

BUSTINS ISLAND VILLAGE CORPORATION

BY-LAWS

(as amended as of August 5, 2023)

WHEREAS the legislature of the State of Maine has chartered the Bustins Island Village Corporation by Chapter 213 of the Private and Special Laws of 1913 as a Body Politic and Corporate within the Town of Freeport and

WHEREAS the legislature has amended this charter by Chapter 17 of the Private and Special Laws of 1967 and by Chapter 24 of the Private and Special Laws of 1985 and

WHEREAS said charter and its amendments were made in recognition of the unique requirements of the Bustins Island Village Corporation as an island and as a seasonal community and

WHEREAS the administration of the Bustins Island Village Corporation may be more effectively accomplished by the By-Laws as authorized by said charter

NOW THEREFORE the Bustins Island Village Corporation adopts the following By-Laws:

Article I

OFFICERS

The officers of this corporation shall be a clerk, who shall be a resident of this state, a treasurer, and five overseers who shall be chosen by ballot at the annual meeting. The clerk and treasurer shall be elected for a term of one (1) year. The term of the members of the Board of Overseers shall be as follows: Beginning at the 1969 annual meeting of the corporation at which this By-Law is amended, there shall be one member of the Board of Overseers elected for the term of one (1) year, and two (2) members for the term of two (2) years, and two (2) members for the term of three (3) years. Thereafter, at each annual meeting, the authorized voters shall elect from nominations made at the annual meeting for a term of three (3) years, new members of the Board of Overseers to replace those whose terms are expiring. At two consecutive annual meetings, two (2) members will be elected and the third year one (1) will be elected, and so on in this sequence. The terms of office of said members of the Board of Overseers shall commence

immediately upon their election and qualification, which qualification shall include, among other things, their oath to the Clerk or the Clerk Pro Tem of the Board, that they shall faithfully perform the duties of their office, and said terms shall expire after final adjournment of the annual meeting at which their successors are elected and qualified. Any person who is a legal voter in said corporation may be elected or appointed to any office therein, but shall cease to hold said office whenever he ceases to be such legal voter.

No member of the Board of Overseers may serve more than two (2) consecutive terms, but this condition may be waived in any instance by a vote of two-thirds (2/3) of the eligible voters present and voting at the annual meeting. In the event of the death, incapacity or inability to serve of any of the officers or overseers of the BIVC, the remaining officers and overseers shall within sixty days elect a new member to serve until the next annual meeting. At that time, the BIVC shall elect by ballot an officer or overseer to fill the unexpired term of the deceased, incapacitated or unable to serve officer or overseer.

Article II

OVERSEERS

The Board of Overseers shall be the general municipal officers of said corporation, and shall have general charge of its affairs, and of the expenditure of all its moneys, but shall contract no liabilities in behalf of said corporation other than those authorized at a meeting of said legal voters thereof, except for the purpose of repairing the corporation landing.

Further, the Board of Overseers shall each year prepare a budget for presentation to the voters for their consideration and action at the annual meeting of the corporation. Said budget shall be based on a fiscal year beginning August 1 of the then current year and ending July 31 of the following year.

CHAIRMAN

The Board of Overseers shall choose a chairman from among their number, who shall preside at all meetings of the said Board, and who shall discharge such other duties as the Board of Overseers may direct, but in his absence a temporary chairman may be chosen in his stead.

SECRETARY

The Board of Overseers shall elect a secretary who may be one of their number, and who shall keep a correct record of all the doings of said Board.

POLICE, COMMITTEES, AND AGENTS

The Board of Overseers may annually appoint one or more policemen or night watchmen, who shall have and exercise all the powers of the police under the laws of the State of Maine; also an Island Superintendent to have charge of the property of the Island; and may appoint from time to time any such committees or agents as may be necessary or convenient for the management of the affairs of the corporation, or as may be directed by vote of the corporation at a legal meeting thereof.

