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**TOWN COUNCIL MEETING #3-99**  
**FEBRUARY 2, 1999 - 7:00 P.M.**  
**TOWN COUNCIL CHAMBERS**

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**SUMMARY AGENDA**

- ITEM #31-99 To consider action relative to an application for a full-time malt, spirituous, and vinous license for Lobster Cooker. (Public Hearing).
- ITEM #32-99 To consider action relative to an application for a full-time malt, spirituous, and vinous license for China Rose Restaurant. (Public Hearing).
- ITEM #33-99 To consider action relative to proposed amendments to the General Assistance Ordinance concerning eligibility requirements (Chapter 46). (Public Hearing).
- ITEM #34-99 To consider action relative to the proposed amendment to the Town Charter concerning Appointments to Boards and Committees. (Public Hearing).
- ITEM #35-99 To consider action relative to proposed amendments to the Freeport Town Charter concerning the approval of Ordinances and Ordinance Revisions. (Public Hearing).
- ITEM #36-99 To consider action relative to a re-application for a public peddler license for Brenda Hodgson.
- ITEM #37-99 To consider action relative to an expenditure from the FY99 Miscellaneous and Contingency Account to provide for Year 2000 Compliance.
- ITEM #38-99 To consider action relative to an expenditure from the FY99 Miscellaneous and Contingency Account to provide for the development of a Master Plan for U.S. Route #1 South.
- ITEM #39-99 To consider action relative to an expenditure from the FY99 Miscellaneous and Contingency Account to provide for Educational Technicians.
- ITEM #40-99 To consider action relative to an appointment to the Paper Streets Committee.
- ITEM #41-99 To consider action relative to an appointment to the Medium Density A & B Zoning Committee.
- ITEM #42-99 To consider action relative to proposed amendments to the Zoning Ordinance concerning the Regulation of Wireless Telecommunications Facilities (Chapter 21).
- ITEM #43-99 To consider action relative to the confirmation of a Fire Chief.
- ITEM #44-99 To consider action relative to an amendment to the Rules of Order and Procedure for the Freeport Town Council.
- ITEM #45-99 To consider action relative to the perambulation of the town line between Freeport and Pownal.



**Summary Agenda, #3-99**

**ITEM #15-99** Tabled January 19, 1999.

To consider action relative to the adoption of a new Coastal Waters Ordinance (Chapter 31).

**ITEM #3-99** Tabled January 5, 1999 and January 19, 1999.

To consider action relative to proposed amendments to the Shellfish Conservation Ordinance concerning Licenses and License Fees (Chapter 32).

**OTHER BUSINESS:**

1. Discussion on request from L.L. Bean to use Bow Street Park for the July 4<sup>th</sup> Road Races.
2. Discussion on request to donate property located at 10 Middle Street in South Freeport for fire training purposes.
3. Discussion on the development of a Consent Agenda.

**COMMITTEE REPORTS:**

**Adjourn.**



**AGENDA**  
**FREEPORT TOWN COUNCIL MEETING #3-99**  
**TOWN HALL COUNCIL CHAMBERS**  
**FEBRUARY 2, 1999 - 7:00 P.M.**

**SPECIAL NOTE:** This agenda is a working agenda that includes background information and is for distribution to Council members only.

**FROM:** Dale C. Olmstead, Jr.

**TO:** David Soley, Chairperson, Arnold Road  
Genie Beaulieu, Vice Chairperson, Larue Drive  
Edward Campbell, Gay Drive  
Kenneth Mann, Mann Road  
Stafford Soule, Arnold Road  
Gloria Fogg DeGrandpre, Wolf Neck Road  
John Arsenault, Prout Road

**FIRST ORDER OF BUSINESS:** To waive the reading of the Minutes of #2-99 January 19, 1999 Meeting and accept the Minutes as printed.

**SECOND ORDER OF BUSINESS:** Public Comment Period - 30 Minutes  
(Non-Agenda Items Only)

**THIRD ORDER OF BUSINESS:** To take action on the following items of business as read by the Council Chairperson.



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**ITEM #31-99** To consider action relative to an application for a full-time malt, spirituous, and vinous license for Lobster Cooker (Public Hearing).

**MOTION:** That the following application for a full-time malt, spirituous, and vinous license be subject to Public Hearing.

Michael Marino d/b/a Lobster Cooker, 39 Main Street

**MOTION:** That the Public Hearing be closed.

**BE IT ORDERED:** That the application issued to the above named applicant be approved.

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**ITEM #32-99** To consider action relative to an application for a full-time malt, spirituous, and vinous license for China Rose Restaurant (Public Hearing).

**MOTION:** That the following application for a full-time malt, spirituous, and vinous license be subject to Public Hearing.

Cuong Ly (Ly-Su Corp.) d/b/a China Rose Restaurant, 10 School Street

**MOTION:** That the Public Hearing be closed.

**BE IT ORDERED:** That the application issued to the above named applicant be approved.

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**ITEM #33-99** To consider action relative to proposed amendments to the General Assistance Ordinance concerning eligibility requirements (Chapter 46). (Public Hearing).

**MOTION:** That the Public Hearing be opened.

**MOTION:** That the Public Hearing be closed.

**MOTION:** That Item #33-99 be tabled until March 2, 1999.

**NOTE:** Councilors should bring their copy of Ordinance from last packet.

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**ITEM #34-99** To consider action relative to the proposed amendment to the Town Charter concerning Appointments to Boards and Committees. (Public Hearing).

Shall the Town of Freeport approve the following Charter amendment:

**2.03 Appointments**

The following officials and boards shall be appointed ~~by ballot~~ 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





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council may, where appropriate and where not prohibited by law, vest in the town manager all or part of the duties of any office.

Explanation and Recommendation

The proposed Charter Amendment would convert Town Council secret ballot votes for Appointments to Town Boards and Committees to public votes. There is some concern that the current method of voting for appointments violates the State's Public Right to Know Law.

The Town council recommends adoption.

MOTION: That the Public Hearing be opened.

MOTION: That the Public Hearing be closed.

BE IT ORDERED: That the proposed amendment to the Charter of the Town of Freeport be submitted to the voters of the Town of Freeport at the Municipal Election on November 2, 1999.

BE IT FURTHER ORDERED: That the Town Clerk place the text of the Amendment on the Ballot.

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ITEM #35-99 To consider action relative to proposed amendments to the Freeport Town Charter concerning the approval of Ordinances and Ordinance Revisions. (Public Hearing).

Shall the Town of Freeport approve the following Charter Amendments:

2.12 Ordinance in General

(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 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 publish the same as defined in Section 2.12(d) 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.~~ 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.



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(c) ~~Effective Date: Except as otherwise provided in this Charter, every ordinance shall become effective at the expiration of 30 days after adoption or at any later date specified therein.~~

(c) ~~(d)~~ "Publish" Defined: As used in this section, the term "publish" means to print 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.

Explanation and Recommendation

The Town Council has established streamlining government as one of its goals.

The proposed Charter Amendments will assist in meeting this goal by eliminating the requirement that the Town Council must wait at least 14 days after the Public Hearings to approve changes to the Town's ordinances. The amendments would also eliminate the 30-day waiting period for ordinance revisions to become effective once the Town Council approves them. With these amendments the Town Council would have the option of voting immediately after Public Hearing or tabling action to a later date.

The Town Council recommends approval.

NOTE: An option has been developed for Council consideration.

MOTION: That the Public Hearing be opened.

MOTION: That the Public Hearing be closed.

BE IT ORDERED: That the proposed amendment to the Charter of the Town of Freeport be submitted to the voters of the Town of Freeport at the Municipal Election on November 2, 1999.

BE IT FURTHER ORDERED: That the Town Clerk place the text of the Amendment on the Ballot.

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ITEM #36-99 To consider action relative to a re-application for a public peddler license for Brenda Hodgson.

MOTION: That the Council adjourn and the Licensing Board convene.

ROLL CALL OF MEMBERS:

Genie Beaulieu  
David Soley  
Stafford Soule  
Kenneth Mann  
Sharon Coffin

Edward Campbell  
Gloria Fogg DeGrandpre  
John Arsenault  
Dale Olmstead



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Brenda Hodgson, d/b/a B & G's Grill

**BE IT ORDERED:** That the re-application issued to the Brenda Hodgson be approved.

**MOTION:** That the Licensing Board adjourn and the Council reconvene.

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ITEM #37-99 To consider action relative to an expenditure from the FY99 Miscellaneous and Contingency Account to provide for Year 2000 Compliance.

**BE IT ORDERED:** That up to \$5,000 be expended from the FY99 Miscellaneous and Contingency Account to provide for Year 2000 Compliance.

**NOTE:** Freeport will join a Regional Effort coordinated by COG to assure compliance of items and issues common to all municipalities (est. \$3,000). The estimate to deal with items and issues specific to Freeport is \$2,000.

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ITEM #38-99 To consider action relative to an expenditure from the FY99 Miscellaneous and Contingency Account to provide for the development of a Master Plan for U.S. Route #1 South.

**BE IT ORDERED:** That up to \$5,000 be expended from the FY99 Miscellaneous and Contingency Account to provide for the Development of a Master Plan for U.S. Route #1 South.

**NOTE:** The estimated cost of the Master Plan is \$15,000 of which the following will contribute equal amounts: Town of Freeport, Freeport Economic Development and Property Owners.

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ITEM #39-99 To consider action relative to an expenditure from the FY99 Miscellaneous and Contingency Account to provide for Educational Technicians.

**BE IT ORDERED:** That up to \$26,000 be expended from the FY99 Miscellaneous and Contingency Account to provide for Education Technicians.

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ITEM #40-99 To consider action relative to an appointment to the Paper Streets Committee.

**BE IT ORDERED:** That Alton Thompson be appointed, effective immediately, to serve as a member of the Paper Streets Committee.

**BE IT FURTHER ORDERED:** That Mr. Thompson qualify by swearing an oath of office before the Town Clerk by February 12, 1999.

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ITEM #41-99 To consider action relative to an appointment to the Medium Density A & B Zoning Committee.



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**BE IT ORDERED:** That Amy Adams be appointed, effective immediately, to serve as a member of the Medium Density A & B Zoning Committee.

**BE IT FURTHER ORDERED:** That Ms. Adams qualify by swearing an oath of office before the Town Clerk by February 12, 1999.

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**ITEM #42-99** To consider action relative to proposed amendments to the Zoning Ordinance concerning the Regulation of Wireless Telecommunications Facilities (Chapter 21).

**BE IT ORDERED:** That Public Hearing be scheduled for March 2, 1999 at 7:00 p.m. in the Town Hall Council Chambers to discuss proposed amendments to the Zoning Ordinance.

**BE IT FURTHER ORDERED:** That 30 copies be distributed equally between the Town Clerk's office and the Freeport Community Library for inspection by citizens.

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**ITEM #43-99** To consider action relative to the confirmation of a Fire Chief.

**BE IT ORDERED:** That the Town Manager's appointment of Darrell Fournier as Fire Chief be confirmed.

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**ITEM #44-99** To consider action relative to an amendment to the Rules of Order and Procedure for the Freeport Town Council.

**BE IT ORDERED:** That the Rules of Order and Procedure for the Freeport Town Council be amended as follows:

**34 Public Hearings:** Councilors shall not make comments or debate the public until everyone in the public has had an opportunity to speak. Councilors may ask speakers questions of clarification.

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**ITEM #45-99** To consider action relative to the perambulation of the town line between Freeport and Pownal.

**BE IT ORDERED:** That the report dated October 23, 1998 on the perambulation of the town line between Freeport and Pownal be accepted.

**BE IT FURTHER ORDERED:** That Kenneth Mann and Alan Hindley be authorized to accept the report on behalf of the Town.

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**ITEM #15-99** Tabled January 19, 1999.

To consider action relative to the adoption of a new Coastal Waters Ordinance (Chapter 31).

**BE IT ORDERED:** That the draft Coastal Waters Ordinance dated January 14, 1999 be adopted.





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**BE IT FURTHER ORDERED:** That the current Coastal Waters Ordinance be vacated upon the effective date of the new ordinance.

