered to appoint, but the council may express its views and fully and freely discuss with the manager anything pertaining to appointment and removal of such officials and employees.

(c) **Interference with Administration:** Except for the purpose of inquiries and investigations under Section 2.03, the council or its members shall deal with town officials who are subject to the direction and supervision of the manager, solely through the manager, and neither the council nor its members shall give orders to any such official or employee, either publicly or privately.

2.07 **Vacancies: Forfeiture of Office; Filling of Vacancies**

(a) **Vacancies:** The office of councilor shall become vacant upon the councilor's nonacceptance, resignation, abandonment, death, permanent disability, recall, permanent incompetence, failure to qualify for the office within 10 days after written demand by the council, forfeiture of office or failure of the municipality to elect a person to the office.

(b) **Forfeiture of Office:** A councilor shall forfeit his or her office if the councilor (1) lacks at any time during his or her term of office any qualification for the office prescribed by this Charter or by law; (2) violates any express prohibition of this Charter; (3) is convicted of a crime or offense which is reasonably related to his or her ability to serve as a councilor; or (4) fails to attend three consecutive regular meetings of the council without being excused by the council.

(c) **Filling of Vacancies:** If a seat in the town council becomes vacant more than 6 months prior to the next regular election, the council shall call a special election to fill the unexpired term within 60 days from the date that the vacancy occurred. If a seat in the council becomes vacant less than 6 months prior to the next regular election, the council may call a special election.

2.08 **Compensation; Expenses**

The town council may determine the annual salary of the chairperson and councilors by ordinance, but no ordinance increasing such salary shall become effective until the commencement of the terms of councilors elected at the next regular election. Councilors elected in a special election shall be paid on a pro rata basis for the time they shall actually serve. Councilors shall receive their actual and necessary expenses incurred in the performance of their duties of office.

2.09 **The Presiding Officer**

The council shall elect, from among its members, officers of the town who shall have the titles of chairperson and vice chairperson, each of whom shall serve at the pleasure of the council. The chairperson shall preside at meetings of the council, shall be entitled to vote on all questions and shall be recognized as head of the town government for all ceremonial purposes, and by the Governor for purposes of military law. The vice chairperson shall act as chairperson during the absence or disability of the chairperson. The chairperson and vice chairperson shall have those administrative and other duties prescribed by the Council.

2.10 **The Secretary of the Council**

The council shall appoint a secretary to the council and shall fix compensation. The secretary to the council shall give notice of council meetings to its members and the public, keep the journal and record verbatim all council meetings and perform such other duties as are assigned by this charter and the council.

2.11 **Procedure**

(a) Meetings: The council shall meet regularly at least once in every month at such times and places as the council may prescribe by rule. Special meetings may be held on the call of the chairperson or of 4 or more members by causing a notification to be given in hand or left at the usual dwelling place of each council member. If practicable, such notice shall be given not less than twelve hours before the special meeting and shall be published in a paper having general circulation in the town. All meetings shall be public. The council may recess into a closed or executive session only when such action is in accordance with statutes of the State of Maine.

(b) Rules and Journal: The council shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings. This journal and verbatim record of council meetings shall be a public record.

(c) Voting: Voting, except on procedural motions, shall be by roll call and the ayes and nays shall be recorded in the journal. The journal shall indicate the vote cast by each individual councilor on each roll call vote. A majority of the council shall constitute a quorum, but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the council. No action of the council, except as provided in the preceding sentence and in Section 2.07 (c), shall

be binding or valid unless adopted by the affirmative vote of a majority of the members of the council.

(d) Action: The council shall act only by ordinance, order or resolve. An ordinance is legislative in nature and prescribes general, uniform and permanent rules of conduct related to the corporate affairs of the Town of Freeport. An order is authority to perform a specified act conferred by the council. A resolve is an action less formal or solemn than an ordinance and is appropriate for most other actions of the council that are not required to be performed by ordinance. A resolve is appropriate for ministerial acts and the administrative business of the council.

All ordinances, orders and resolves, except orders or resolves making appropriations of money, shall be confined to one subject which shall be clearly expressed in the title. All appropriation orders or resolves shall be confined to the subject of appropriations only.

(e) Making of Contracts: The making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or notes or the making of contracts for capital improvements exceeding \$100,000 must be authorized by ordinance.

(f) Acts of the Council: All acts of the council which provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed shall be by ordinance.

- 2.12 The Town Council shall not enact any ordinance transferring R.W.S. disposal costs to the people by enactment of a user fee, "Pay Per Bag" or other new tax.

The Town Council shall not amend the Freeport Comprehensive Plan to designate a Growth Area west of I-95 between Beech Hill Road and the Desert Road, commonly referred to as the West Freeport Village Area.

2.13 **Ordinances in General**

(a) Form: Every proposed ordinance shall be introduced in writing and in the form required for final adoption. The enacting clause shall be "The Town of Freeport hereby ordains..." Any ordinance which repeals or amends an existing ordinance shall set out in full the ordinance sections or subsections to be repealed or amended, and shall indicate matter to be omitted by enclosing it in brackets or by strikeout type and shall indicate new matter by underscoring or by italics.

