



Bustins Island Village Corporation
Established 1913

2017 ANNUAL MEETING WARRANT

Date: July 16, 2017

TO: M. Susan Spalding

FROM: BIVC Board of Overseers

RE: **NOTICE OF ANNUAL MEETING OF THE BUSTINS ISLAND VILLAGE CORPORATION, STATE OF MAINE, COUNTY OF CUMBERLAND**

Greetings:

Pursuant to Article V of the By-Laws of the Bustins Island Village Corporation you are hereby directed to post notice and warn the qualified voters of the Bustins Island Village Corporation (BIVC) to assemble for the Annual Meeting of the BIVC at the Community House on Bustins Island on Saturday, August 5, 2017, at 9:00 a.m. EDT to act on the business of the BIVC as set out in the following articles of this warrant:

ARTICLE 1. Elect Moderator

To choose a moderator and, if need be, a deputy moderator to preside over said meeting.

ARTICLE 2. Hear Reports

To receive reports from the following:

- a) Clerk
- b) Board of Overseers
- c) Planning Board
- d) Superintendent
- e) Treasurer

ARTICLE 3. Budget - Attachment A

To see if the BIVC will vote:

- a) To receive and appropriate the sum of \$311,300.00 to be expended under the direction of the Board of Overseers for the 2017/2018 fiscal year budget as set forth in ATTACHMENT A, “Bustins Island Village Corporation, Budget 2017-2018” in the column labeled “17-18 Budget;”
- b) To fund the sum so received and appropriated in a) above from the Freeport allocation, any gifts, assessments, and any other revenues; any excess or deficiency therefrom to be reconciled through reserve funds and any amounts otherwise authorized from the CASCO fund;
- c) To authorize the Board of Overseers to:
 - i) Expend monies from the reserve accounts for the general purposes for which such accounts were established; and
 - ii) Make transfers among operating and reserve accounts including any amounts otherwise authorized from the CASCO fund.

Submitted by the Board of Overseers

BOARD OF OVERSEERS REPORT: This Article authorizes the Board of Overseers to receive and spend within the total appropriation and to transfer money among accounts. Attachment A presents a budget history and the expected disposition of funds for the 2017/2018 fiscal year.

The Board of Overseers voted unanimously to recommend approval of this article.

ARTICLE 4. Proposed Ordinance: Aquifer Protection – Exhibit A

Shall an ordinance entitled “Aquifer Protection Ordinance” be enacted?

Submitted by the Board of Overseers

BOARD OF OVERSEERS REPORT: Responding to concerns of islanders and the recommendations of the BIVC Comprehensive Plan adopted in 2014, the Board of Overseers worked throughout the preceding 12 months with islanders, Maine authorities, hydrogeologists and counsel and prepared the proposed ordinance to safeguard the island’s drinking water for current and future generations. The ordinance also authorizes the Board to take certain actions in the event of a drought or other conditions threatening the island’s drinking water supply.

The Board of Overseers voted unanimously to recommend approval.

The Planning Board recommends no position.

A majority vote is required to pass. As an amendment to the BIVC By-Laws, this article may not itself be amended at the Annual Meeting.

ARTICLE 5. Proposed Ordinance: Retail Marijuana Prohibition – Exhibit B

Shall an ordinance entitled “Retail Marijuana Prohibition Ordinance” be enacted?

Submitted by the Board of Overseers

BOARD OF OVERSEERS REPORT: In 2016, the voters of the State Of Maine voted to legalize the use and sale of marijuana. While taking no position on personal consumption, the Board of Overseers strongly believes that the island is not a suitable host for retail marijuana operations.

The Board of Overseers voted unanimously to recommend approval.

A majority vote is required to pass. As an amendment to the BIVC By-Laws, this article may not itself be amended at the Annual Meeting.

ARTICLE 6. Election

To elect a Clerk and Treasurer of the BIVC for a term of one year each; and to elect two members of the Board of Overseers for a three-year term by ballot as provided in the BIVC By-Laws.

ARTICLE 7. Hear Committee Reports

To receive reports from any and all committees not already heard.

(SWEARING IN OF NEW OFFICERS BY THE CLERK OR MODERATOR.)

ADJOURNMENT

As has been the custom, time after the meeting has been formally adjourned will be available for those assembled to discuss any other matters of general interest to Islanders before dispersing.