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**ITEM #3-99** Tabled January 5, 1999 and January 19, 1999.

To consider action relative to proposed amendments to the Shellfish Conservation Ordinance concerning Licenses and License Fees (Chapter 32).

**BE IT ORDERED:** That the proposed amendments to the Shellfish Conservation Ordinance, as submitted to Public Hearing on January 5, 1999, be approved.

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**OTHER BUSINESS:**

1. Discussion on request from L.L. Bean to use Bow Street Park for the July 4<sup>th</sup> Road Races.
2. Discussion on request to donate property located at 10 Middle Street in South Freeport for fire training purposes.
3. Discussion on the development of a Consent Agenda.

**COMMITTEE REPORTS:**

**Adjourn.**



**MINUTES**  
**FREEPORT TOWN COUNCIL MEETING #3-99**  
**February 2, 1999 – 7:00 P.M.**

<b><u>CHAIRPERSON'S CALL TO ORDER:</u></b>	<b><u>Present</u></b>	<b><u>Absent</u></b>	<b><u>Excused</u></b>
Genie Beaulieu, Vice Chair Larue Drive	X		
David Soley, Chairperson Arnold Road	X		
Edward Campbell Gay Drive	X		
John Arsenault Prout Road	X		
Kenneth Mann Mann Road	X		
Gloria DeGrandpre Wolf Neck Road	X		
Stafford Soule Arnold Road			X-arrived late

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**FIRST ORDER OF BUSINESS:** TO WAIVE THE READING OF THE MINUTES OF MEETING #2-99 HELD ON JANUARY 19, 1999 AND ACCEPT THE MINUTES AS PRINTED.

**MOVED AND SECONDED:** TO WAIVE THE READING OF THE MINUTES OF MEETING #2-99 HELD ON JANUARY 19, 1999 AND ACCEPT THE MINUTES AS PRINTED.  
(Councilors DeGrandpre & Beaulieu) (6 Ayes) (1 Excused-Soule)

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**SECOND ORDER OF BUSINESS:** PUBLIC COMMENT PERIOD.

There were no public comments made.

**MOVED AND SECONDED:** TO CLOSE THE PUBLIC COMMENT PERIOD (Councilors Campbell & Beaulieu) (6 Ayes) (1 Excused-Soule)

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**THIRD ORDER OF BUSINESS:** TO TAKE ACTION ON THE FOLLOWING ITEMS OF BUSINESS AS READ BY THE COUNCIL CHAIRPERSON:

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ITEM #31-99 To consider action relative to an application for a full-time malt, spirituous, and vinous license for Lobster Cooker (Public Hearing).

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**ITEM #31-99** To consider action relative to an application for a full-time malt, spirituous, and vinous license for Lobster Cooker (**Public Hearing**).

**MOVED & SECONDED:** That the following application for a full-time malt, spirituous, and vinous license be subject to Public Hearing.

Michael Marino d/b/a Lobster Cooker, 39 Main Street (Councilors DeGrandpre & Beaulieu) (6 Ayes) (1 Excused-Soule)

No public comments were made.

**MOVED & SECONDED:** That the Public Hearing be closed. (Councilors DeGrandpre & Beaulieu) (6 Ayes) (1 Excused-Soule)

**BE IT ORDERED:** That the application issued to the above named applicant be approved. (Councilors DeGrandpre & Beaulieu) (6 Ayes) (1 Excused-Soule)

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**ITEM #32-99** To consider action relative to an application for a full-time malt, spirituous, and vinous license for China Rose Restaurant (**Public Hearing**).

**MOVED & SECONDED:** That the following application for a full-time malt, spirituous, and vinous license be subject to Public Hearing.

Cuong Ly (Ly-Su Corp.) d/b/a China Rose Restaurant, 10 School Street (Councilors Mann & Campbell) (6 Ayes) (1 Excused-Soule)

No public comments were made.

**MOVED & SECONDED:** That the Public Hearing be closed. (Councilors Mann & Campbell) (6 Ayes) (1 Excused-Soule)

**BE IT ORDERED:** That the application issued to the above named applicant be approved. (Councilors Mann & Campbell) (6 Ayes) (1 Excused-Soule)

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**ITEM #33-99** To consider action relative to proposed amendments to the General Assistance Ordinance concerning eligibility requirements (Chapter 46). (**Public Hearing**).

**MOVED & SECONDED:** That the Public Hearing be opened. (Councilors Beaulieu & Arsenault) (6 Ayes) (1 Excused-Soule)

Mr. Olmstead explained that this is an annual process and noted the primary changes being proposed.

**MOVED & SECONDED:** That the Public Hearing be closed. (Councilors Beaulieu & Arsenault) (6 Ayes) (1 Excused-Soule)

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FEBRUARY 2, 1999**

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**MOVED & SECONDED:** That Item #33-99 be tabled until March 2, 1999. (Councilors Beaulieu & Campbell) (7 Ayes)

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**MOVED & SECONDED:** To take Item 3-99 out of order at this time. (Councilors Beaulieu & Campbell) (7 Ayes)

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**ITEM #3-99** Tabled January 5, 1999 and January 19, 1999.

To consider action relative to proposed amendments to the Shellfish Conservation Ordinance concerning Licenses and License Fees (Chapter 32).

**BE IT ORDERED:** That the proposed amendments to the Shellfish Conservation Ordinance, as submitted to Public Hearing on January 5, 1999, be approved. (Councilors Beaulieu & Campbell). (no vote)

Chief Scolfield explained the Warden's job description and a discussion followed on the budget. The Shellfish Commission has been working with him to try to reduce the budget but maintain a safe program.

Councilor Beaulieu clarified that the number of recreational license is being upped to 200. Mick McGiven clarified that in 3 years the Town will not give away licenses to residents 65 years or older

**MOVED & SECONDED:** That on the proposal before us we approve under Item 3, under Section 6. Licensing, the total licenses available to 200 for Resident Recreational and that we table the rest of the ordinance proposal with no amendments. (Councilors Mann & Beaulieu) (7 Ayes).

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**MOVED & SECONDED:** To take Item 15-99 out of order at this time. (Councilors Arsenault & Campbell) (7 Ayes)

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**ITEM #15-99** Tabled January 19, 1999

To consider action relative to the adoption of a new Coastal Waters Ordinance (Chapter 31).

**BE IT ORDERED:** That the draft Coastal Waters Ordinance dated January 14, 1999 be adopted.

**BE IT FURTHER ORDERED:** That the current Coastal Waters Ordinance be vacated upon the effective date of the new ordinance. (Councilors Soule & Arsenault)

Discussion: Mr. Olmstead indicated that Councilors Soule, Arsenault and Mann had amendments to put forth.

**MOVED & SECONDED:** TO AMEND ARTICLE II DEFINITIONS: (Amendment #1)

6. Commercial Zone: That portion of the anchorage which is reserved for the exclusive use of commercial fishing vessels and described as bounded on the northeast by a line

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extending across the river aligned with the current and/or former location of the ice batter pilings at the south north end of Brewer's South Freeport Marine (roughly N43 49.299' W070 06.239') and on the southwest by a line extending from the south end of Harraseeket Lobster Company's wharf, to the nearest point of the mudflats which extend into the harbor from Wolfs Neck. (Councilors Soule & Beaulieu) (7 Ayes).

**MOVED & SECONDED: TO AMEND ARTICLE II DEFINITIONS: (Amendment #2)**

16. Resident: Any person who occupies for more that 180 days in the preceding calendar year, real estate which he/she rents, owns or resides within the town of Freeport. (Councilors Soule & Campbell) (7 Ayes).

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**MOVED & SECONDED: TO AMEND ARTICLE II DEFINITIONS: (Amendment #3)**

**8 Numbers:**

(a) Marinas shall be assigned a total of not more than 15 mooring assignments each. These moorings may not be located in the commercial zone without the approval of the Harbor Master. (Councilors Beaulieu & Soule) (7 Ayes).

**MOVED & SECONDED: TO AMEND ARTICLE V MOORING ASSIGNMENTS (Amendment #4)**

**6. Add paragraph:**

Any resident owning waterfront property with ~~all tide~~ deep water access shall have the right to one mooring located within the property boundary lines. Only one mooring per property shall be allowed. Fees associated with these moorings shall be determined by the mooring fee schedule. (Councilors Soule & Mann) (3 Ayes-Soule, Mann, DeGrandpre) (4 Nays-Soley, Arsenault, Campbell, Beaulieu).

**MOVED & SECONDED: TO AMEND ARTICLE VI. TOWN WHARF AND FLOATS**

1. Unless approved by the harbormaster, all AH boats secured at the Town Floats shall be attended, meaning that a person capable to operating the boat shall be on the boat at all times. (Councilors Arsenault & Beaulieu) (7 Ayes).

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**MOVED & SECONDED: TO AMEND ARTICLE VII. TOWN LANDINGS**

In recognition of the fact that the Town of Freeport owns several boat landing sites including the Dunning Boatyard site and the Cove Road site, ~~and the Bartol Island site~~, the following recommendations are made. (Councilors Arsenault & Soule) (7 Ayes).

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**MOVED & SECONDED: TO AMEND ARTICLE V. MOORINGS**

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5. Fees: In addition to the following fees, a User Fee of \$20.00 shall be paid for all moorings and slips in the anchorage of the Town of Freeport. All persons who receive a mooring assignment must pay to the Town of Freeport a mooring registration fee for each mooring assignment received, in accordance with the following schedule.

(1) Resident Fisherman .....	\$75.00
(2) Resident/Recreational.....	\$25.00
(3) Resident Commercial Marine Enterprise.....	\$75.00
(4) Non-Resident Fisherman.....	\$180.00
(5) Non-Resident Commercial Marine Enterprise.....	\$180.00
(6) Non-Resident Recreational .....	\$180.00
(7) Marina .....	\$75.00
(8) Yacht Club.....	\$25.00
(9) Commercial Passenger Boat.....	\$60.00
(10)Resident Subsequent .....	\$100.00
(11)Non-Resident Subsequent.....	\$180.00

The Coastal Waters Commission shall review fees at least once every two years and may make recommendations for adjustments to the Town Council.

(Councilors Arsenault & Campbell) (7 Ayes)

7. Waiting List: (Page 5 - Councilor Arsenault noted that the sentence reads—this list shall be in seven sections but eight are listed). Ms. Chipman explained that it should be changed to eight

**MOVED AND SECONDED:** To change the word seven to eight..(Councilors Arsenault & Mann) (7 Ayes)

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**MOVED & SECONDED:** TO AMEND ARTICLE XV. 'LICENSING FOR COMMERCIAL PASSENGER BOATS USING TOWN WHARF AND FLOATS.

4. d. Licenses per Category. No more than six (6) licenses for Commercial Passenger Boats shall be issued or shall be in effect at any time,, ~~and no more than three in each of the capacity categories.~~ (Councilors Arsenault & Beaulieu) (7 Ayes)

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**MOVED & SECONDED:** TO AMEND ARTICLE XV. Commercial Passenger Boats

4.e. Waiting List: The Harbormaster shall maintain a waiting list of all applicants who have not been issued a commercial passenger license. A copy of the list shall be provided to each applicant and posted in the office of the Harbormaster. Applications shall be dated upon receipt at the Town Office and shall be considered in chronological sequence (regardless of year received) in accordance with the following priority:

- a. Resident
- b. Non-Resident

(Councilors Mann & Soule) (7 Ayes)

Page 6, Paragraph 13, A-1.

**MOVED AND SECONDED:** To add the word helix after granite block. (Councilors Mann & Beanlieu) (7 Ayes)

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2.d. Commissioners may be removed by the Town Council for cause, after notice and hearing. ~~A Commissioner shall forfeit his/her membership on the Commission if he/she fails to attend three (3) consecutive regular meetings of the commission without being excused by the Commission.~~ The Chairman of the Commission shall notify the Town Council chairman of the forfeiture of office by a Commissioner(s). (Councilors Mann & Soule) (7 Ayes)

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7. The Harbormaster may shall suspend or terminate for the period of one year, the mooring assignment of any mooring owner for non-compliance with this Ordinance, or failure to comply with any order of the Harbormaster given according to the provisions of this Ordinance ~~for a period of one year.~~ After one year, the applicant may reapply for a mooring assignment. (Councilors Mann & Arsenault) (7 Ayes).