(b) Procedure: A proposed ordinance may be introduced by any member at any regular or special meeting of the council. Upon introduction of any ordinance, the Secretary to the Council shall distribute a copy to each council member and to the Town Manager; shall file a reasonable number of copies in the office of the Clerk and such other public places as the

council may designate, and shall cause publication of the same, as defined in Section 2.13 (c) below, together with a notice setting out the time and place for a public hearing thereon and for its consideration by the council. The public hearing shall follow the publication by at least seven days, may be held separately or in connection with a regular or special council meeting and may be adjourned from time to time. All persons interested shall have a reasonable opportunity to be heard. After the hearing the council may adopt the ordinance with or without amendment or reject it; but in no case shall the ordinance be adopted or rejected in less than 14 days after the public hearing unless a majority of the Town Council votes to act on the proposed ordinance immediately following the public hearing. If an ordinance is amended as to any matter of substance, the council may not adopt it until the ordinance or its amended sections have been subjected to all the procedure herein before required in the case of a newly introduced ordinance.

(c) “Publication” Defined: As used in this section, publication may be achieved by printing in one or more newspapers of general circulation in the town: (1) the ordinance or a brief summary thereof prepared by the Council Secretary; (2) the places where copies of it have been filed and the times when they are available for public inspection; and (3) the date, time and place of the public hearing. However, publication may also be achieved in whole or in part by alternate or additional means reasonably calculated to reach the citizens of Freeport, such as electronically. When, in relation to an ordinance, the method of notice or publication is established by general law, that method shall be followed.

#### 2.14 **Emergency Ordinances**

To meet a public emergency affecting life, health, property or the public peace, the council may adopt one or more emergency ordinances. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of a least the majority plus one member shall be required for adoption. After its adoption the ordinance shall be posted in three public places. It shall become effective upon adoption or at such later times as it may specify. Every emergency ordinance except one authorizing the issuance of emergency notes shall stand repealed as of the 61st day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance in the manner specified in this section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinance.

#### 2.15 **Authentication and Recording; Codification; and Printing.**

(a) Authentication and Recording: All ordinances adopted by the council shall be authenticated by the signature of the secretary of the council and recorded in full by the clerk in a properly indexed book kept for the purpose.

(b) Codification: Within three years after adoption of this charter and at least every ten years thereafter, the council shall provide for the preparation of a general codification of all

ordinances, except those required by Section 2.11 (e). The general codification shall be adopted by the council by ordinance and shall be printed promptly in bound or loose-leaf form, together with this charter and any amendments thereto; pertinent provisions of the Constitution and other laws of the State of Maine and other rules and regulations as the council may specify. Any codification ordinance may be published by title. This compilation shall be known and cited officially as the Freeport Code. Copies of the code shall be furnished to officials, placed in libraries and public offices for free public reference and made available for purchase by the public at a reasonable price fixed by the council.

(c) Printing of Ordinances: The council shall cause amendment to this Charter and each ordinance, except those required by Section 2.11 (e) to be printed promptly following its adoption, and the printed ordinances and Charter amendments shall be distributed or sold to the public at reasonable prices to be fixed by the council. Following publication of the first Freeport Code and at all times thereafter, the ordinances and Charter amendments shall be printed in substantially the same style as the code currently in effect and shall be suitable in form for integration therein. The council shall make such further arrangements as it deems desirable with respect to reproduction and distribution of any current changes in or addition to the provisions of the Constitution and other laws of the State of Maine or other rules and regulations included in the code.



## **ARTICLE III**

### **TOWN MANAGER**

#### **3.01 Appointment; Qualifications**

The town council shall appoint a town manager for either an indefinite or definite term and shall fix the manager's compensation. The manager shall be appointed on the basis of his or her executive and administrative qualifications. The manager need not be a resident of the town or State at the time of his or her appointment but may reside outside the town while in office only with the approval of the council.

#### **3.02 Removal**

The council, respecting the confidentiality provisions of 1 M.R.S.A. § 405(6)(A) and 30-A M.R.S.A. § 2702(B), may remove the manager from office in accordance with the following procedures: (1) the council shall adopt by affirmative vote of a majority of all its members a preliminary resolution which must state the reasons for removal and may suspend the manager from duty for a period not to exceed 30 days. A copy of the resolution shall be delivered within 48 hours to the manager; (2) within 5 days after receiving a copy of the resolution, the manager may file with the council a written request for a hearing, which may be held publicly at the manager's request. This hearing shall be held at a council meeting not earlier than 10 nor later than 20 days after the request is filed. The manager may file with the council a written reply not later than 5 days before the hearing; (3) the council may adopt a final resolution of removal, which may be effective immediately by affirmative vote of a majority of all its members at any time after 10 days from the date when a copy of preliminary resolution was received by the manager, if the manager has not requested a hearing, or at any time after the hearing, if the manager requested one; (4) the manager shall continue to receive his or her salary until 30 days thereafter effective date of final resolution or removal.

#### **3.03 Absence of Town Manager**

By letter filed with the town clerk the manager shall designate, subject to approval by the town council, a qualified person to exercise the powers and perform the duties of manager during the manager's temporary absence or disability. During such absence or disability, the council may revoke such designation at any time and appoint another person to serve until the manager shall return or the manager's disability shall cease. In the event of failure of the manager to make such designation, the council may by resolve appoint a qualified person to perform the duties of the manager until the manager shall return or until the manager's disability shall cease.