Given unto our hands at Bustins Island, Freeport, Maine this XXth day of July, 2017.

The Board of Overseers of the BUSTINS ISLAND VILLAGE CORPORATION

Robert Boone, Chair

Tanya Sweatt

Patricia LaFleur, Vice-Chair

Ken Barrows

Roger Leland

ATTACHMENTS AND EXHIBITS:

Attachment A (Article 3) Budget

Exhibit A – (Article 4) Aquifer Protection Ordinance

Exhibit B – (Article 5) Retail Marijuana Prohibition

**BUSTINS ISLAND VILLAGE CORPORATION
AQUIFER PROTECTION ORDINANCE**

1. Title; Effective Date. This ordinance shall be known as the “Bustins Island Aquifer Protection Ordinance” (herein, the “Ordinance”), and shall become effective on the date of its adoption by the voters of the Bustins Island Village Corporation (“BIVC”) of Freeport, Maine.

2. Authority. This Ordinance is adopted pursuant to Article VIII, Part 2 of the Maine Constitution, 30-A M.R.S.A. §§ 3001 *et seq.*, and the BIVC’s home rule authority.

3. Purpose. This Ordinance is adopted to address concerns regarding the protection of the Aquifer (as defined in Section 7). This Ordinance is intended to accomplish the following purposes:

3.1. To implement the policies, guidelines and recommendations of the current BIVC Comprehensive Plan.

3.2. To protect the island water supply by managing the extraction of water from the Aquifer that serves the island and by managing potential sources of contamination to this Aquifer.

3.3. To ensure the long-term availability and potability of the island’s water supply to the residents by controlling the development and use of private Wells (as defined in Section 7), which draw water from the same Aquifer.

3.4. To have the means, when necessary, to impose water conservation measures on all water sources within the BIVC.

3.5. To establish the BIAPA (as defined in Section 7).

3.6. To protect the Aquifer by regulating activities within the BIAPA that may jeopardize the quality and/or quantity of the island’s drinking water.

4. Bustins Island Aquifer Protection Area; Applicability.

4.1. Unless otherwise stated, this Ordinance applies to all property located within the BIAPA, whether residential, commercial, institutional or undeveloped.

4.2. The use of a Well and/or pressurized water system at the time of adoption or subsequent amendment of this Ordinance may continue although such use does not conform to the provisions of this Ordinance.

4.3. A non-conforming Well and/or pressurized water system in existence at adoption or subsequent amendment of this Ordinance may be repaired and/or maintained.

5. Relationship to Other Ordinances. Whenever a provision of this Ordinance is inconsistent with another provision of this Ordinance or any other ordinance, regulation, or statute, the more restrictive provision shall control.

6. Validity and Severability. Should any section or provision of this Ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

7. Definitions. For purposes of this Ordinance, the following terms shall have the following definitions. If no term used in this Ordinance is so defined, its customary dictionary definition shall be applied.

Aquifer: A permeable geologic formation, either rock or sediment, that, when saturated with groundwater, is capable of transporting water through the formation.

Board: The Board of Overseers of the Bustins Island Village Corporation.

BIAPA: The Bustins Island Aquifer Protection Area, which is that portion of the Town of Freeport established under Maine law as the Bustins Island Village Corporation and which encompasses the recharge area of the Aquifer that supplies the island's drinking water. For the avoidance of doubt, the BIAPA consists of the entirety of Bustins Island.

Groundwater: The water contained within the interconnected pores, cracks or fractures located below the water table of a confined or unconfined Aquifer.

Impervious Area: The total area of a parcel that consists of buildings and associated constructed facilities or areas that will be covered with a low-permeability material, such as asphalt or concrete, and areas such as gravel roads and unpaved parking areas that will be compacted through design or use to reduce their permeability.

LPI: The person appointed by the Board as Licensed Plumbing Inspector to administer and enforce the Maine State Internal Plumbing Code and the Maine Subsurface Wastewater Disposal Rules.

Motor Vehicle/Large Equipment Request Permit: A form designated by the Board or the Superintendent to grant permission to bring a motor vehicle or large equipment onto Bustins Island.

Owner: An individual, partnership, corporation or other entity, in whatever capacity, that holds the record title to a property located in the BIAPA.