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**MOVED AND SECONDED:** Under "Awards License by Coastal Waters Commission"

a. and b. Freeport Applicants—At its first meeting after November 7 each year, the Coastal Waters Commission shall award available licenses to Freeport applicants ~~who qualify in each category as established under Article XIV and 4 above.~~ (Councilors Arsenault & Mann) (7 Ayes)

**VOTE ON ORDINANCE:** (7 Ayes)

**MOVED AND SECONDED:** To charge the Coastal Waters Commission to look into four areas of the new Coastal Waters Amendment and report back to the Council within 90 days on as to:

1. Whether mooring fees should be assessed by the length of a boat and if so, what the amount of the charge should be.
2. Whether there should be a maximum length for boats in the anchorage.
3. Whether we can reconfigure the moorings in the harbor to make room for more moorings.
4. Whether paragraph 8, page 14 of the new Ordinance referring to award of licenses by Coastal Waters Commission is consistent with State and Federal law.
- e. Investigate the leasing of mooring assignments in Article 9 of Councilor Soule's amendments.
- f. Investigate the ownership provision of Article 20, Article 5 contained in Councilor Soule's amendments.

(Councilors Soley & Soule) (7 Ayes).

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**MOVED & SECONDED:** To take Item 39-99 out of order on the printed agenda. (Councilors Soley & Mann) (7 Ayes).

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**ITEM #39-99** To consider action relative to an expenditure from the FY99 Miscellaneous and Contingency Account to provide for Educational Technicians.

Bob Lyman noted the amount being spent this year on fuel. Joan Nason explained that when the budget was put together, she had no idea families with significant disabilities or non-English speaking students would be moving into Freeport.

Councilor Campbell indicated that he does not want to exhaust the Miscellaneous Contingency Account at this time. He brought up the fact that the School Committee has chosen to educate approximately 40 students from other towns with tax dollars from Freeport to the tune of \$50,000. He is disappointed that the School Committee is not in attendance. Chair Soley noted that the Council has no choice but to grant this request. Councilor Mann indicated that he would be voting in favor of this issue. Councilor Beaulieu noted that it is not fiscally responsible to drain this Miscellaneous Contingency Account at this time. She would rather have the discussion in May. Councilor Arsenault concurred.

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**MOVED AND SECONDED:** That the \$26,000 figure be amended to \$13,285. (Councilors Soley & Mann) (7 Ayes)

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**BE IT ORDERED:** That up to \$13,285 be expended from the FY99 Miscellaneous and Contingency Account to provide for Education Technicians. (Councilors Campbell & Mann) (4 Ayes-Soule, Soley, Mann & DeGrandpre) (3 Nays-Arsenault, Campbell, Beaulieu).

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**BE IT ORDERED:** To take up Item #38-99 out of order on the printed agenda. (Councilors Soley & Campbell) (7 Ayes)

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**ITEM #38-99** To consider action relative to an expenditure from the FY99 Miscellaneous and Contingency Account to provide for the development of a Master Plan for U.S. Route #1 South.

Jack Lufkin explained why a Master Plan is needed and how the Town would benefit. He shared photographs that he would use as tools to take to developers. A discussion followed.

**BE IT ORDERED:** That up to \$5,000 be expended from the FY99 Miscellaneous and Contingency Account to provide for the Development of a Master Plan for U.S. Route #1 South. (Councilors Arsenault & Beaulieu) (6 Ayes) (1 Nay-Mann).

**NOTE:** The estimated cost of the Master Plan is \$15,000 of which the following will contribute equal amounts: Town of Freeport, Freeport Economic Development and Property Owners.

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**BE IT ORDERED:** To take up Item #37-99 out of order on the printed agenda. (Councilors Soley & Beaulieu) (7 Ayes)

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**COUNCIL MEETING #3-99  
FEBRUARY 2, 1999**

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**ITEM #37-99** To consider action relative to an expenditure from the FY99 Miscellaneous and Contingency Account to provide for Year 2000 Compliance.

**BE IT ORDERED:** That up to \$5,000 be expended from the FY99 Miscellaneous and Contingency Account to provide for Year 2000 Compliance.

**NOTE:** Freeport will join a Regional Effort coordinated by COG to assure compliance of items and issues common to all municipalities (est. \$3,000). The estimate to deal with items and issues specific to Freeport is \$2,000. (Councilors DeGrandpre & Campbell) (7 Ayes)

Steve Brown explained that this is a liability issue for the Town. Towns will be liable in the same way that businesses will be. Mr. Olmstead explained who could do the actual work and what the contract will cover. Mr. Brown is with a group called Preparedness 2000. He asked for help in getting the word out to citizens.

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**ITEM #34-99** To consider action relative to the proposed amendment to the Town Charter concerning Appointments to Boards and Committees. (Public Hearing).

**MOVED AND SECONDED:** That the Town of Freeport shall approve the following Charter amendment. A simple amendment to Section 2.03 deletes the words "by ballot". An explanation is that the proposed Charter Amendment would convert Town Council secret ballot votes for Appointments to Town Boards and Committees to public votes. There is some concern that the current method of voting for appointments violates the State's Public Right to Know Law. The Town Council approves the adoption.

**MOVED AND SECONDED:** That the Public Hearing be opened. (Councilors Mann & Campbell).

No comments were made

**MOTION:** That the Public Hearing be closed. (Councilors Mann & Campbell) (7 Ayes).

**BE IT ORDERED:** That the proposed amendment to the Charter of the Town of Freeport be submitted to the voters of the Town of Freeport at the Municipal Election on November 2, 1999.

**BE IT FURTHER ORDERED:** That the Town Clerk place the text of the Amendment on the Ballot. (Councilors Mann & Campbell) (7 Ayes)

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**ITEM #35-99** To consider action relative to proposed amendments to the Freeport Town Charter concerning the approval of Ordinances and Ordinance Revisions. (Public Hearing).

Shall the Town of Freeport approve the following Charter Amendments:

**2.12 Ordinance in General**

(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 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 publish the same as defined in Section 2.12(d) 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.~~ 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) ~~Effective Date: Except as otherwise provided in this Charter, every ordinance shall become effective at the expiration of 30 days after adoption or at any later date specified therein.~~

(c) ~~(d)~~ "Publish" Defined: As used in this section, the term "publish" means to print 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.

#### Explanation and Recommendation

The Town Council has established streamlining government as one of its goals.

The proposed Charter Amendments will assist in meeting this goal by eliminating the requirement that the Town Council must wait at least 14 days after the Public Hearings to approve changes to the Town's ordinances. The amendments would also eliminate the 30-day waiting period for ordinance revisions to become effective once the Town Council approves them. With these amendments the Town Council would have the option of voting immediately after Public Hearing or tabling action to a later date.

The Town Council recommends approval.

NOTE: An option has been developed for Council consideration.

MOVED & SECONDED: That the Public Hearing be opened. (Councilors Beaulieu & Campbell) (7 Ayes)

Discussion followed on the 30-day waiting period for ordinance revisions.

MOVED & SECONDED: That the Public Hearing be closed.(Councilors Beaulieu & Campbell) (7 Ayes).

Councilors considered various options. Councilor Mann favored no change at all. Councilors Beaulieu favored Option 1.

**COUNCIL MEETING #3-99  
FEBRUARY 2, 1999**

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**BE IT ORDERED:** To recommend Option #1 to allow the ability to waive the 14 day waiting period and eliminate the 30 day effective day period revised 1/26/99 be submitted to the voters of the Town of Freeport at the Municipal Election on November 2, 1999.

**BE IT FURTHER ORDERED:** That the Town Clerk place the text of the Amendment on the Ballot.(Councilors Beaulieu & Arsenault) (Councilors Beaulieu & Campbell) (6 Ayes) (1 Nay-Mann).

---

**ITEM #36-99** To consider action relative to a re-application for a public peddler license for Brenda Hodgson.

**MOVED & SECONDED:** That the Council adjourn and the Licensing Board convene. (Councilors Soule & Campbell) (7 Ayes)

**ROLL CALL OF MEMBERS:**

Genie Beaulieu-present  
David Soley-present  
Stafford Soule-present  
Kenneth Mann-present  
Sharon Coffin-present

Edward Campbell-present  
Gloria Fogg DeGrandpre-present  
John Arsenault-present  
Dale Olmstead-present

Brenda Hodgson, d/b/a B & G's Grill

**BE IT ORDERED:** That the re-application issued to the Brenda Hodgson be approved. (Councilors Soule & Campbell) (9 Ayes)

**MOVED & SECONDED:** That the Licensing Board adjourn and the Council reconvene. (Councilors Soule & Campbell) (9 Ayes)

---

**ITEM #40-99** To consider action relative to an appointment to the Paper Streets Committee.

**BE IT ORDERED:** That Alton Thompson be appointed, effective immediately, to serve as a member of the Paper Streets Committee. (Councilors Campbell & Arsenault)  
**BALLOT VOTE:** (7 Ayes)

**BE IT FURTHER ORDERED:** That Mr. Thompson qualify by swearing an oath of office before the Town Clerk by February 12, 1999.(Councilors Campbell & Arsenault)

**ROLL CALL VOTE:** (7 Ayes).

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**ITEM #41-99** To consider action relative to an appointment to the Medium Density A & B Zoning Committee.

**BE IT ORDERED:** That Amy Adams be appointed, effective immediately, to serve as a member of the Medium Density A & B Zoning Committee. (Councilors Arsenault & Campbell)  
**BALLOT VOTE:** (7 Ayes)

**COUNCIL MEETING #3-99  
FEBRUARY 2, 1999**

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**BE IT FURTHER ORDERED:** That Ms. Adams qualify by swearing an oath of office before the Town Clerk by February 12, 1999. (Councilors Arsenault & Campbell) **ROLL CALL VOTE: (7 Ayes)**

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**ITEM #42-99** To consider action relative to proposed amendments to the Zoning Ordinance concerning the Regulation of Wireless Telecommunications Facilities (Chapter 21).

**BE IT ORDERED:** That Public Hearing be scheduled for March 2, 1999 at 7:00 p.m. in the Town Hall Council Chambers to discuss proposed amendments to the Zoning Ordinance.

**BE IT FURTHER ORDERED:** That 30 copies be distributed equally between the Town Clerk's office and the Freeport Community Library for inspection by citizens. (Councilors DeGrandpre & Campbell) **ROLL CALL VOTE: (7 Ayes).**

---

**ITEM #43-99** To consider action relative to the confirmation of a Fire Chief.

**BE IT ORDERED:** That the Town Manager's appointment of Darrell Fournier as Fire Chief be confirmed. (Councilors Mann & Campbell) **ROLL CALL VOTE: (7 Ayes).**

---

**ITEM #44-99** To consider action relative to an amendment to the Rules of Order and Procedure for the Freeport Town Council.

**BE IT ORDERED:** That the Rules of Order and Procedure for the Freeport Town Council be amended as follows:

**34 Public Hearings:** Councilors shall not make comments or debate the public until everyone in the public has had an opportunity to speak. Councilors may ask speakers questions of clarification.

(Councilors Beaulieu & Campbell) **ROLL CALL VOTE: (6 Ayes) (1 Nay-Mann)**

---

**ITEM #45-99** To consider action relative to the perambulation of the town line between Freeport and Pownal.

**BE IT ORDERED:** That the report dated October 23, 1998 on the perambulation of the town line between Freeport and Pownal be accepted.

**BE IT FURTHER ORDERED:** That Kenneth Mann and Alan Hindley be authorized to accept the report on behalf of the Town. (Councilors Soule & Campbell) **ROLL CALL VOTE: (7 Ayes).**

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**OTHER BUSINESS:**

1. Discussion on request from L.L. Bean to use Bow Street Park for the July 4<sup>th</sup> Road Races.

Councilors had no objection.