3.04 **Powers and Duties of Town Manager**

The town manager shall be the chief administrative officer of the town. The manager shall be responsible to the council for the administration of all town affairs placed in the manager's charge by or under this charter. The manager shall have the following powers and duties:

- (1) The manager shall appoint and remove the town clerk, treasurer, tax collector, town assessor and department heads subject to the confirmation of the town council. The manager shall appoint and remove when necessary all other administrative officials and town employees, except as the manager may authorize the head of a department or office to appoint or remove subordinates in such department or office and except as otherwise provided by law, by this charter, or by personnel rules adopted pursuant to this Charter;
- (2) The manager shall direct and supervise the administration of all departments offices and agencies of the town, except as otherwise provided by this Charter or by law;
- (3) The manager shall attend council meetings, and shall have the right to take part in discussions but may not vote;
- (4) The manager shall see that all laws, provisions of this Charter and acts of the council, subject to enforcement by the manager or by officials subject to the manager's direction and supervision, are faithfully executed;
- (5) The manager shall prepare and submit the annual budget and capital program to the council;
- (6) The manager shall submit to the council and make available to the public a complete report on the finances and administrative activities of the town as of the end of each fiscal year;
- (7) The manager shall prepare and submit to the council such reports and shall perform such duties as the council may require and shall make such recommendations to the council concerning the affairs of the town as the manager deems advisable;
- (8) The manager shall assist, insofar as possible, residents and taxpayers in discovering their lawful remedies in cases involving complaints of unfair vendor, administrative and governmental practices.

## **ARTICLE IV**

### **ADMINISTRATIVE ORGANIZATION**

#### **4.01 Creation of Departments**

The council by ordinance may establish or abolish town departments, offices or agencies in addition to those created by this Charter and may prescribe the function of all departments, offices, and agencies, except that no function assigned by this Charter to a particular department, office or agency may be discontinued or, unless this Charter specifically so provides, assigned to any other.

#### **4.02 Direction by Manager**

All departments, offices, and agencies under the direction and supervision of the manager shall be administered by an official appointed by and subject to the direction and supervision of the manager. With the consent of the council, the manager may serve as the head of one or more such departments, offices, or agencies or may appoint one person as the head of two or more of them.

#### **4.03 Personnel Administration**

(a) Merit Principle: all appointments and promotions of town officials and employees, subject to the direction and supervision of the manager, shall be solely on the basis of merit and fitness demonstrated by examination or other evidence of competence.

(b) Personnel Director: The town manager or a person appointed by the manager shall be designated personnel director. The personnel director shall administer the personnel system of the town.

(c) Personnel Rules: The personnel director shall, on an as-needed basis, update the town's personnel rules. The manager shall submit such updates to the council which the council shall adopt by ordinance, with or without amendment. These rules shall provide for:

- 1) The classification of all town positions, based on the duties, authority and responsibility of each position, with adequate provision for reclassification of any position whenever warranted by changed circumstances;
- (2) A pay plan for all town positions;
- (3) Methods for determining the merit and fitness of candidates for appointment or promotion, demotion or dismissal;
- (4) The policies and procedures regulating reduction in force and removal of employees;
- (5) A retention and retirement plan for town employees;

- (6) The hours of work, attendance regulations and provisions for sick and vacation leaves;
- (7) The policies and procedures governing persons holding provisional appointments;
- (8) The policies and procedures governing relationships with employee organizations;
- (9) Policies regarding in-service training programs;
- (10) Grievance procedures, including procedures for the hearing of grievances; and
- (11) Other practices and procedures necessary to the administration of town personnel system.

4.04 **Assessment Administration and Assessment Review**

(a) Assessor: There shall be a single assessor. The assessor shall have such duties and be subject to such liabilities as are prescribed for such assessors under the laws of the State of Maine.

(b) Board of Assessment Review; Appointments; Procedures: There shall be a board of assessment review to consist of 5 qualified voters of the town who shall be appointed by the council for a term of 3 years. Annually the board shall choose a chairperson, a vice-chairperson and a secretary from its membership. The secretary shall keep a complete, accurate record of all votes taken at the meetings of the board and provide a certified copy to the assessor. Three members of the board shall constitute a quorum for the purpose of hearing and voting upon a matter presented to the board. Any members having a financial interest in a matter presented to the board shall disqualify themselves and in such event the remaining members of the board shall constitute the board of assessment review. The council shall determine the compensation of the board.

(c) Board of Assessment Review; Powers, Duties: The board of assessment review shall have the same powers that are granted to such boards by the laws of the State of Maine. It shall adopt, subject to council approval, such regulations as may be necessary to carry out its functions of assessment review, which regulations shall be published annually in a newspaper having a general circulation in the town.

## **ARTICLE V**

### **DEPARTMENT OF EDUCATION**

#### **5.01 Education**

The public school education of Town of Freeport K-12 students shall be through Regional School Unit 5 or its successor, whether another regional entity or a municipal school, pursuant to the provisions of the laws of the State of Maine related to education. Should the Board of Regional School Unit 5 or its successor authorize the formation of local school committees for member municipalities, a local school committee shall be established in accordance with 20-A M.R.S.A. §§ 2301, et seq.

## **ARTICLE VI**

### **FINANCIAL PROCEDURES**

#### **6.01 Municipal Fiscal Year**

The fiscal year of the town shall begin on July 1 and shall end on June 30 except that the council may by ordinance change the fiscal year to conform to general municipal practice in the State.