Subsurface Wastewater Disposal System: Any system designed to dispose of waste or wastewater on or beneath the surface of the earth, including, but not limited to: septic tanks; disposal fields; legally existing, nonconforming cesspools; holding tanks; or pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes. The term does not include any discharge system licensed under 38 M.R.S.A. § 414, any surface wastewater disposal system, or any municipal or quasi-municipal sewer or wastewater treatment system.

Superintendent: A person, firm or entity appointed by the Board to perform grounds and property maintenance services for the BIVC and such other related services as the Board may require.

Well: A shaft, casing, tile, hole, or pipe placed, drilled, or dug in the ground for extraction or monitoring of Groundwater.

Well Drillers' Rules: The regulations promulgated by the Maine Department of Health and Human Services at 10-144 C.M.R. Chapter 232, as may be amended from time to time.

Well Registration Permit: A form designated by the Board or Superintendent, as referenced in Section 13.1 of this Ordinance, and used for the purpose of monitoring Well development and placement to be issued after the date hereof.

Wellhead: The specific location of a Well and/or any structure built over or extending from a Well.

8. Mandatory Water Conservation Measures. At any such time as the Superintendent, or other island official, shall reasonably suspect that the water supply may be in danger of being depleted due to drought or other conditions, the Superintendent shall report such condition(s) to the Board, which may, after public notice of its meeting, enact mandatory water conservation measures that may include: (1) regulations on the times when water may be used to water lawns and gardens; and (2) any other regulations that are deemed necessary in order to address the potential danger; provided, however, that the Board is not authorized to mandate the metering of water usage unless the same has been approved by the voters of the BIVC in July or August of any year and full details of the cost thereof as it impacts each cottage and the plan for meter reading (by whom and when) have been furnished to the voters in advance of the meeting.

9. Prohibited Activities. The following acts are prohibited by this Ordinance and shall constitute violations under 30-A M.R.S.A. § 4452:

9.1. Installing or constructing a private Well on property within the BIAPA without first obtaining a Well Registration Permit from the Board. Permitting is for the purpose of monitoring Well development and placement.

9.2. In the event that the Board enacts a mandatory water conservation measure, as provided in Section 8 of this Ordinance, allowing the use of more water than permitted under that conservation measure by any Owner of a property within the BIAPA that has a private Well.

9.3. Installing or using underground storage tanks or containers for petroleum products or chemicals.

9.4. Creating an Impervious Area on any lot that exceeds twenty percent (20%) of the total lot area.

9.5. Engaging in commercial activities involving the disposal of liquid or leachable wastes.

9.6. Engaging in commercial waste impoundment or disposal.

9.7. Storing uncovered waste.

9.8. Engaging in commercial waste storage for a period exceeding thirty (30) days.

9.9. Engaging in commercial manure or sludge storage or spreading.

9.10. Storing hazardous materials except for commonly-used household products.

9.11: Using or storing pesticides, herbicides, or chemicals, other than those used for households or home gardens, or those products that are listed by the Organic Materials Review Institute (OMRI), available at <https://www.omri.org/>.

9.12: Disposing of household chemicals into the Aquifer.

10. General Activity Standards. All allowable activities within the BIAPA shall be conducted in a manner that will not cause an unreasonable risk of contamination or decreased quantity of recharge to the Aquifer as established by the evidence related to the allowable activity. In making this determination, the Board may rely on advice from professional consultants chosen by the Board, with the fees of such professionals to be paid by the applicant. The Board may further rely upon information contained in the Maine Department of Health and Human Services Drinking Water Program manual entitled *Best Management Practices for Groundwater Protection – A Guide for Local Officials and Public Water Suppliers*.

11. Specific Activity Standards. Certain activities are allowed within the BIAPA only when they comply with the following standards:

11.1. Sanitary waste water disposal: No activity shall dispose of other than normal domestic waste water on-site. No more than the maximum amount of sanitary waste permitted on the approved plan for the septic system shall be discharged to any one Subsurface Wastewater Disposal System. Septic tanks shall be pumped for routine maintenance at a frequency determined by the LPI not less than once every ten (10) years. Disposal of waste water shall be in compliance with the *Maine Subsurface Wastewater Disposal Rules*, 10-144 C.M.R. Chapter 241, as may be amended from time to time.