2. Discussion on request to donate property located at 10 Middle Street in South Freeport for fire training purposes.

Mr. Olmstead noted that the building is uninhabited. Notification was sent to abutters and one neighbor responded. The last time a request of this type came up, The Council requested that a policy be developed concerning these types of exercises. This has not been done but he is hoping it can be done in the near future. In this instance, the individual cannot wait for policy to be developed. He is offering a donation of \$500 to the Fire Department which is generally used by the department for recognition. Chair Soley asked that the money be held in escrow. During the fire training exercise, if damage is done, the Town is liable. Councilors concurred that the owner should provide additional insurance.

**MOVED AND SECONDED:** To take up an item not on the printed agenda.  
(Councilors Beaulieu & Mann) (7 Ayes).

**BE IT ORDERED:** That we accept the property at 10 Middle Street in South Freeport for fire training purposes contingent upon receipt of notification that we are being additionally insured for liability in an amount satisfactory to the Town Manager. The \$500 donation will be held in escrow and the Fire Department will be instructed to address the concerns raised by the abutting property owner.  
(Councilors Campbell & Arsenault) (6 Ayes) 1 Nay-Mann).

3. Discussion on the development of a Consent Agenda.

Mr. Olmstead suggested delaying this to the next agenda in light of the hour.

**MOVED AND SECONDED:** To adjourn at 11:15 p.m. (Councilors Arsenault & Soule (7 Ayes).

Respectfully submitted,



Sharon Coffin  
Recorder

APPROVED ONLY : SEC. 6-C(3) # available per. license  
meeting # 3-99; item # 3-99; 2/2/99  
P.H. meeting # 1-99 (1/5/99)

PROPOSED AMENDMENTS TO THE  
SHELLFISH CONSERVATION ORDINANCE  
(CHAPTER 32)

Sec. 6. Licensing.

C. Fees: Effective January 1, 1997-1999

- (1) Resident Commercial: ~~Two Hundred Dollars (\$200.00)~~  
Two Hundred Twenty Five Dollars (\$225.00)

Effective January 1, 2000  
Two Hundred Fifty Dollars (\$250.00)

- (2) Non-Resident Commercial: ~~Four Hundred Dollars (\$400.00)~~  
Three Hundred Thirty-Seven Dollars and  
Fifty Cents (\$337.50)

Effective January 1, 2000  
Three Hundred Seventy-Five Dollars  
(\$375.00)

- (3) Resident Recreational: ~~Ten Dollars (\$10.00)~~  
Fifteen Dollars \$15.00)  
Total licenses available 200

- (4) ~~License Fees will be waived for residents 65 years or older.~~

~~License Fees will be waived for a period of three (3) years for licensed~~  
~~resident holders.~~

For those residents 65 years or older holding licenses as of December 31,  
1998, licenses shall be reissued a no charge for a period of three (3) years  
ending December 31, 2001.





**PROPOSED AMENDMENTS TO THE  
SHELLFISH CONSERVATION ORDINANCE  
(CHAPTER 32)**

**Sec. 6. Licensing.**

**C. Fees: Effective January 1, 1997-1999**

- (1) Resident Commercial: ~~Two Hundred Dollars (\$200.00)~~  
Two Hundred Fifty Dollars (\$250.00)

Effective January 1, 2000  
Two Hundred Seventy-Five Dollars (\$275.00)

- (2) Non-Resident Commercial: ~~Four Hundred Dollars (\$400.00)~~  
Three Hundred Seventy-Five Dollars  
(\$375.00)

Effective January 1, 2000  
Four Hundred Twelve Dollars and Fifty  
Cents (\$412.50)

- (3) Resident Recreational: ~~Ten Dollars (\$10.00)~~  
Fifteen Dollars (\$15.00)  
Total licenses available 200

- (4) ~~License Fees will be waived for residents 65 years or older.~~

~~License Fees will be waived for a period of three (3) years for licensed resident holders.~~

For those residents 65 years or older holding licenses as of December 31, 1998, licenses shall be reissued a no charge for a period of three (3) years ending December 31, 2001.



PROPOSED AMENDMENTS TO THE  
SHELLFISH CONSERVATION ORDINANCE  
(CHAPTER 32)

Sec. 6. Licensing.

C. Fees: Effective January 1, ~~1997~~ 1999

- (1) Resident Commercial: ~~Two Hundred Dollars (\$200.00)~~  
Two Hundred Seventy-Five Dollars (\$275.00)

Effective January 1, 2000  
Three Hundred Dollars (\$300.00)

- (2) Non-Resident Commercial: ~~Four Hundred Dollars (\$400.00)~~  
Four Hundred Twelve Dollars and Fifty Cents (\$412.50)

Effective January 1, 2000  
Four Hundred Fifty Dollars (\$450.00)

- (3) Resident Recreational: ~~Ten Dollars (\$10.00)~~  
Fifteen Dollars (\$15.00)  
Total licenses available 200

- (4) ~~License Fees will be waived for residents 65 years or older.~~

~~License Fees will be waived for a period of three (3) years for licensed resident holders.~~

For those residents 65 years or older holding licenses as of December 31, 1998, licenses shall be reissued a no charge for a period of three (3) years ending December 31, 2001.



## **SHELLFISH EXPENSES FY99**

Warden	\$28,000
Fringe Benefits	\$ 8,400
Water Testing	\$12,000
Expenses	\$15,600

Commission Budget	\$ 4,200
(Includes survey of flats)	<u>          </u>

TOTAL	\$68,200
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## **REVENUES**

### **Current FY99**

Commercial Licenses	\$12,800
Recreational Licenses	\$ 1,860
Fines	\$ 500

            
\$15,160

### **FY2000**

Amended Revenues	\$17,225
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Amended Option 1	\$18,750
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Amended Option 2	\$20,275
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3-A. Shellfish conservation license; qualifications, fees, procedures. A shellfish conservation ordinance may fix the qualifications for a license, including municipal residency, subject to the following provisions.

[See main volume for A]

Text of subsec. 3-A, par. B, eff. until Jan. 1, 1999.

B. A shellfish conservation ordinance may fix license fees. The fee for a nonresident license may not exceed twice the resident fee.

Text of subsec. 3-A, par. B, eff. Jan. 1, 1999.

B. A shellfish conservation ordinance may fix license fees as follows.

(1) If the ordinance sets a fee of \$200 or less for a resident license, the fee for a nonresident license may not exceed twice the resident fee.

(2) If the ordinance sets a fee of more than \$200 for a resident license, the fee for a nonresident license may not exceed 1 1/2 times the resident fee.

[See main volume for C to E]

F. When 2 or more municipalities have entered into a regional shellfish management agreement pursuant to subsection 7, the combined total number of commercial licenses for nonresidents provided by those municipalities must be a number not less than 10% of the combined total number of commercial licenses issued for residents. When the combined total number of resident commercial licenses is fewer than 10 but more than 5, at least one nonresident commercial license must be provided. When the combined total number of resident commercial licenses is 5 or fewer, nonresident commercial licenses are not required.

4. Adoption requirements. Shellfish conservation ordinances may be adopted under this section by municipalities or unorganized townships.

[See main volume for A]

B. Any ordinance proposed by a municipality or unorganized territory under this section must be approved in writing by the commissioner prior to its adoption, except that the commissioner may not withhold approval based on the amount of license fees specified in an ordinance.

[See main volume for C, 4-A to 6]

Municipalities may enter into regional shell-

*Current Fees*

Resident Commercial \$200

Non-Resident Commercial \$400

Resident Recreational \$10

## 1995 Legislation

Laws 1995, c. 75, § 1, in sub. inserted provision that the court n penalty other than the monetary p as provided in this par.

Laws 1995, c. 531, § 1, in subs. municipalities to establish municip agement committees comprised o to administer municipal programs.

Laws 1995, c. 531, § 2, in sub. among other changes, substitute regional shellfish management a ant to subsec. 7, for reference with one another for joint or c under the subsec.

Laws 1995, c. 531, § 3, in subs. references to regional shellfish m: ments or programs for reference vation agreements and joint pro

Ar

## Section

6681. Soft-shell clam manageme

## § 6681. Soft-shell clam

6-A. Penalty. A pers: following minimum penalties:

A. For possession of a smaller than the minimu

(1) For the first off

(2) For subsequent violation, a fine of n

The court may not suspend a

B. For possession of a of the shellfish are smal less than \$100 and not n

1997, c. 628, § 2.

## 1997 Legislation

Laws 1997, c. 628, § 2, in su the opening par., which prior t withstanding the provisions of 4-B, a person who violates thi crime punishable by the followi





*Approved meeting # 3-99 - 2/2/99  
PH: meeting 2-99, item 15-99  
1/19/99*

*Approved February 2, 1999*

## **CHAPTER 31 COASTAL WATERS ORDINANCE**

### **ARTICLE I INTRODUCTION**

- 1. Purpose:** The Coastal Waters Ordinance is hereby established regulating marine activities within the tidal waters of the Town of Freeport, Maine, in order to ensure safety to persons and property, to promote availability, preservation and use of valuable public resources, and to create a fair and efficient framework for administration of same.
- 2. Authority:** This Ordinance is adopted pursuant to the authority granted by 38 M.R.S.A., Section 2 et seq. as amended, and the Home Rule provisions of the Constitution of the State of Maine.
- 3. Applicability:** The provisions of this Ordinance shall apply to all tidal waters located within the boundaries of the Town of Freeport, Maine.
- 4. Repeal:** All prior harbor regulations including those enacted in December 1977, as amended, are hereby repealed.
- 5. Severance:** If any provision or clause of this Ordinance or application thereof to any person or persons is held to be invalid, such invalidity shall not effect the validity of other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end provisions of this Ordinance are declared to be severable.
- 6. Conflict:** Nothing contained herein shall be construed to conflict with the lawful jurisdiction of the United States Government with respect to enforcement of navigation, shipping or anchorage and associated laws of the State of Maine.

### **ARTICLE II DEFINITIONS**

- 1. Anchorage:** The " anchorage " as used in this Ordinance shall include all waters of the Harraseeket River upstream from a line drawn between Stockbridge Point and Moore Point running through Pound of Tea Island, including Staples Cove and all waters to the north and east thereof to the head of navigation at Porter's Landing and Mast Landing.
- 2. Boat:** Boat as used in this Ordinance shall mean any floating object designed and used primarily for self-propelled navigation on the water.
- 3. Boat Yard:** A place adjacent to tidal waters and located in the Marine Industrial Zone, as defined in the Freeport Zoning Ordinance, where, as a business or gainful occupation, boats are hauled, stored, repaired and/or constructed.
- 4. Channel:** As defined by channel markers.