#### **6.02 Responsibility for Budget Preparation**

The town manager, at least 60 days prior to the beginning of each fiscal year, shall submit to the town council a budget and an explanatory budget message.

#### **6.03 Budget**

The budget shall provide a complete financial plan of all town funds and activities for the ensuing fiscal year, and, except as required by this Charter, shall be in such form as the manager deems desirable or the council may require. In organizing the budget the manager shall present a line item budget utilizing the most feasible combination of expenditure classification by fund, organization unit, program, purpose or activity, and object. It shall begin with a clear general summary of its contents; shall show in detail all estimated income, indicating the proposed property tax levy, and all proposed expenditures, including debt service, for the ensuing fiscal year; and shall be so arranged as to show comparative figures for actual and estimated income

and expenditures of the current fiscal year and actual income and expenditures of the preceding fiscal year. It shall indicate in separate sections:

- (1) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices, departments and agencies in terms of their respective work programs, and the method of financing such expenditures;
- (2) Proposed capital expenditures during the ensuing fiscal year, detailed by offices, departments, and agencies when practicable and the proposed method of financing each such capital expenditure; and
- (3) Anticipated net surplus or deficit for the ensuing fiscal year of each utility owned or operated by the town and proposed method of its disposition; subsidiary budgets for each such utility giving detailed income and expenditure information shall be attached as appendices to the budget.

The total of proposed expenditures shall not exceed the total of estimated income.

6.04 **Capital Program and Capital Budget**

(a) Submission of Capital Program to Council: The manager shall prepare and submit to the council a five-year capital program at least two months prior to the final date for submission of the annual budget.

(b) Contents: The capital program shall include;

- (1) a clear general summary of its contents;
- (2) a list of all capital improvements proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;
- (3) cost estimates, method of financing and recommended time schedules for each improvement.

(c) Submission of Capital Budget to Council: The manager shall submit the capital budget, or first year proposals in the capital program, when submitting the annual budget and shall organize the capital budget to comply with the organization of the annual budget.

6.05 **Council Action on Budget**

(a) Notice and Hearing: The council shall publish in one or more newspapers of general circulation in the town the general summary of the budget and a notice stating:

- (1) The times and places where copies of the message and budget are available for inspection by the public; and
- (2) The time and place, not less than two weeks after such publication, for a public hearing on the budget.

(b) Amendment Before Adoption: After the public hearing, the council may adopt the budget with or without amendment. In amending the budget, it may add or increase programs or amounts and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficit, provided that no amendment to the budget shall increase the authorized expenditures to an amount greater than the total of estimated income.

(c) Adoption: The council shall adopt the budget prior to the ensuing fiscal year. If it fails to adopt the budget by this date, the budget as presented by the manager shall automatically become the budget for the fiscal year. Adoption of the budget shall constitute appropriations of the amount specified therein as expenditures from the funds indicated and shall constitute a levy of the property tax therein proposed.

(d) Within sixty (60) days following the adoption of the budget, the school committee shall certify to the town council, in writing, the distribution of the funds included in the gross appropriation for school purposes, by line item, in accordance with the budget format provided pursuant to Section 6.03.

#### **6.06 Council Action on Capital Program and Capital Budget**

(a) All requirements for review and adoption of the annual budget shall apply concurrently to the capital budget.

(b) Notice and Hearing for Capital Program: The council shall publish in one or more newspapers of general circulation in the town the general summary of the capital program and a notice stating:

(1) The times and places where copies of said capital program are available for inspection by the public; and

(2) The time and place, not less than two weeks after such publication, for a public hearing on the capital program.

(c) The council by resolution shall adopt the capital program with or without amendment at the next regular council meeting after the public hearing. Nothing herein shall be deemed to prevent the authorization by the council of bonds or notes of the town to finance a capital improvement not included in the capital program.

#### **6.07 Public Records**

Copies of the budget and the capital program as adopted shall be public records and shall be made available to the public at suitable places in the town.

#### **6.08 Amendments After Adoption**

(a) Supplemental Appropriations: If during the fiscal year the manager certifies that there are available, for appropriation, revenues in excess of those estimated in the budget, the council by ordinance shall make supplemental appropriations to either reduce the tax commitment, if the tax commitment has not already been made, increase the town's fund balance, or provide for an expenditure for the year up to the amount of such excess. In the instance of a supplemental appropriation for an expenditure, a two-thirds vote of the council shall be required.

(b) Emergency Appropriations: To meet a public emergency affecting life, health, property or the public peace, the council may make emergency appropriations. Such appropriations may be made by emergency ordinance. To the extent that there are no available unappropriated revenues to meet such appropriations, the council may by emergency ordinance authorize the issuance of temporary notes or bonds, which may be renewed from time to time, but the temporary notes or bonds and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

(c) Reduction of Appropriations: If at any time during the fiscal year it appears probable to the manager that the revenues available will be insufficient to meet the amount appropriated, the manager shall report to the council without delay, indicating the estimated amount of the deficit, any remedial action taken by the manager and the manager's recommendations as to any other steps to be taken. The council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by resolve reduce one or more appropriations.