Article III

CLERK

The Clerk shall keep an accurate record of all meetings of the corporation, and shall perform such other duties as may be assigned to him, or as are usually incumbent upon clerks of corporations.

Article IV

TREASURER

It shall be the duty of the Treasurer of said corporation to receive all moneys belonging to the corporation, and pay out the same only upon the written order or direction of the Board of Overseers, and to keep a regular account of all moneys received and paid out and to exhibit the same to the Overseers whenever requested, and to make a full annual report to the corporation at its annual meeting. He shall give bond to the corporation in such sum as the Overseers may direct.

Article V

MEETINGS

The annual meeting of the corporation shall be held on Bustins Island on the first Saturday of August in each year, at such hour and place as the Overseers shall in their warrant direct.

SPECIAL MEETINGS

A meeting of the corporation shall be called whenever the Overseers may deem it necessary, and shall be called by them upon the request of fifteen or more legal voters of said corporation, provided, however, that all meetings of the corporation shall be held upon said Bustins Island, and no meeting shall be called earlier than July 1st or later than August 31st in any year.

EXTRAORDINARY SPECIAL MEETINGS

Upon a vote of at least three of the Board of Overseers that an emergency condition exists, they may upon the same vote call an Extraordinary Special Meeting for its resolution. When the public ferry is operating, such an Extraordinary Special Meeting must be held only on Bustins Island on such a date and at such a time as attendees are able to get to and from the meeting using the public ferry. When the public ferry is not operating, an Extraordinary Special Meeting shall be held elsewhere in the Town of Freeport. Notice of such Extraordinary Special Meeting shall be given by first class mail sent at least 30 days prior to the meeting to all registered voters of the corporation as approved by the Overseers and certified by the Clerk.

NOTICE OF MEETINGS

All meetings of the corporation shall be called by warrant signed by the Board of Overseers, and specifying the time and place at which the meeting shall be held, and the distinct articles stating the business to be acted upon at such meeting, and no other business shall be there acted upon. When five or more legal voters request, in a writing delivered to (or sent by first class mail in sufficient time so as to be received by) the Clerk no later than 30 days in advance of the meeting, the Overseers to insert any particular thing or proposed business to

be acted upon, in any warrant, it shall be their duty to so insert it. The warrant may be directed to any person by name, directing him to warn and notify all persons qualified to vote at such meetings to assemble at the time and place appointed. Such meeting shall be notified by the person to whom the warrant is directed, by posting an attested copy thereof in some public and conspicuous places on Bustins Island seven days before the meeting, and said person who notified said meeting shall make return on the warrant, stating the manner of notice and the time when it was given.

In the case of an Extraordinary Special Meeting and in lieu of the posting requirements of the preceding paragraph, the notice of the meeting mailed to voters shall include the warrant for that meeting and the warrant shall be posted in Freeport.

QUORUM

Twenty-five legal voters shall constitute a quorum for the transaction of business at any meeting of the corporation, but in the absence of a quorum a lesser number may adjourn the meeting to a later date.

SHORE RESERVE

Prior to voting on a request for construction or other use on the Shore Reserve, the Board of Overseers shall hold a public hearing. Notice of such shall be sent via broadcast email and posted on bivc.net at least two weeks in advance of the hearing.

Article VI

VOTERS

All persons residing within the limits of said corporation, who would be legal voters in the Town of Freeport, and every person of legal age who owns a part of the whole of one or more lots of land upon said Bustins Island shall be legal voters at any meeting of said corporation at which they are present. Provided, however, that where a lot of land is owned by two or more persons, such persons may agree in writing filed with the said Board of Overseers which of the said owners is to be the legal voter at any meeting of the corporation, and in no case shall the ownership of any tract or parcel of land entitle the owner or owners thereof to more than one vote at any of the

meetings of the said corporation, and no person shall be permitted to vote or otherwise participate in any meeting by proxy. The Overseers of the corporation shall determine who are the legal voters at any meeting, and shall prepare a list of said voters at least twenty-four hours before said meeting, or during its progress.