5. **Commercial Passenger Boat:** "Commercial Passenger Boat" means a boat which carries passengers for hire, on a charter or scheduled service basis or both. The term does not include the ferry service engaged by the Bustins Island Village Corporation to provide public transportation to Bustins Island.
6. **Commercial Zone:** That portion of the anchorage which is reserved for the use of commercial fishing vessels and described as bounded on the northeast by a line extending across the river aligned with the current and/or former location of the ice batter pilings at the north end of Brewer's South Freeport Marine (roughly N43 49.299' W070 06.239') and on the southwest by a line extending from the south end of Harraseeket Lobster Company's wharf, to the nearest point of the mudflats which extend into the harbor from Wolf's Neck.
7. **Household:** Those persons living in a single dwelling unit.
8. **Marina:** An all-tide waterfront facility located in the Marine Industrial Zone, as defined in the Freeport Zoning Ordinance, whose activities include sales, storage and maintenance of boats, and which provides slips for permanent or transient berthing, sells fuel and supplies for boats and provides vehicle parking.
9. **Marine Vendor:** The word "marine vendor" as used herein shall include any person, having no established or fixed place of business in the Town, selling or offering for sale tangible commodities from the Town Wharf or any of the piers, floats or boats attached thereto and where delivery is made at the time of sale. The word "marine vendor" shall include the words "hawker", "huckster" and "peddler".
10. **Marina Mooring:** Mooring assignment used by marinas primarily for rental to transient marine traffic.
11. **Mooring:** A mooring is an underwater device either helix, granite block or mushroom, which tethers boats. A Temporary Mooring is one which is constructed to be hauled out of the water seasonally. A Permanent Mooring is one which is constructed to over winter in the water. A Flats Mooring is one which is located on the mud flats at low tide.
12. **Non-resident:** All persons not residents of the Town of Freeport are classified as non-resident.
13. **Non-resident Commercial Marine Enterprise:** A Commercial Marine Enterprise owned by a non-resident of the Town of Freeport.
14. **Non-resident Fisherman:** A non-resident of the Town of Freeport who derives a majority of his/her annual income from lobstering, clamming, or fishing or other marine fishery.
15. **Person:** The word "person" as used herein shall include the singular and plural, and shall also mean or include any firm or corporation, association, club, partnership or society.
16. **Resident:** Any person who occupies for more than 180 days in the preceding calendar year, real estate which he/she rents, owns or resides within the Town of Freeport.
17. **Resident Commercial Marine Enterprise:** A Resident Commercial Marine Enterprise is a business or corporation owned by a resident of the Town of Freeport and located in the Town of Freeport in business

for the purpose of sales, storage or maintenance of boats; services to boatyards or marinas or the general public; selling or offering for sale a tangible commodity. To be considered a Resident Commercial Marine Enterprise the principal(s) must prove

- (a) that a majority of his/her income is derived from the Commercial Marine Enterprise,
- (b) that there is a record of business transactions,
- (c) that the business has separate business quarters defined by lease or contract.

**18. Resident Fisherman:** A resident of the Town of Freeport who derives a majority of his/her annual income from lobstering, fishing or clamming, or any other marine fishery and who has legally obtained all necessary permits, licenses and approvals.

**19. Resident/Recreational Mooring Assignment:** This category of mooring assignment is limited to natural persons who are residents of the Town of Freeport.

**20. Riparian:** Littoral and/or Riparian rights under state law are not affected by this ordinance. Any mooring assignment previously termed riparian will fall into its appropriate category with the inception of this ordinance.

**21. Skiff:** A light rowboat, sometimes called a dinghy, of 14 feet or less in length.

**22. Slip:** A berthing space at floats or docks.

**23. Yacht Club:** A private association of persons organized to promote recreational boating.

### ARTICLE III COASTAL WATERS COMMISSION

**1. Establishing Policy:** The Freeport Coastal Waters Commission exists for the general purpose of studying and evaluating public usage of and access to coastal waters, to advise the Town Council on policy matters and proposed regulations concerning the Town's coastal waters, supervise the enforcement of these rules and regulations through the Harbormaster, oversee the maintenance and care of Town owned waterfront facilities through the Harbormaster, and in conjunction with State and Federal authorities. The Coastal Waters Commission sits as a board of appeals to hear an appeal from any person aggrieved by any decision, act or failure to act of the Harbormaster. The Commission shall regularly inform the Town Council, Planning Board, and such other boards, committees, commissions, or officials of the Town of its activities, as is appropriate.

**2. Organization:**

(a) The Coastal Waters Commission shall consist of seven (7) members appointed by the Town Council. Each Commissioner shall be a resident of the Town of Freeport and shall serve without compensation.

(b) Neither a municipal officer nor his/her spouse may be a member of the Commission.

(c) Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, except the member who is being challenged.

(d) Commissioners may be removed by the Town Council for cause, after notice and hearing. The Chairman of the Commission shall notify the Town Council Chairman of the forfeiture of office by a Commissioner(s).

(e) The term of office of a member shall be three (3) years, except the initial appointments which shall be as follows: three (3) members for two (2) year terms; and two (2) members for one (1) year term.

(f) The Commission shall annually elect a chairman, vice - chairman and secretary from its membership and may create and fill such other offices as it may determine. Officers shall serve one (1) year term and shall be eligible for re-election.

### **3. Procedure:**

(a) The Chairman shall call meetings of the commission as required. The Chairman shall also call meetings of the Commission when requested to do so by a majority of the members or by municipal officers. A quorum of the Commission necessary to conduct an official Commission Meeting shall consist of at least four (4) members. The Chairman shall preside at all meetings of the Commission and shall be official spokesman of the Commission.

(b) The Secretary shall maintain a permanent record of all Commission meetings and all correspondence of the Commission. The secretary shall be responsible for maintaining those records which are required as a part of the various proceedings which may be brought before the Commission. All records to be maintained or prepared by the Secretary are deemed public and shall be filed in the Municipal Clerk's office and may be inspected at reasonable times.

(c) The Commission may provide by rule, which shall be recorded by the Secretary, for any matter relating to the conduct of any hearing, provided that any rule may be waived by the Chairman upon good cause shown.

(d) The Commission may receive any oral or documentary evidence but shall provide as a matter of policy for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. Every party shall have the right to present his case or defense by oral or documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(e) The transcript of testimony, if any, and exhibits together with all papers and requests filed in the proceeding, shall become part of the record and shall include a statement of findings and conclusions, as well as the reasons and/or basis thereof, upon all the material issues of fact, law or discretion presented in the appropriate order, relief or denial thereof. Notice of any decision shall be mailed or hand delivered to the petitioner, his representative or agent, the Planning Board, agency or office and the municipal officers within seven (7) days of their decision.

(f) An appeal may be taken from any act or decision of the Coastal Waters Commission by procedure as outlined in Article XI of this Ordinance.

4. **Jurisdiction:** The Coastal Waters Commission shall hear any appeal by any person affected directly or indirectly from any decision, order, rule, act or failure to act of the Harbormaster. In deciding any appeal, the Commission shall hear and approve, approve with modifications or conditions, or disapprove the decision, order, rule, act or failure to act of the Harbormaster, from which the appeal is made.

## ARTICLE IV HARBORMASTER

1. The Harbormaster shall enforce all ordinances and laws of the Town of Freeport, Maine, including specifically, but not limited to the Coastal Waters Ordinance of the Town of Freeport and the provisions of 38 M.R.S.A., Sections 1-6.

2. The Harbormaster shall be the overseer of the Town's moorings, floats, gangways, wharves, and channels and ensure their proper maintenance is provided for.

3. The Harbormaster shall regularly attend the Coastal Waters Commission meetings and inform the Commission of his/her activities as well as provide such available information as may be requested by the Commission for the execution of its duties.

## ARTICLE V MOORING ASSIGNMENTS

1. **Application:** Persons desiring to place moorings in the anchorage of the Town of Freeport shall apply for mooring assignments each year. During or before January of each year, the Harbormaster shall mail an application to each person who received a mooring assignment the previous year and in fact used this assignment for its prescribed use, and to other applicants who have asked to receive a mooring application. The completed application shall be returned to the Harbormaster by the applicant no later than March 1st of that year. Mooring Applications which are between one and seven days late will be assessed a \$50 (fifty dollar) late fee. Mooring applications which are more than seven days late will be added to the bottom of the waiting list. The burden of proof in determining residence, legitimacy of business usage, principal use of a vessel or any issues of adequacy of design or construction, shall be upon the applicant. There shall be a maximum of 350 moorings, not including flats moorings, located in the Harraseeket River anchorage. The Harbormaster shall decide on the number of moorings applicable in all Freeport tidal waters taking into consideration the concerns of area residents, the ease of access to moorings and any other applicable factors.

2. **Termination:** All persons who had been assigned a mooring the entire previous year whose mooring assignment is to be terminated by the Harbormaster for reasons of non-compliance with the Coastal Waters Ordinance or any other reason shall receive written notification from the Harbormaster no later than January 31. This notice shall state the fact of termination and the reason for termination, and inform the applicant of his/her right to appeal the decision of the Harbormaster to the Coastal Waters Commission as prescribed in Article XI below.

3. **Mooring Assignment Application:** Each application shall contain the following:

(a) The applicant's name (or applicants' names in the event the mooring assignment is to be held jointly by spouses), complete address, home telephone number, place of employment and work telephone number;

- (b) The boat name, State or Federal registration number, the vessel identification number, the engine number, name and address of boat owner(s);
- (c) The type of boat, i.e. sail, power, inboard or outboard;
- (d) Length of boat and hull configuration, i.e. deep keel, shallow draft;
- (e) If the boat is under twenty feet (20') in length, the type of mooring desired, temporary or permanent;
- (f) Name, address and telephone number of person who will set, service and inspect the mooring;
- (g) The signature of the applicant and date of application;
- (h) Payment of the appropriate fee.

**4. Incomplete Applications:** Each application that fails to provide the above listed information will be deemed incomplete. All applications must include the appropriate fee. Those without the appropriate fee shall be deemed incomplete. Incomplete applications shall be returned to the applicant without further action by the Harbormaster. Fraudulent application is grounds for immediate termination of mooring assignment.

**5. Fees:** In addition to the following fees, a User Fee of \$20.00 shall be paid for all moorings and slips in the anchorage of the Town of Freeport. All persons who receive a mooring assignment must pay to the Town of Freeport a mooring registration fee for each mooring assignment received, in accordance with the following schedule.

(1) Resident Fisherman .....	\$75.00
(2) Resident/Recreational .....	\$ 25.00
(3) Resident Commercial Marine Enterprise.....	\$ 75.00
(4) Non-Resident Fisherman.....	\$180.00
(5) Non-Resident Commercial Marine Enterprise.....	\$180.00
(6) Non-Resident Recreational.....	\$180.00
(7) Marina.....	\$75.00
(8) Yacht Club.....	\$25.00
(9) Commercial Passenger Boat.....	\$60.00
(10) Resident Subsequent (more than one per household) .....	\$100.00
(11) Non-Resident Subsequent (more than one per household).....	\$180.00

The Coastal Waters Commission shall review fees at least once every two years and may make recommendations for adjustments to the Town Council.

**6. Mooring Assignment:** All persons who received and used a mooring assignment in the previous year, and whose mooring application was received in a complete and timely fashion, will receive a mooring assignment for the current year on March 15 of that year. After March 16 the Harbormaster will award any remaining mooring assignments to persons who have been on the waiting list. The Harbormaster and the

Coastal Waters Commission will endeavor to maintain a balance of not less than ten percent (10%) non-resident mooring assignments. At all times the following priority order shall be maintained:

- (1) Resident Fisherman;
- (2) Resident/Recreational;
- (3) Commercial Passenger Boat
- (4) Resident Commercial Marine Enterprise;
- (5) Non-Resident Fisherman;
- (6) Non-Resident Commercial Marine Enterprise;
- (7) Non-Resident Recreational;
- (8) Resident Subsequent;
- (9) Non-Resident Subsequent.

In any one year not more than 25% of new mooring assignments shall be assigned to non-recreational applicants.

**7. Waiting List:** The Harbormaster shall maintain one chronological waiting list with complete application information of all applicants who have applied for but not received a mooring assignment. Persons desiring a place on the waiting list may apply at any time by making out a mooring application form and filing it with the Harbormaster. The list shall be in eight sections, each section in chronological order as to when the application was received with recreational applications being limited to natural persons:

- (1) Resident Fisherman;
- (2) Resident/Recreational;
- (3) Resident Commercial Marine Enterprise;
- (4) Non-Resident Fisherman;
- (5) Non-Resident Commercial Marine Enterprise;
- (6) Non-Resident Recreational;
- (7) Resident Subsequent;
- (8) Non-Resident Subsequent.

A copy of this waiting list, composed of all information required in Article 5 Section 3 of this Ordinance, shall be posted in the Town Office and shall be provided to all members of the Coastal Waters Commission, and made available for any Commercial Marine Enterprise or any others who request a copy.

**8. Numbers:**

(a) Marinas shall be assigned a total of not more than 15 mooring assignments each. These may not be located in the Commercial zone without approval by the Harbormaster. If any of these moorings shall be rented they shall be considered rental moorings.

(b) Yacht Clubs in existence as of January 1, 1999 shall be allowed not more than 4 (four) mooring assignments each.

(c) All other categories listed in Article V.5 (I)-(II) may apply for one mooring assignment each. Applicants desiring more than one mooring assignment must apply to the Coastal Waters Commission and prove need.