(d) Transfer of Appropriations:

(1) At any time during the fiscal year the manager may transfer part or all of any unencumbered funds within an appropriation. Upon written request by the manager, the council may by ordinance transfer part or all of any unencumbered appropriation balance from one appropriation to another;

(2) At any time during the fiscal year, the school committee may transfer funds between the line items set forth in its budget format, as certified to the town council pursuant to Section 6.05(d), after public hearing held following at least seven (7) days public notice of the intended transfer.

(e) Limitations: No appropriations for debt service may be reduced or transferred and no appropriation may be reduced or transferred and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof.

(f) Effective Date: The supplemental and emergency appropriations and reduction of transfer of appropriations authorized by this section may be made effective immediately by adoption.

## 6.09 **Lapse of Appropriations**



Every general fund appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation.

6.10 **Administration of Budget**

(a) **Work Programs and Allotments:** At such time as the manager shall specify, each department, office or agency shall submit work programs for the ensuing fiscal year showing the requested allotments of its appropriation by periods within the year. The manager shall review and authorize such allotments with or without revision as early as possible in the fiscal year. The manager may revise such allotments during the year if the manager deems it desirable and shall revise them to accord with any supplemental, emergency, reduced or transferred appropriations made pursuant to Section 6.08.

(b) **Payments and Obligations Prohibited:** No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the manager or the manager's designee first certifies that there is a sufficient unencumbered balance in such allotment or appropriation and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of the Charter shall be void and any payment as made illegal; such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligations, and the officer shall also be liable to the town for any amount so paid. However, except where prohibited by law, nothing in this Charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

6.11 **Annual Post-Audit**

Council shall each year appoint a certified public accountant for purpose of conducting the annual post-audit of the prior fiscal year municipal finances, as authorized by law.

## **ARTICLE VII**

### **NOMINATIONS AND ELECTIONS**

#### **7.01 Conduct of Elections**

The regular municipal election shall be held on the Tuesday following the first Monday in November of each year. Except as otherwise provided by this Charter, the provisions of the laws of the State of Maine shall apply to elections held under this Charter and said elections shall be conducted by the election officials according to State law. For the conduct of elections, for the prevention of fraud in such elections and for the recount of ballots in cases of fraud or doubt, the council shall adopt by ordinance all regulations which it considers desirable, consistent with law and this Charter. Qualified voter shall mean any person qualified and registered to vote under law.

#### **7.02 Election Districts**

(a) The town shall be divided into four districts having well defined boundaries, each of which, as nearly as is possible, shall contain an equal number of voters. Each of the said districts shall constitute a district for the election of a district member of the council as provided by the Charter.

(b) At least once in every 5 years after the adoption of this Charter, the council shall review the boundaries of the existing voting districts and, after public hearing held thereon, shall alter and change the boundaries of such districts or any of them, if necessary, so that each district, as nearly as possible, shall contain an equal number of voters.

(c) The polling place or places shall be arranged and adequately signed so that voters can easily find their district voting area. Adequate numbers of election workers shall be in attendance to allow the maintenance check lists for each district and to allow for each district's votes to be counted separately.

(d) The registrar of the Board of Registration shall notify each voter of the number of the district in which the voter resides within 10 days after the voter's registration is accepted by the registrar or Board of Registration.

#### **7.03 Nominations**

(a) Petitions: Candidates for election to the council and the school committee shall be nominated by petition. Any qualified voter of the town may be nominated for election as a councilor at large or school committee member by a petition signed by not less than 100 qualified voters of the town. Any qualified voter of the town may be nominated for election as a district councilor by a petition signed by not less than 50 qualified voters of the district in

which the candidate resides. The signatures to a nominating petition need not all be affixed to one paper, but to each separate paper of a petition there shall be attached an affidavit executed by its circulator stating the number of signers of the paper, that each signature on it was affixed in the circulator's presence and that the circulator believes each signature to be the genuine signature of the persons whose name it purports to be. The signature shall be executed in ink or indelible pencil. Each signer shall indicate next to the signer's signature the date of his or her signing and the street address where the signer resides. No voter shall sign more than one petition for each office to be filled and should a voter do so, the voter's signature shall be void except as to the first petition filed.

(b) Filing and Acceptance of Nominations Petitions: All separate papers comprising a nominating petition shall be assembled and filed with the municipal clerk as one instrument not earlier than 100 days or later than the close of normal office hours 55 days before the election. The clerk shall make a record of the exact time when each petition is filed. No nominating petition shall be accepted unless accompanied by a signed acceptance of the nomination.

(c) Procedure After Filing Nomination Petitions: Within five days after the filing of a nominating petition, the clerk shall notify the candidate and the person who filed the petition whether or not it satisfies the requirements prescribed by this Charter. If a petition is found insufficient the clerk shall return it immediately to the person who filed it with a statement certifying wherein it is found insufficient. Within the regular time for filing petitions, such a petition may be amended and filed again as a new petition or a different petition may be filed for the same candidate. The clerk shall keep on file all petitions found sufficient at least until the expiration of the term for which the candidates are nominated in those petitions.

#### 7.04 **Names on Ballots**

The full names and street addresses of all candidates nominated for councilor at large and for school committee member, except those who have withdrawn, died or become ineligible, shall be printed on the official ballots without party designation under headings "Nominees for Councilor at Large" and "Nominees for School Committee Member" respectively.

The full names and street addresses of all candidates nominated for membership as district councilor in the council, except those who have withdrawn, died or become ineligible, shall be printed only on the official ballots for their respective districts without party designation under the separate heading "Nominees for District Councilor".