Article VII

VOTES

All votes for the election of officers or moderator shall be by ballot, but any other vote may be taken by show of colored voting cards, except that when five legal voters shall demand it the vote upon any proposition shall be taken by ballot and checked by the list of legal voters prepared by the Overseers.

All motions of the Board of Overseers, and all boards and committees appointed by the Board of Overseers, shall require a majority vote of all voting members to pass, not merely a majority of members present and voting, unless otherwise particularly provided in the applicable ordinance or regulation.

Where a board has both regular members and associate or alternate members, an associate or alternate member becomes a voting member for that meeting when filling the seat of an absent member.

This voting policy in no way restricts a board member's independent actions, between meetings, that are authorized by statute, policy or dire necessity.

Article VIII

MODERATOR

At all meetings of the corporation a moderator shall be chosen by ballot and sworn by the person presiding at the meeting or a justice of the peace. It shall be the duty of the moderator to preside over the meetings at which he is elected and regulate the business thereof. Until the election of a moderator at any meeting, the Clerk or, in the absence of the Clerk, one of the Overseers may preside.

Article IX

BOARD OF HEALTH

There may be a Board of Health composed of three members, one of whom shall, if possible, be a physician, appointed annually by the Board of Overseers, whose duty it shall be to have the general supervision and regulation of the sanitary conditions existing upon Bustins Island. Said board shall have the right to enter upon the premises of any persons upon said Bustins Island for the purpose of investigating and remedying the sanitary conditions there existing, and said board or the Board of Overseers shall have the power to order any existing conditions which they may deem dangerous to health remedied or removed by the person or persons responsible therefor, and if such sanitary conditions are not so remedied or removed forthwith after reasonable notice, said board or Board of Overseers may themselves cause the same to be remedied or removed forthwith, and the cost thereof shall be borne by the party or parties responsible therefor, and may be recovered by action of debt in the name of the corporation.

SANITARY REGULATIONS

Residents and all other persons on Bustins Island shall dispose of all fish, shells, offal, and other decaying animal matter and vegetable matter, and keep their privies and cesspools in good condition, so as not to endanger the health of those residing on the Island; and to aid in taking care of such offal and refuse matter, the Overseers may require the Island Superintendent to employ some person to remove the same. No person shall construct or maintain a cesspool, drain pipe, sewer, or water pipe upon the public land of the corporation without the permission of the Board of Overseers.

Article X

LANDSCAPE REGULATIONS

No persons shall cut down, destroy, or remove trees upon any public lands of said corporation without the consent of the Board of Overseers. If a tree on lands owned by said corporation is deemed to pose an immediate threat to the safety of persons or property, then the consent of one member or the Superintendent will be sufficient to permit the offending tree's removal. The Board of Overseers may order or cause removal of

any objectionable signs, advertisements, or other unsightly objects from said lands. The Board of Overseers may make such other regulations as it deems necessary.

Article XI

HOTELS AND STORES

No additional hotel shall hereafter be erected or maintained upon Bustins Island without vote of the corporation authorizing the same, and no person shall engage in any business or traffic thereon, without the consent of the Board of Overseers.

Article XII

FIRES

No person shall kindle any fires upon Bustins Island outside of the stoves, fireplaces, or furnaces provided for this purpose, without permission of the Island Superintendent.

Article XIII

FIREARMS, FIREWORKS, CONSUMER FIREWORKS, AND LOUD NOISES

The discharge of firearms or the making of loud and unusual noises on the Island, tending to disturb the public peace is forbidden, without the permission of the Island Superintendent or the Overseers.

No person shall use, or possess with intent to use, or sell, or possess with intent to sell, fireworks, including consumer fireworks, on Bustins Island without written approval of a majority of the Board of Overseers.

Article XIV

EXCURSIONS, PICNICS, AND CAMPS

Excursion parties must first obtain permission of the Island Superintendent or Overseers, and must occupy such places as shall be assigned them. Parties wishing to picnic, camp, or tent upon the BIVC-owned lands of the Island must first obtain permission of the Island Superintendent or Overseers, and must occupy such places as shall be assigned them.