11.2. Petroleum product storage – inside, above-ground: For inside, above-ground storage of petroleum for commercial or private use, tanks (including replacement tanks) installed in a fixed location after the effective date of this Ordinance must be designed to contain leaks, with either double-walled primary containers, or with a single-walled tank set in a secure, secondary container having a capacity of at least 110% of the capacity of the primary tank. Tanks must be installed in accordance with Maine Oil and Solid Fuel Board *Installation of Oil Burning Equipment* (02-381 C.M.R. Chapter 9, as amended). Any building used for the commercial storage of petroleum products shall not be equipped with a floor drain into which leaking oil could drain.

11.3. Petroleum product storage – outside, above-ground: For outside, above-ground storage of petroleum for commercial or private use, tanks (including replacement tanks) installed in a fixed location after the effective date of this Ordinance must be designed to contain leaks, with either double-walled primary containers, or with a single-walled tank set in a secure, secondary container having a capacity of at least 110% of the capacity of the primary tank. Tanks shall be enclosed to prevent accidental toppling and shall have a cover or roof to prevent filling of the secondary containment with rainwater and to prevent snow and ice from falling on the tank and filter. Tanks must be installed in accordance with Maine Fuel Board *Installation of Oil Burning Equipment* (02-658 C.M.R. Chapter 109).

12. Enforcement; Inspection; Penalties & Costs; Consent Agreements. This Ordinance shall be enforced by the Board acting through the LPI and/or an attorney retained by the BIVC. The LPI is hereby authorized to enter upon any property within the BIAPA at a mutually agreeable time to

inspect the premises for compliance with the terms of this Ordinance and to investigate any alleged violations.

12.1. Any enforcement action shall be brought on behalf of the BIVC and any civil penalties or fines shall be paid to the BIVC. Such action shall be brought pursuant to Rule 80K of the Maine Rules of Civil Procedure after notice of violation has been given to the Owner(s) of the property, and the Owner(s) has not resolved the violation within the time specified by the LPI. For each violation, the violator shall pay the civil penalty stated in 30-A M.R.S.A. § 4452(3), as may be amended from time to time, and the violator shall pay the Town's attorney fees, expert witness fees and costs. Each day of violation constitutes a separate violation.

12.2. The Board is authorized to enter into administrative consent agreements with the Owner(s) of the property or other violator for the purpose of resolving violations of this Ordinance and collecting fines and/or fees without court action. An agreement may provide for a fine that is less than the civil penalty called for in the statute.

12.3. If a notice of violation is issued after September 1 in any year, the days in the period from Columbus Day of that year until Memorial Day of the following year shall not be counted as days of violation.

13. Well Registration Permits.

13.1. All applications for Well Registration Permits shall be submitted in writing to the Board on a form designed for this purpose.

13.2. The Board shall not grant a Well Registration Permit unless the applicant has demonstrated the following:

- a. The Well is located and designed to minimize the risk of saltwater intrusion into the Well.
- b. The Well is located to minimize the risk of water pollution from nearby Subsurface Wastewater Disposal Systems and other permissible activities.
- c. The Well will comply with all construction requirements set forth in the Well Drillers' Rules.

13.3. Any Well Registration Permits issued after the adoption of this Ordinance shall be subject to the following conditions:

- a. No Wells shall be drilled between the last Saturday in June and the second Saturday in September in any calendar year, unless the Board finds that an emergency exists.
- b. Sanitary seals shall be used to cap all Wellheads.
- c. A Motor Vehicle/Large Equipment Permit shall be obtained prior to bringing the well-drilling equipment onto the island.
- d. Each proposed new Well location shall be indicated by a stake/flag on the property. The Owner, or authorized agent, shall provide the Board and the

Well driller with a plan showing the location and design of all Subsurface Wastewater Disposal Systems within 100 feet of the proposed new Well location. If the Owner is unable to ascertain the location of such systems within 100 feet of the proposed new Well location, the permit shall not be issued.