#### 7.05 **Determination of Election Results**

(a) Number of Votes: Every voter shall be entitled to vote for as many candidates as there are vacancies to be filled. A voter may vote only for a district councilor who would represent the district in which said voter resides.

(b) Plurality: Elections shall be determined by plurality vote. In case of a tie, the election shall be decided by lot in the presence of the candidates concerned or their agents and under the direction of the town clerk.

7.06 **Ballots for Ordinances**

An ordinance to be voted on pursuant to Article VII shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following questions: "Shall the above described ordinance be adopted?" Immediately below such question shall appear in the following order, the words "yes" and "no" and to the right of each a square in which the voter may cast his or her vote.

7.07 **Voting Machines**

The council may provide for the use of mechanical or other devices for voting or counting the votes not inconsistent with law.

7.08 **Ordering Candidate Names**

Where two or more candidates have been nominated for any office, the names of said candidates shall appear on the ballot in alphabetical order by last name.

7.09 **Absentee Voting**

Each qualified voter who desires to cast an absentee vote at a regular or special election shall be entitled to an official ballot and the right to cast such ballot in accordance with the provisions of State law.

## **ARTICLE VIII**

### **INITIATIVE, REFERENDUM AND RECALL**

#### **8.01 Enactment of Ordinance by Initiative**

The qualified voters of the town shall have the power to propose ordinances of substance, or repeal, to the council, provided that such power shall not extend to any ordinance relating to the budget, to the capital program, or to the appropriation of money, levy of taxes, or salaries of officials or employees. If the council should fail to adopt in substance any ordinance so lawfully proposed, the qualified voters of the town shall have the power to adopt or reject the proposed ordinance at an election.

Any five qualified voters may begin initiative proceedings by request in writing to the town clerk for the appropriate petition blanks. The complete text of the proposed ordinance shall be included with the request. All papers of the petition shall be uniform in size and style and shall be assembled as one instrument for filing. They shall contain or have attached thereto throughout their circulation the full text of the proposed ordinance. These five qualified voters shall be referred to as the requesting committee during the initiative procedure.

The requesting committee shall have 30 days from the acceptance date of the request by the town clerk to cause the petitions to be signed by 10% of the qualified voters of the town. The petition shall be signed in the presence of the town clerk or the town clerk's deputy at the town clerk's office and, or, at the municipal office only by qualified voters of the town and each voter's signature shall be followed by the voter's address, provided, however, reasonable accommodation, pursuant to the town's comprehensive accommodation policy, shall be made for qualified persons with a disability that prevents or interferes with that person's ability to sign a petition in the municipal office. Reasonable accommodation shall include allowing a voter to designate an immediate family member or third person to deliver to the voter the full text of the ordinance, order or resolve, a copy of the petition and a petition signature page. The petition signature page shall have attached to it when filed an affidavit executed by the immediate family member or third person stating that the full text of the ordinance, order or resolve, the copy of the petition and the petition signature page were presented to the voter; that the voter had the opportunity before signing to read the full text of the ordinance, order or resolve, the copy of the petition and the petition signature page; and that the voter's signature was affixed to the petition signature page in the presence of the immediate family member or third person.

Within 7 days after the petition circulation period ends, the town clerk shall certify to the council that the petition has been signed by not less than 10% of the qualified voters of the town, that all signatures were affixed in the town clerk's or the town clerk's deputy's presence, that the town clerk or the town clerk's deputy believe them to be the genuine signatures of the

persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the proposed ordinance.

Should fewer qualified voters than required by the Charter sign the petition in the specified time, the petition shall have no further force or effect, and all proceedings thereon shall be terminated. A request to initiate the same ordinance may not be accepted by the clerk until 120 days after the expiration of the previous filing period. Upon receipt of certification the council shall within 10 days hold a public hearing and shall within 30 days after said public hearing hold a municipal election for the purpose of submitting to vote the question of adopting such ordinance, unless such ordinances shall be enacted by the council prior to the call for said town election. Such ordinance shall be enacted and take effect when a majority of those voting thereon shall have voted in the affirmative.

Any such proposed ordinance shall be examined by the town attorney before being submitted to the voters. The town attorney is authorized to correct the form of such proposed ordinance for the purpose of avoiding repetitions, illegalities, and unconstitutional provisions, and to assure accuracy in its text and references, and clearness and preciseness in its phraseology, but the town attorney shall not materially change its meaning and effect.