**9. Leasing:** All mooring assignments (with the exception of Marina Rental Moorings) shall be used exclusively for the personal use of the applicant solely for the boat listed in the application. No leasing, subleasing, or assignment of moorings or mooring numbers shall be allowed.

**10. Abandonment of Assignment:** The Harbormaster shall deem abandoned any mooring assignments substantially unused by the applicant for his/her vessel for a period of more than one season. Subsequent application for a mooring number assignment by that person must be in accordance with the procedure outlined for new applications, including placement in chronological sequence on the waiting list.

**11. Placement:** The Harbormaster shall develop a plan for the placement of moorings in the harbor, giving consideration to the size, hull type, construction, windage of boats and the location of the channel. He/she shall annually assign locations to each mooring and ensure placement in the correct location. All moorings not located in the correct location shall be moved by the owner at his/her own expense in accordance with the instructions of the Harbormaster. In the event of the failure of the owner to comply with these instructions, the Harbormaster shall move or remove the improperly located mooring and the cost shall be borne by the owner of the relocated mooring. Resident commercial fishing vessel owners who request a place in the Commercial zone shall have their moorings assigned there by the Harbormaster as soon as possible.

**12. Construction:**

(a) After April 1, 1987, all moorings in the harbor for boats in excess of 20 feet, shall be permanent moorings constructed of granite.

(b) Boats under 20 feet in length may be placed upon temporary moorings.

(c) All mooring construction and placement, in the anchorage of the Town of Freeport, must be approved by the Harbormaster.

**13. Construction Standards:** The mooring owner is responsible for the adequacy of all mooring gear, tackle and maintenance.

(a) All permanent moorings shall comply with the following minimum specifications:

(1) Each permanent mooring shall consist of a granite block or helix, heavy steel bottom chain attached to a lighter top chain, mooring buoy and a nylon pennant. Nylon or synthetic material as approved by the Harbormaster, may be substituted for the top chain.

(2) All mooring blocks shall be constructed of solid granite with steel staples or eye bolt extending completely through the block. Cement blocks, old engines and other miscellaneous weighted objects are unacceptable as mooring anchors in the harbor.



(3) The mooring scope shall be approximately two times the water depth at maximum high water. Total scope shall include bottom chain and top chain together, each of which shall consist of approximately half the total length.

(4) Each mooring must have at least two swivels. All swivels and shackles must be larger than the chain diameter. All shackles and swivel pins shall be properly seized. All eyes in the nylon rode shall be fitted with appropriate size thimbles. Pennants connecting the mooring buoy to the moored boat shall be fastened to the lower eye of the mooring buoy and shall consist of nylon line equal to 1 1/2 to 2 times the freeboard at the bow of the boat.

(5) Mooring tackle shall meet the following minimum:

Up to 20' As approved by the Harbormaster.

Registered Boat length(ft)	Granite Block(lb)	Bottom Chain	Chain/Top Rode	Nylon
20 - 25	2000	1/2	3/8	5/8
25 - 35	2500	1/2	3/8	5/8
35 - 40	3000	3/4	1/2	3/4
40 +	As approved by the Harbormaster			

(6) Standards for helix moorings are the same as for other types.

(7) Despite dimension standards established herein, any part of a mooring showing excessive wear or any mooring or gear which does not meet with the Harbormaster's approval shall not be permitted.

(8) All mooring buoys shall be of light and highly visible color and shall have the current registration number painted above the water line in a contrasting color and in large enough size to be easily readable. A letter designation may be placed upon the mooring buoys by marinas, boatyards and commercial marine enterprises to designate moorings owned by them.

(9) All moorings shall be of appropriate size and design for the largest size boat likely to be placed thereon, and shall be of a construction approved by the Harbormaster.

(b) Temporary Moorings:

(1) The design and construction of all temporary moorings shall be approved by the Harbormaster prior to placement in the water.

(2) Hand mixed cement blocks, old engines, and other miscellaneous weighted objects are not acceptable as mooring anchors in the harbor.

(c) Winter:

(1) Winter spars may be used to mark moorings with the permission of the Harbormaster. Winter spars may not be set before October 15 and must be removed by May 1 each year. Winter spars remaining in the water after this date shall be removed by the Harbormaster at the expense of the owner and an appropriate fine levied in accordance with Article IX, Item 3.

**14. Setting:**

- (a) No temporary mooring shall be set before sunrise on the first working day in April without the express consent of the Harbormaster.
- (b) If the applicant who has received a mooring assignment sells, transfers, no longer owns or otherwise loses the boat on that mooring during the course of a year, he/she shall notify the Harbormaster immediately. The mooring assignment shall not be assigned or sold to the person purchasing that boat.

**15. Inspection:**

- (a) The Harbormaster or his appointed deputy shall inspect and approve or be otherwise satisfied that each mooring is in safe condition before it is placed in the anchorage.
- (b) Every second year permanent moorings shall either be lifted by the owner of the mooring and inspected by the Harbormaster or be inspected at the mooring owner's expense by a diver, approved by the Harbormaster. The Harbormaster has the authority to require any necessary maintenance or replacement of parts or the whole mooring, tackle and/or gear.
- (c) The Harbormaster shall maintain a file on each mooring listing the date of the last inspection and the name of the person who last inspected it.

**16. Anchoring:**

- (a) No boat shall anchor in the channel or in a manner so that the boat shall lie, at any tide, in the confines of the channel.
- (b) Boats may anchor only in those areas and for the length of time permitted by the Harbormaster.

**17. Other Floating Objects:** No mooring in this harbor shall be utilized to secure any floating object other than a single boat without express written permission of the Coastal Waters Commission. The term "boat" as used in this subsection shall include mooring derricks.

**18. Bustins Island:** Nothing in this Article shall apply to the area within 500 yards of Bustins Island.

**19. Flats mooring:** Vessels drawing less than six inches unladen, and other vessels with the express permission of the Harbormaster, may utilize a flats mooring. Flats moorings shall be located and built of such construction as the Harbormaster may approve. They shall be marked by some system to be determined by the Harbormaster so as to be readily identifiable by him. These moorings shall not be included within the 350 mooring limitation contained in Article V, Section 1 above.

**20. Ownership:** Nothing in this article or in this ordinance is meant to construe the notion of ownership in a mooring assignment. If a holder of a commercial mooring assignment no longer uses his/her mooring for commercial purposes, the mooring assignment reverts to the town and shall be assigned to the next eligible person. If a holder of a resident/recreational mooring assignment dies, the mooring assignment reverts to the town for distribution to the next eligible person. If a case should arise where a person holding a resident/recreational mooring assignment requests a change to commercial, and then requests a change back to resident/recreational, the request shall be granted. A husband and wife may hold any mooring in common.

**21. Residency Status and Fees:** If a person who holds a valid mooring assignment changes residency status, whether from resident to non-resident or from non-resident to resident, he/she is expected to immediately notify the Harbormaster. In the case of change from resident to non-resident, the Harbormaster will make a determination about fee increase. In the case of non-resident to resident, there will be no remission of fees. Failure to accurately report resident or non-resident status will be considered fraud, and will be subject to penalties under Article IX of this ordinance as well as immediate forfeiture of the mooring assignment.

## **ARTICLE VI TOWN WHARF AND FLOATS**

### **Town Wharf:**

1. The Town of Freeport owns and operates one public wharf and floats which provide the only all-tide public access to Harraseeket Harbor in the Town. The purpose of the Wharf and Float System, maintained at the public expense, is to provide access to the water for the residents of the Town of Freeport, including Bustins Island. In order to assure the facilities use for the benefit of the residents of the Town and for traditional and historic purposes, the following policy is hereby adopted governing the use thereof.

(a) Use of the Town Wharf and Floats which fits within the definitions of Commercial fishing, lobstering or clamming, Recreation, Commercial Marine Enterprises, Marine Venders or Marinas consistent with the rules and regulations in the Freeport Coastal Waters Ordinance (formerly, Harbor Rules and Regulations) shall be permitted.

(b) Conduct on the Wharf: No persons shall use the wharf and floats to store fish bait or any other offensive or dangerous material for an unreasonable period of time. Persons may store equipment and other items necessary for their business for reasonable periods of time with the approval of the Harbormaster.

(c) General Authority of the Harbormaster: In addition to other authorities granted to the Harbormaster, the Harbormaster shall have the general authority of supervisor and shall control the use of the wharf and floats by any person. The Harbormaster shall strive to insure that all uses of the wharf and floats are consistent with this policy and that all persons using the wharf and floats do so in a safe manner.

(d) Berthing Zone: A berthing zone is hereby established from the southwest face of the existing Town float system which is thirteen (13) feet from the face of the Town floats for the length of the existing Town floats. Boats may berth along the southwest face of the Town float system only within the berthing zone and not outside of it. No boat shall berth in the berthing zone for more than thirty (30) minutes out of each sixty (60) minute period. All boats berthed on the southwest face of the Town floats shall be attended, meaning that a person capable of operating the boat shall be on the boat. Any boat berthed in the berthing zone shall, upon request of the Harbormaster, be moved to facilitate navigation to and from abutting property. No vessels shall be berthed on the southwest face of the Town wharf in the area between the bulkhead and the end of the Town wharf except that berthing may be allowed in that area upon the mutual consent of the Harbormaster and the owner of the land behind the bulkhead, which consent shall not be reasonably withheld. (Reference is made to an agreement dated April 25, 1989 between the Town of Freeport and John Coffin, Constance Coffin, David Coffin and Regis Coffin).

**2. Town Hoist:**

(a) No launching or landing of boats using the hoist shall be allowed without the permission of the Harbormaster.

(b) No excessive load shall be placed upon the hoist.

(c) The Harbormaster may terminate any use that he/she deems, in his/her sole discretion, to be unsafe.

**Town Floats:**

1. Unless approved by the Harbormaster, all boats secured at the Town Floats shall be attended, meaning that a person capable of operating the boat shall be on the boat at all times.

2. No boat, attended or unattended, may be tied to the Town Floats overnight without the consent of the Harbormaster.

3. No person will leave any waste on the Town Wharf or Floats.

4. Skiffs may be secured at the finger floats on the north side of the Town Floats provided they comply with all of the below listed conditions:

(a) Only skiffs owned by residents of the Town of Freeport may be left unattended at the finger floats. Non-residents may leave skiffs unattended at the finger floats only with the written permission of the Harbormaster.

(b) Each skiff shall be marked with the owner's name and a dinghy/skiff permit which will be assigned by the Harbormaster for purposes of identification. The fee for a dinghy/skiff permit shall be \$5.00 (five dollars).

(c) No skiffs may be secured on the outer faces of the Town Floats.

(d) All skiffs shall be properly secured and maintained. Skiffs shall not be secured with chains or wire, nor padlocked to the float.

(e) Outboard motors of 25 H.P. or less may be left on skiffs secured at the Town Floats, with the approval of the Harbormaster.

(f) No skiff longer than fourteen (14') feet may be secured on the Town Floats.

## ARTICLE VII TOWN LANDINGS

In recognition of the fact that the Town of Freeport owns several boat landing sites including the Dunning Boatyard site and the Cove Road site, the following recommendations are made.

1. That the Coastal Waters Commission have responsibility for setting and administering policy and that the Harbormaster have authority over all of these sites.

## ARTICLE VIII OPERATIONS

1. No boat shall be operated within the Harraseeket anchorage at a speed in excess of five knots per hour, or so as to cause excessive wake. This section shall not apply to operation in those two portions of the anchorage bounded as follows:
  - (a) The northern portion of the anchorage bounded on the east, north and west by the anchorage limits and on the south by a line drawn from the east end of Sandy Beach, so-called, on Weston Point due east (true) to the Wolf's Neck Shore.

## ARTICLE IX DISRUPTIVE CONDUCT

It shall be a violation of this ordinance for any person to disrupt the safe and lawful activities, or in any way threaten the public safety, in or around the docks, wharfs, floats or tidal waters of the Town of Freeport, Maine.