- e. The water from each new Well shall be withdrawn using a hand pump only, unless: (1) the motorized pump is not connected to a pressurized system; or (2) the new Well is replacing a Well with an existing pressurized system. New pressurized systems will require approval by the LPI.
- f. For Wells located within 250 feet of the normal high-water line, the Well driller should minimize the risk of saltwater intrusion by limiting the depth to the first sufficient water bearing fracture. In some cases, especially those where additional casing (more than twenty (20) feet) is necessary to meet waste disposal setback requirements, this requirement for additional casing and Well depth could increase the risk for saltwater intrusion. In such cases, the Well driller may file an application for a specialty Well, as defined in Section 400.7 of the Well Drillers' Rules, with the Maine Drinking Water Program prior to drilling. The application must be signed by the driller and the property Owner. If approved, this would allow a reduction in the amount of casing (i.e., depth) that can be installed to help minimize the risk for pulling in salt water. This should be considered for any Well within 250 feet of the shore where the waste disposal setback requires more than the minimum 20 feet of casing.
- g. The Board will be provided the Well driller's sulfide sodium/chloride test results.
- h. Water from each newly-drilled Well is to be tested within 60 days and the results be sent to the Board. If within the 60 days, the island ferry has ceased operating for the season, the remaining balance of the 60 days shall carry over until ferry operations resume. The test should be done by a Maine certified laboratory and include results for Total coliform, E. coli, nitrate/nitrite, Fluoride, Chloride, Sodium, Hardness, Copper, Iron, pH, Manganese, Uranium and Arsenic.
- i. The BIVC and its officials shall not be liable for any loss or damage arising from the drilling or operation of these Wells.

14. Source Water Impact Analysis. For activities requiring a Well Registration Permit pursuant to Section 13 of this Ordinance, the Board may require the applicant to submit a Source Water Impact Analysis. The detail of the analysis required shall vary according to the proposed activity and may require that any or all of the components of the analysis be prepared by an appropriate registered/licensed professional, with the fees of such professional to be paid by the applicant. The Board may, in its sole discretion, require the analysis to contain any or all of the following components:

14.1. Maps or site plans showing any or all of: (a) property boundaries; (b) topography; (c) soil types; (d) surficial geology on the property; (e) post-development recharge areas; (f) the recommended sites for Subsurface Wastewater Disposal Systems and Wells in the development; (g) direction of Groundwater flow; (h) direction and routing of surface water

flow; and (i) location of any Subsurface Wastewater Disposal Systems within 100 feet of the proposed location of the new Well.

14.2. Documentation of existing Groundwater quality for the site.

14.3. A nitrate analysis, or other contaminant analysis as applicable, including calculation of anticipated concentrations at the property line(s) and Wells on the property.

14.4. An analysis of the effects of the proposed activity on the Aquifer drawdown relative to the quantity and quality of water available for other water supplies or potential water supplies serving the BIVC or private parties.

14.5. The installation of, and sampling of water from, water quality monitoring Wells shall be in accordance with appropriate ASTM standards. The number, location and depth of monitoring Wells shall be determined by the Board. Water quality sample results from monitoring Wells shall be submitted to the LPI with evidence showing that they meet the Maine Department of Health and Human Services Drinking Water Program performance standards for water quality.

14.6. A list of assumptions made to produce the required information.

15. Professional Review. The Board may require that an independent, registered or licensed professional or expert witness deemed fully qualified by the Board, review one (1) or more submissions of an application. The independent consultant(s) shall report to the Board as to the activity's compliance or non-compliance with all applicable provisions of this Ordinance and recommend, if appropriate, any actions that are required to result in compliance. The choice of such professionals shall be at the sole discretion of the Board, and the cost of such technical review shall be borne solely by the applicant. The consultant(s) selected shall estimate the cost of such review and the applicant shall pay the BIVC the full estimated cost in advance. At the completion of the review, any balance due shall be paid to the BIVC or any balance remaining shall be returned to the applicant.

EXHIBIT B – Article 5

**BUSTINS ISLAND VILLAGE CORPORATION
RETAIL MARIJUANA PROHIBITION ORDINANCE**

1. Title; Effective Date; Duration. This ordinance shall be known as the “Bustins Island Retail Marijuana Prohibition Ordinance” (herein, the “Ordinance”), and shall become effective on the date of its adoption by the voters of the Bustins Island Village Corporation (“BIVC”) of Freeport, Maine but shall be applicable as of January 21, 2017.

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

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

4. Prohibition on Retail Marijuana Establishments and Retail Marijuana Social Clubs.

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

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

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

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