#### **8.02 Petition for Overrule of Action of Council**

All ordinances, orders or resolves, except emergency ordinances, or orders or resolves making appointments or removals or regulating exclusively the internal procedure of the council, shall be subject to overrule by a referendum as follows: The qualified voters of the Town of Freeport shall have thirty (30) working days, excluding legal holidays and Sundays, after adoption of any such ordinance, order or resolve, to sign a petition requesting a referendum. The petition shall be signed in the presence of the town clerk or the town clerk's deputy at the town clerk's office and, or, at the municipal office, provided, however, reasonable accommodation, pursuant to the town's comprehensive accommodation policy, shall be made for qualified persons with a disability that prevents or interferes with that person's ability to sign a petition in the municipal office, and the signature of each qualified voter on the petition shall be followed by the voter's address. Reasonable accommodation shall include allowing a voter to designate an immediate family member or third person to deliver to the voter the full text of the ordinance, order or resolve, a copy of the petition and a petition signature page. The petition signature page shall have attached to it when filed an affidavit executed by the immediate family member or third person stating that the full text of the ordinance, order or resolve, the copy of the petition and the petition signature page were presented to the voter; that the voter had the opportunity before signing to read the full text of the ordinance, order or resolve, the copy of the petition and the petition signature page; and that the voter's signature was affixed to the petition signature page in the presence of the immediate family member or third person. During the thirty (30) day period for signatures, the town clerk or the town clerk's deputy shall maintain office hours for at least four (4) working days until 8:00 p.m., prevailing time, and for at least two (2) Saturdays from 10:00 a.m. to 2:00 p.m., prevailing time, in order to allow qualified voters to sign the petition requesting a referendum. At the close of the thirty (30) day period for signatures, the town clerk shall promptly certify to the town council that the petition has been signed by not

less than 10% of the qualified voters of the town, that all signatures were affixed in the town clerk's or the town clerk's deputy's presence, that the town clerk believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the ordinance, order or resolve sought to be overruled. Should fewer qualified voters than required sign the petition within the specified time, the petition shall have no further force or effect, and all proceedings thereon shall be terminated. Upon receipt of such certification, the town council shall fix the time and place of such referendum which shall be within twenty-one (21) days after receipt of certification of the petition, and notice thereof shall be given in the manner provided by law for the calling of a referendum. A public hearing shall be held by the town council on the subject of the petition for referendum at least ten (10) days before the day for voting thereon. Notice of such public hearing shall be given by the town council by causing a copy of the proposed referendum article, together with the time and place of hearing, to be posted in the same manner required for posting a warrant for a municipal election, at least seven (7) days before the date set for such a hearing.

Any ordinance, order or resolve which is the subject of such a referendum shall take effect upon conclusion of such referendum, unless a majority of those voting thereon shall have voted in the negative, and provided further that the total number of votes cast in the referendum equals or exceeds 20% of the total number of registered voters in the Town of Freeport as of the date of the filing of the petition for referendum.

#### **8.03 Ordinances Submitted to Popular Vote**

The town council shall submit any ordinance appropriating \$100,000 or more for a single capital improvement which requires the issuance of general obligation bonds to the voters at a regular or special election.

#### **8.04 Recall**

Any 5 qualified voters may begin at any time proceedings to recall a councilor at large by requesting in writing to the town clerk for the appropriate petition blanks. These five registered voters shall be referred to as the recall committee. All papers of the petition shall be uniform in size and style and shall be assembled as one instrument for filing. They shall contain or have attached thereto throughout their circulation a statement detailing the reason or reasons for recall and the names of the recall committee.

The recall committee shall have 30 days from the acceptance date of the request by the town clerk to cause the petition to be signed by 25% of the qualified voters of the town. The petition shall be available only at the town clerk's office during normal business hours, and shall be signed by qualified voters in the presence of the town clerk or the town clerk's deputy, provided, however, reasonable accommodation, pursuant to the town's comprehensive accommodation policy, shall be made for qualified persons with a disability that prevents or interferes with that person's ability to sign a petition in the municipal office. Each voter's

signature shall be followed by the signer's address. Reasonable accommodation shall include allowing a voter to designate an immediate family member or third person to deliver to the voter the full text of the ordinance, order or resolve, a copy of the petition and a petition signature page. The petition signature page shall have attached to it when filed an affidavit executed by the immediate family member or third person stating that the full text of the ordinance, order or resolve, the copy of the petition and the petition signature page were presented to the voter; that the voter had the opportunity before signing to read the full text of the ordinance, order or resolve, the copy of the petition and the petition signature page; and that the voter's signature was affixed to the petition signature page in the presence of the immediate family member or third person.

Within 7 days after the petition circulation period ends the town clerk shall certify to the council that the petition has been signed by not less than 25% of the qualified voters of the town, that all signatures were affixed in the town clerk's or the town clerk's deputy's presence, that the town clerk and the town clerk's deputy believe them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity to read the statement detailing the reason or reasons for recall.

Should fewer qualified voters than required by the charter sign the petition in the specified time, the petition shall have no further force or effect, and all proceedings thereon shall be terminated and request for recall of the same councilor may not be accepted by the clerk until 180 days after the expiration of the previous filing period.

Upon receipt of certification the council shall within 30 days hold a municipal election for the purpose of submitting to vote the question of recall. A councilor at large shall be recalled when a majority of those voting thereon shall have voted in the affirmative. The council shall within 30 days after the voters have recalled a councilor at large hold a special election to fill the vacancy.

A councilor at large, or district councilor that is recalled by the voters shall be allowed to seek re-election at the special election called for the purpose of filling the vacancy created by the recall by filing a notice with the town clerk that the councilor wishes to have his or her name appear on the ballot, no later than the fifteenth day preceding the election. The councilor shall not be required to circulate a nomination petition. Other qualified voters who seek to fill the vacancy created by the recall shall have until the fifteenth day preceding the election to file with the town clerk a petition as required by the charter for a regular municipal election.

Pending action by the voters of the town, the councilor at large, or district councilor that recall proceedings have been initiated against shall continue to exercise all the privileges of the councilor's office.