Any persons found in violation of this ordinance shall lose his/her mooring assignment(s) and all rights to use the Town dock, wharfs and floats.

## ARTICLE X PENALTIES

1. It shall be the primary duty of the Harbormaster to enforce the provisions of this Ordinance. If the Harbormaster shall find any provision of this Ordinance being violated, he/she shall notify the person responsible for said violation, either verbally or in writing, indicating the nature of the violation and ordering the action necessary to correct it. The Harbormaster shall maintain a written record of said notices. In the event that the violation causes or threatens to cause property damage, then notification of the violation shall be the fastest means available. In this case, if contact with the mooring or boat owner or corrective action cannot be made within 24 hours, the Harbormaster is authorized to take whatever corrective action is necessary, the expense and risk for which shall be borne by the mooring or boat owner. If the mooring or boat owner fails to satisfy all financial obligations arising out of this incident prior to January 1st of the succeeding year, he/she shall forfeit his/her mooring assignment until such obligation is satisfied. This section shall not limit in any way the authority of the Harbormaster to act as provided in 38 M.R.S.A., Section 1.

2. **Legal Action:** When the above action does not result in the abatement or correction of the violation condition, the Harbormaster is authorized to seek any and all actions, legal or equitable. In addition to seeking civil penalties, the Town of Freeport may enjoin any person from violating or continuing to violate

an provision of this ordinance and may seek any other legal or equitable remedies necessary to achieve compliance with the requirements of this ordinance. In any such action which the Town prevails, the Town shall be awarded reasonable attorney's fees and the cost of suit in addition to any other relief to which it may be entitled.

**3. Civil Penalty:** Violation of any provision of this Ordinance shall be deemed a civil violation. The provisions of this ordinance are enforceable by the Harbormaster, Assistant Harbormaster, or any other law enforcement officer whose jurisdiction includes the Town of Freeport. Any person who violates any provision of this ordinance commits a civil violation punishable by a civil penalty of between \$100 and \$2,500. A separate violation occurs each day until the violation is ceased or corrected. Commencement of action may be by service of process by a uniform traffic ticket and complaint as provided in 20 M.R.S.A. Section 2300. All fines shall be payable to the Town of Freeport.

**4. Failure to Obey Order of the Harbormaster:**

i. **Offense Defined:** As provided by 38 M.R.S.A. 13, a person is guilty of failure to obey an order of the Harbormaster if the person intentionally, knowingly or recklessly fails to obey any lawful order of the Harbormaster authorized pursuant to 38 M.R.S.A. 1 et seq.

ii. **Penalty:** Failure to obey an order of the Harbormaster is a Class E Crime.

**5. Forfeiture:** Moorings and skiffs abandoned by their owners shall be impounded by the Harbormaster. Said abandoned property shall be disposed of according to the procedure outlined in 25 M.R.S.A., Section 401. Any skiff left tied to the Town Float without proper identification or left sunk or awash for a period exceeding 48 hours shall be deemed abandoned for the purposes of this section. The Town shall not be liable for any damage sustained by an impounded skiff or mooring.

**6.** The Harbormaster may remove the chain of any mooring with improper number, located in an improper place or improperly constructed, if, two (2) weeks after written notice to the owner thereof, said owner fails to correct the problem. Notice shall be in writing and shall include the action to be taken by the owner and the fact that the mooring is subject to removal, and that the owner is liable for a fine.

**7.** The Harbormaster shall suspend or terminate for a period of one year the mooring assignment of any mooring owner for non-compliance with this Ordinance, or failure to comply with any order of the Harbormaster given according to the provisions of this Ordinance. After one year, the applicant may reapply for a mooring assignment.

## **ARTICLE XI MENACES TO NAVIGATION**

The Harbormaster is authorized to take whatever action is necessary and appropriate to remove any menace to navigation within the waters of the Town of Freeport. This shall include, but is not limited to, contracting for removal of the menace by the authorities of the State of Maine, Federal Government, or a private contractor at the expense of either the Town of Freeport, some other governmental entity, or the private entity responsible for the creation of the menace.

## **ARTICLE XII APPEALS**

1. Any and all persons aggrieved directly or indirectly by a decision, order, rule, act or failure to act of the Harbormaster may appeal said decision, order, rule, act or failure to act to the Coastal Waters Commission. In deciding any appeal, the Commission shall hear and approve, approve with modifications or conditions or disapprove the decision, order, rule, act or failure to act from which the appeal is made in accordance with the provisions of Section 604 of the Freeport Administrative Code.
2. Such appeals shall be made in writing to the Coastal Waters Commission within five calendar days of the decision, order, rule, act or failure to act from which the appeal is taken. It must state with specificity the decision, order, rule, act or failure to act from which the appeal is taken and the reason for the appeal. The appeal shall be considered by the Coastal Waters Commission at its next regular meeting.
3. Any decision, order, rule, act or failure to act by the Harbormaster concerning the location of moorings or boats, as a result of which location there is immediate danger to lives or property shall not be stayed pending appeal.
4. An appeal may be taken by any party from a decision of the Coastal Waters Commission, within thirty days after the decision is rendered, to the Superior Court in accordance with the Maine Rules of Civil Procedure.

## **ARTICLE XIII WHARFING-OUT PERMITS**

Any organization, person or business which has at the date of passage of this ordinance, a fully legal Town, State and Federal government approved wharf and/or dock system, shall as a first step, apply to the Coastal Waters Commission for approval to build and/or increase the size and/or number of those existing wharves and docks. Application shall consist of scale drawings of the proposed project and personal appearance at a Coastal Waters Commission meeting to answer applicable questions. The project must not unreasonably interfere with customary or traditional public access ways to, or public trust rights (fishing, fowling, and navigation) in, on, or over the submerged lands; unreasonably interfere with fishing or other existing marine uses of the area; unreasonably diminish the availability of services and facilities necessary for commercial marine activities; and unreasonably interfere with ingress and egress or riparian owners. Once approval is granted by the Coastal Waters Commission, the applicant must complete applications and secure approvals from the US Army Corps of Engineers, the State of Maine Department of Marine Resources, and the State of Maine Department of Conservation, Bureau of Parks and Lands and any other appropriate agency. Any changes or amendments to the original application must be approved by the Coastal Waters Commission before construction shall begin.

## **ARTICLE XIV DUMPING OF SEWAGE PROHIBITED**

No person may discharge, spill or permit to be discharged sewage, garbage, or other pollutants from any boat into the tidal waters within the boundaries of the Town of Freeport or onto the ice or banks thereof in such a manner that the same may fall or be washed into such waters or in such a manner that the drainage therefrom may flow into such waters.

## **ARTICLE XV LICENSING FOR COMMERCIAL PASSENGER BOATS USING TOWN WHARF AND FLOATS**

### **1. PURPOSES**

The purposes of the Article are to fairly allocate the scarce public resources of berthing space and tie-up time at the Freeport Town Wharf and Floats and to protect the health, safety and welfare of users of the Town Wharf and Floats and passengers on Commercial Passenger Boats which utilize the Town Wharf and Floats. The Town Wharf and Floats are public property which the Town manages for the benefit of all the residents of Freeport and it is not the intent of this ordinance to create any private property rights or interests in the use of that public property.

### **2. DEFINITION AND INTERPRETATION**

This article is intended to complement the complete Freeport Coastal Waters Ordinance and shall be interpreted and applied in conjunction with the complete Coastal Waters Ordinance. Terms used in this ordinance shall have the same meanings as terms which are defined in Article II of the Coastal Waters Ordinance. In addition, the following terms have the following meanings.

- a. "Commercial Passenger Boat" means a boat which carries passengers for hire, on a charter or scheduled service basis or both. The term does not include the ferry service engaged by the Bustins Island Village Corporation (BIVC) to provide public transportation to Bustins Island.
- b. "Freeport Applicant" means an applicant for a license under this ordinance who has rented or owned (or resided with a blood relative who has rented or owned) real estate in Freeport and has occupied that real estate, both for at least 6 months during the calendar year in which the application is made.
- c. "Non-resident Applicant" means any applicant for a license under this ordinance who is not a Freeport Applicant.
- d. "New License" means a license issued to an applicant who did not hold a valid license for a Commercial Passenger Boat of the same capacity category on October 31st of the year in which the application is made.



e. "Operator" means the owner, lessee or other person with the legal right to possession and control of a boat.

f. "Parking" means off-street parking which complies with the requirements of the Freeport Zoning Ordinance.

g. "Renewal License" means a license issued to an applicant who held a valid license for a Commercial Passenger Boat of the same capacity category on October 31st of the year in which the application is made. The applicant must produce documentation that he/she has transported commercial passengers within the Town of Freeport within the previous 12 months.

### **3. REGULATIONS**

a. License Required: No Commercial Passenger Boat shall use the Town Wharf and Floats without first obtaining and maintaining a license under this ordinance.

b. Performance Standards: Notwithstanding anything to the contrary in the Coastal Waters Ordinance, Commercial Passenger Boats using the Town Wharf and Floats shall comply with the following standards:

(i) Commercial Passenger Boats shall use only those portions of the Town Wharf and Floats which have been designated for such use by the Harbormaster;

(ii) No Commercial Passenger Boat shall be tied up or berthed at the Town Wharf and Floats for longer than 30 minutes per hour or more than once per hour;

(iii) Boarding areas shall be kept clean and free of litter. Passengers shall be advised to carry out what they carry in;

(iv) No signs advertising the service shall be allowed on town/public property with the exception of a schedule of times and description of service posted on the public bulletin board;

(v) Amplified sound shall not exceed 55 decibels during the day and 45 decibels at night;

(vi) The operators of Commercial Passenger Boats shall work together on scheduling their services, so that the Town Wharf and Floats are used most efficiently;

(vii) The operators of Commercial Passenger Boats shall be flexible and accommodate other users of the Town Wharf and Floats;

(viii) Advertising on a Commercial Passenger Boat which uses the Town Wharf and Floats shall be limited to 2 signs of 16 square feet each. A sign with two faces shall be considered two signs; and

(ix) Each Commercial Passenger Boat shall pass necessary U.S. Coast Guard inspection for that vessel's type and class.

c. **Parking:** The Operator of each Commercial Passenger Boat which utilizes the Town Wharf and Floats shall provide Parking on land which the Operator either (1) owns or (2) leases or otherwise legally controls for a term which equals or exceeds the term of the license under this ordinance. The number of off-street parking spaces shall equal or exceed 50 percent of the sum obtained by adding together the number of passengers the boat is licensed to transport under this ordinance and the number of crew members who operate the boat.

d. **Insurance:** The operator of each Commercial Passenger Boat which uses the Town Wharf and Floats shall maintain liability insurance with policy limits of no less than \$1,000,000 which names the Town of Freeport as an additional insured.

#### **4. LIMITS ON SIZE OF BOATS, NUMBER OF LICENSES, CATEGORIES**

- a. **Size Limited:** No license shall be issued for an Commercial Passenger Boat which exceeds forty-eight (48) feet in length, or fifteen (15) feet in beam. The beam may increase to seventeen (17) feet with the permission of the Harbormaster.
- b. **Large capacity vessel:** a boat which is USCG licensed to transport more than six (6) passengers.
- c. **Small capacity vessel:** a boat which is USCG licensed to transport a maximum of six (6) passengers.
- d. **Licenses per Category.** No more than six (6) licenses for Commercial Passenger Boats shall be issued or shall be in effect at any time.
- e. **Waiting List:** The Harbormaster shall maintain a waiting list of all applicants who have not been issued a commercial passenger license. A copy of the list shall be posted in the office of the Harbormaster. Applications shall be dated upon receipt at the Town Office and shall be considered in chronological sequence (regardless of year received) in accordance with the following priority:

- a. Resident
- b. Non-Resident

#### **5. LICENSE FEES**

The annual fees for a license under the Article shall be:

- (a) \$50.00 for a small capacity Commercial Passenger Boat; and
- (b) \$150.00 for a large capacity Commercial Passenger Boat.