The recall procedure for recalling a district councilor shall be the same as for recalling a councilor at large except for the following provisions:



- (1) The recall committee must be composed of qualified voters that reside in the district of the councilor to be elected;
- (2) The recall petition shall be signed by 25% of the qualified voters that reside in the district of the councilor to be recalled.
- (3) The council shall within 30 days of certification of the petitions by the town clerk call a direct election for the purpose of submitting to vote the question of recall.

The ballot for recall shall contain the following questions: "Shall (name of person being subjected to recall) be recalled from the office of (name of office)?" Immediately below such question shall appear in the following order, the words "yes" and "no" and to the right of each a square in which the voter may cast his or her vote.

## **ARTICLE IX**

### **GENERAL PROVISIONS**

#### **9.01 Elected Officers: Term**

The term of any elected officer shall date from the Monday in November next following the officer's election. If a person is elected to fill a vacancy in office, the person's term shall begin immediately upon taking the oath of office.

#### **9.02 First Council Meeting**

The council and the school committee shall convene within eight days following the annual election.

#### **9.03 Swearing in Officers**

Every town officer or official shall be sworn to the faithful discharge of the duties incumbent upon him or her according to the Constitution and laws of the State of Maine and the Charter and ordinances of the town and shall be sworn to support the Constitution of the United States and the Constitution of the State of Maine.

#### **9.04 Personal Financial Interest**

Any officer or employee who has a substantial financial interest, direct or indirect or by reason of ownership of stock in any corporation, in any contract with the town or in the sale of any land, material, supplies or services in the town or to a contractor supplying the town shall make known that interest and shall refrain from voting upon or otherwise participating in his or her capacity as an officer or employee in making of such sale or in the making or performance of such contract. Any officer or employee who willfully conceals such a substantial financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and shall forfeit his or her office or position. Violation of this section with the knowledge expressed or implied of the person or corporation contracting with or making a sale to the town shall render the contract or sale voidable by the council.

#### **9.05 Prohibitions**

##### **(a) Activities Prohibited:**

(1) No person shall be appointed to or removed from, or in any way favored or discriminated against with respect to any town position or appointive town administrative office because of race, sex, disability, or political or religious opinions or affiliations.

(2) No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment under the personnel provisions of this Charter or the rules and regulations made thereunder, or in any manner commit or attempt to commit any fraud preventing the impartial execution of such provisions, rules and regulations.

(3) No person shall, directly or indirectly, give, render, pay, offer, solicit, or accept any money, service or other valuable consideration for any appointment, promotion or proposed promotion to or any advantage in, a position in the municipal service.

(4) No person who holds a compensated town position shall solicit any assessments, contributions, or services for any political party from any employee in the municipal service.

(b) Penalties: The council shall enact an ordinance prescribing penalties for the above. Any person found in violation of this section or any ordinance enacted pursuant to this section by a court of competent jurisdiction or by the council acting in a judicial capacity shall be ineligible for a period of five years thereafter to hold any town office or employment and shall immediately forfeit his or her office or position.

#### 9.06 **Separability**

If any provision of this charter is held invalid, the other provisions of the charter shall not be affected thereby. If the application of the charter or any of its provisions to any person or circumstance is held invalid, the application of the charter and its provisions to other persons or circumstances shall not be affected thereby. If any provision of this charter is held invalid by reason of any conflict with state or federal law, the provisions of the applicable state or federal law shall automatically become incorporated in this Charter in place of the invalid Charter provision.

## **ARTICLE X**

### **TRANSITIONAL PROVISIONS**

#### **10.01 District Boundaries**

District boundaries shall be determined pursuant to Section 7.02, Election Districts.

#### **10.02 Continuance of Officers, Employees**

- (a) Rights and Privileges Preserved: Nothing in this Charter and amendments and revisions thereto except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are town officers or employees at the time of amendments and revisions.
- (b) Continuance of Office or Employment: Except as specifically provided by this charter and amendments and revisions thereto, if at the time amendments or revisions to this Charter take full effect a town administration officer or employee holds any office or position which is or can be abolished by or under this Charter and amendments and revisions thereto, he or she shall continue in such office or position until amendments or revisions to this Charter direct that he or she can vacate the office or position.

#### **10.03 Pending Matters**

All rights, claims actions, orders, contracts and legal or administrative proceedings shall continue except as modified pursuant to the provisions of this charter and revisions thereto and in each case shall be maintained, carried on or dealt with by the town department, office or agency appropriate under this Charter and revisions thereto.

#### **10.04 Municipal Laws**

All ordinances, resolutions, orders and regulations in force at the time of amendment or revision to this Charter not inconsistent with this Charter shall continue in force until amended or repealed. All rules and regulations of the municipal officers or of any office of the Town of Freeport in force at the time of amendment or revision to this Charter not inconsistent with the provisions hereof, shall continue in force until amended or repealed.

#### **10.05 State Laws**

Upon the effective date of amendments or revisions to this Charter, all private and special State Laws relating to the Town of Freeport or prior charter provisions which are inconsistent in whole or in part with amendments or revisions to this Charter are hereby repealed.

**ARTICLE XI**

**SPECIAL PROVISIONS**

11.01 **Americans with Disabilities Act Compliance**

The town council shall adopt and maintain a comprehensive accommodation policy in compliance with the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*, and the Maine Human Rights Act, 5 M.R.S.A. §§337 *et seq.*, to provide reasonable accommodations for qualified persons within the town.