## **6. LICENSE APPLICATION FILING PERIOD**

Application for licenses under this ordinance must be received in the office of the Town Clerk on a regular town office business day during the following periods of each year:

- (a) November 1 through November 7 for applications from Freeport Applicants; and
- (b) November 8 through November 15 for applications from Non-resident Applicants.

## **7. APPLICATION REQUIREMENTS**

Application for a license under this ordinance shall be made by the Operator of the Commercial Passenger Boat in writing and under oath on a form provided by the Town Clerk. The application shall contain the following information and/or submissions:

- (a) name of the applicant;
- (b) a brief description of the form of the applicant's business--i.e., sole proprietor, sole proprietor doing business under a trade name, corporation, limited liability company, partnership, etc.;
- (c) the applicant's residence address or local business address;
- (d) the applicant's mailing address, designated by the applicant as the address where the applicant will accept any notices served under this ordinance;
- (e) a photograph of the Commercial Passenger Boat taken within 60 days immediately prior to the date of the filing of the application, which picture shall be 2" by 2" at minimum;
- (f) a brief description of the types of charter/passenger/for-hire activities to be operated;
- (g) a statement of the maximum number of passengers the applicant will transport in the Commercial Passenger Boat.
- (h) a copy of a certificate of insurance complying with the requirements of Section 3.d;
- (i) a description of the parking spaces provided to comply with Section 3.c and a copy of the deed, lease or other instrument which gives the Operator the legal right to utilize the parking spaces;
- (j) copies of all United States Coast Guard licenses held by the Operator;
- (k) a copy of the most recent United States Coast Guard Inspection Certificate for the Commercial Passenger Boat if applicable;
- (l) a statement that the applicant has not committed any violations of this ordinance within the year prior to the date of application;

(m) a statement that the applicant has not, with the year prior to the date of application, operated a Commercial Passenger Boat in an unlawful manner or in any manner so as to constitute a threat to the public health, safety or welfare; and

From the date of filing the application until the expiration or surrender of any license issued as a result of the application, the applicant is required to notify the Clerk in writing of any changes in any of the information contained in the application.

## **8. AWARD OF LICENSES BY COASTAL WATERS COMMISSION**

The Town Clerk shall forward all timely applications to the Coastal Waters Commission, which shall act on the applications as follows:

- a. Freeport Applicants. At its first meeting after November 7th of each year, the Coastal Waters Commission shall award available licenses to Freeport Applicants who qualify, first to applicants for Renewal Licenses, and then to applicants for New Licenses, awarded by drawing lots if there is more than one.
- b. Non-resident Applicants. At its first meeting after November 15th of each year, if all available licenses have not been awarded under paragraph 8(a) above, the Coastal Waters Commission shall award the remaining licenses to Non-resident Applicants who qualify, first to applicants for Renewal Licenses, and then to applicants for New Licenses, awarded by drawing lots if there is more than one.

## **9. QUALIFICATIONS FOR LICENSE**

Before awarding a license under Section 8, the Coastal Waters Commission must find that the applicant qualifies by meeting the following standards:

- (a) the applicant has proven that he/she has either a mooring or other adequate berthing for his/her vessel within the tidal waters of the Town of Freeport;
- (b) the applicant will provide the parking required under section 3.c;
- (c) the applicant has provided evidence of the insurance required by Section 3.d;
- (d) the applicant has been issued all licenses required by the United States Coast Guard for the operation of the Commercial Passenger Boat;
- (e) the applicant has not committed any violations of this ordinance within the year prior to the date of application;
- (f) the applicant has not committed any violations of this ordinance within the year prior to the date of application or operated a Commercial Passenger Boat in an unlawful manner or in any manner so as to constitute a threat to the public health, safety or welfare.

## **10. ISSUANCE OF LICENSE BY CLERK**

After the Coastal Waters Commission has awarded the licenses under Section 8, the Town Clerk shall issue the licenses to the successful applicants, to become valid on January 1 at 12:01 a. m.

## **11. TERM OF LICENSES**

All licenses issued under this ordinance shall take effect on the date of issuance by the Town Clerk under Section 10 and shall expire on the following December 31st at 11:59 p.m.

## **12. EFFECT OF LICENSES**

Licenses issued under this ordinance are valid only for the Commercial Passenger Boat and the Operator identified on the application. Any change in the status of any of those factors must be reviewed and approved by the Coastal Waters Commission upon application made by the license holder.

## **13. REVOCATION OF LICENSES**

The Coastal Waters Commission may revoke a license issued under this ordinance for any of the following causes:

- (a) failure of the Operator to comply with the qualification standards of Section 9;
- (b) fraud, misrepresentation, or false statement contained in the application for license;
- (c) fraud, misrepresentation, or false statement made in the course of carrying on the Operator's business or any Commercial Passenger Boat;
- (d) any violation of this ordinance;
- (e) conducting the Commercial Passenger Boat business in any unlawful manner .

Before revoking a license, the Coastal Waters Commission shall provide the Operator with notice and the opportunity to be heard. The Coastal Waters Commission shall give the Operator written notice of the grounds for revocation and of the date, time and place of the hearing, mailed to the Operator at the mailing address designated in the Operator's license application at least 7 days before the scheduled hearing date. If the Operator chooses to waive a hearing, the Operator may surrender the license to the Town Clerk at any time prior to the scheduled hearing.

#### **14. INTERIM PROVISIONS FOR ISSUANCE OF LICENSES**

Notwithstanding the provisions of sections 6 and 8, license applications for the six licenses under this ordinance shall be accepted for a period of seven days prior to the effective date of this ordinance. On the first town office business day after the effective date, the Town Clerk shall forward the applications to the Coastal Waters Commission. At its first meeting after the effective date, the Coastal Waters Commission shall award the licenses to qualified applicants in each capacity category, first to Freeport Applicants and then to Non-resident Applicants.

### **ARTICLE XVI ENFORCEMENT AND PENALTIES**

- 1. Enforcement Officer:** This ordinance shall be enforced by the Town of Freeport Harbormaster.
- 2. Civil Penalties:** Any person who violates any provision of this ordinance commits a civil violation punishable by a civil penalty of between \$100 and \$2500. A separate violation occurs each day until the violation is ceased or corrected.
- 3. Forfeiture:** Any person convicted of a criminal offense on or after the effective date of this ordinance shall, upon such conviction, immediately forfeit any mooring assignment, waiting list placement, license or other privilege derived from this ordinance if such conviction arises out of or in any way relates to the use, possession or occupancy of a mooring, the anchorage, the town wharf, the town floats, the town hoist, the berthing zone, a town landing or any other facility regulated by this ordinance or arises out of or in any way relates to the violation of any law or ordinance enforced by the Town of Freeport Harbormaster.
- 4. Injunctive and Other Relief:** In addition to seeking civil penalties, the Town of Freeport may enjoin any person from violating or continuing to violate any provisions of this ordinance and may seek any other legal or equitable remedies necessary to achieve compliance with the requirements of this ordinance.
- 5. Failure to Obey Order of the Harbormaster:**
  - a. Offense Defined:** As provided by 38 M.R.S.A. 13, a person is guilty of failure to obey an order of the Harbormaster if the person intentionally, knowingly or recklessly fails to obey any lawful order of the Harbormaster authorized pursuant to 38 M.R.S.A. 1 et seq.
  - b. Penalty:** Failure to obey an order of the Harbormaster is a Class E Crime.

## **ARTICLE XVII BUSTINS ISLAND**

**The Bustins Island Village Corporation (BIVC) Ferry shall tie-up for no longer than 30 minutes in any hour at the Town Floats at a Ferry location designated by the Harbormaster for the purposes of boarding and discharging passengers to and from Bustins Island and other Freeport Islands. The Bustins Island Ferry shall have access to the Ferry location on a first priority basis for the above purposes. The BIVC Ferry captain shall coordinate the ferry's docking schedule with the Harbormaster before each season and report any changes during the season. The BIVC Ferry shall be attended at all times when at the Town Floats. The Harbormaster shall, if necessary, waive any requirements of the Coastal Waters Ordinance to facilitate public transportation to Bustins Island and other Freeport islands.**





# TOWN OF FREEPORT



Municipal Offices

(207) 865-4743

MEMO TO: Dale C. Olmstead, Jr., Town Manager  
FROM: Johanna Hammond, General Assistance Administrator  
SUBJECT: General Assistance Ordinance  
DATE: January 10, 1999

Attached you will find a copy of the new General Assistance Model Ordinance as written and recommended by MMA. Substantive changes made to the current General Assistance Ordinance are summarized below. I have also highlighted these changes within the attached Ordinance.

Since there have been no recent changes in GA law, the town is under no obligation to adopt this new version, with the exception of item #4. (**Article VIII Offsetting Workfare Performed from Worker's Compensation Liens**) This new provision is obligatory due to the Supreme Court's decision in Coker v. Lewiston.

The most significant changes include the following:

1. Section 5.3. Automobile Ownership – the market value of vehicles was raised from \$5000 to \$8000.
2. Section 5.4. Ownership of Real Estate – subsection a) Principal Residence was added.
3. Section 7.4. Claimant's Failure to Appear – revised entire subsection, adding "just cause" segment for failure to appear amongst other new provisions.
4. Article VIII. Offsetting Workfare Performed from Worker's compensation Liens – new subsection, required by recent Supreme Court decision ( Coker v. Lewiston ).

MMA has also recommended a list of other minor changes, which include updating terms, clarifications, or reorganizing some of the sections. These include:

5. References to A.F.D.C. were changed to T.A.N.F. (*temporary assistance to needy families*)



6. **Section 3.1 Information from Other Sources; Penalty** – “vital statistic” was added to records.
7. **Section 3.2. Retention of Records** – this is a new subsection.
8. **Section 4.10. Institutions** – the following language was added to the end of the first sentence: “if the conditions of 22 M.R.S.A. 4307 and 4313 are met.”
9. The term “Disqualification” was replaced with the term “ineligibility” in many sections of the document.
10. **Section 6.3. Decision** – “in writing” was added to the last sentence of this subsection.
11. **Section 6.6. Use-of-Income Requirements** – the term “Hospital Free Care” was added to the second paragraph of this subsection.
12. **Section 6.8. Hospital Bills** – the term “Hospital Charity care” was changed to “Hospital Free Care.”
13. **Section 6.8. Capital Improvements** – was moved directly after Section 6.8 (8) Burials, Cremations.
14. **Section 6.9. Burials; Cremations** – was made into an independent section, changing the previous Section 6.9 (Notice of Decision) into Section 6.10.
15. **Section 6.9. Cremation Expenses** – the word “will” was changed to “may” in the first sentence of this subsection.
16. **Section 7.2. Written Request** – “in writing” was added to the last sentence of this subsection.
17. **Section 7.3. The Fair Hearing Authority** – the first sentence of this subsection was revised. The following language was added: “determine, based on all the evidence presented at the fair hearing, whether the claimant(s) were eligible to receive assistance at the time they applied for GA.” The following language was deleted: “review decisions of the general assistance administrator when requested by any claimant or the claimant’s authorized representative.”



**PROPOSED  
AMENDMENT TO THE  
FREEPORT TOWN CHARTER**

**2.03 Appointments**

The following officials and boards shall be appointed by ballot 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.

**Explanation and Recommendation**

The proposed Charter Amendment would convert Town Council secret ballot votes for Appointments to Town Boards and Committees to public votes. There is some concern that the current method of voting for appointments violates the State's Public Right to Know Law.

The Town Council recommends adoption.



PROPOSED  
AMENDMENT TO THE  
FREEPORT TOWN CHARTER

2.12 Ordinances in General

- (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 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 publish the same as defined in Section 2.12 (d) 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) "Publish" Defined: As used in this section, the term "publish" means to print 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.

Explanation and Recommendation

The Town Council has established streamlining government as one of its goals.

The proposed Charter Amendments will assist in meeting this goal by allowing the Town Council to act immediately after a Public Hearing should a majority of the full Council vote to do so. The amendments would also eliminate the 30-day waiting period for ordinance amendments to become effective once the Town Council approves them. With these amendments the Town Council would have the option of voting immediately after Public Hearing or tabling action to a later date.

The Town Council recommends approval.