Article XV

WHARF OR PUBLIC LANDING REGULATIONS *(Heading Added by editor)*

(deleted as of August 4, 1990)

Article XVI

MOTOR VEHICLES

No motor driven vehicles including but not limited to autos, tractors, trucks, motorcycles, and scooters, shall be permitted on Bustins Island without specific approval of the Board of Overseers. Approval may be granted only if the Board determines that the vehicle meets commercial need or provides essential services to the community and that the owner agrees that the Overseers may call upon the vehicle for transport of disabled persons and for use in emergencies.

In addition, the Board of Overseers may grant approval for specific personal transport vehicles for use only by individuals who the Overseers determine have a need based on medical necessity, disability, or infirmity.

Ride-on lawn mowers may be brought onto the island without specific approval for use only on private property and may not be used for personal transport on the public ways unless specifically authorized by the Board of Overseers.

The Board of Overseers may adopt additional regulations, restrictions and conditions upon the operation of motor driven

vehicles including a requirement that the owners of such vehicles brought to Bustins post a bond or provide other security to provide funds for their subsequent removal.

Article XVII

FINES AND PENALTIES

Any person convicted of violating any article of these By-Laws shall be punished by a fine not exceeding the sum of five hundred dollars, or imprisonment not exceeding the term of thirty days, or by both such fine and imprisonment, upon complaint or indictment, or by action of debt in the name and for the use of the corporation. Each day such a violation continues after written notification by the Board of Overseers or its agent shall constitute a separate offense. When penalties for violations of the provisions of Article XX, Zoning Ordinance, and Article XXI, Harbor Use and Mooring Regulations, are specifically provided for in those articles those penalties shall prevail.

Article XVIII

SEAL

The seal of this corporation shall be the following device: "Bustins Island Village Corporation, Maine" with the figures "1913" in the center.

Article XIX

AMENDMENTS

These By-Laws may be amended or additional ones adopted, at any meetings of the corporation, provided, that notice of such proposed amendment or addition be given in the call for such meeting.

Article XX

BUSTINS ISLAND, MAINE ZONING ORDINANCE

Published Separately

Article XXI

HARBOR USE AND MOORING REGULATIONS

(as adopted August 4, 2007)

I. Purpose

The purpose of this ordinance is to provide for the just and orderly operation of all activities in and around the marine facilities, the mooring areas of Bustins Island, Maine, and the immediate surrounding waters.

II. Authority

This ordinance is adopted pursuant to the authority granted by Title 38 M.R.S.A. section 1 et seq. as amended and the Home Rule provisions of the Constitution of the State of Maine.

III. Definitions

For this Article only, the following terms shall have the meaning herein designated unless a contrary meaning is required by context or is specifically prescribed:

- A. Harbor Master: A person appointed by the Board of Overseers to administer and enforce this ordinance.
- B. Assistant Harbormaster: A person appointed by the Harbor Master to assist the Harbor Master in the administration and enforcement of this ordinance.
- C. Mooring Area: Any part of the harbor limits in which one (1) or more moorings are located.
- D. Resident: A person owning, or having a beneficial interest in a trust, corporation, or limited partnership or renting property on Bustins Island.
- E. Transient Vessel: A vessel whose intended stay does not exceed five (5) days.

IV. Harbor Limits and Thruway

- A. Bustins Island harbor limits shall be that area surrounding Bustins Island between mean high tide and a distance of three hundred (300) yards offshore. (Except for the throughway provisions below, those waters adjacent to Little Bustins Island and Sow and Pigs Island shall be exempt from these regulations for the residents and invited guests of those two islands.)
- B. The Harbor Master shall maintain a thruway of at least seventy-five (75) feet in width, extending from the Bustins Island float through the mooring area on the south side of the Island to the end of the harbor limits past Little Bustins Island and may, with the approval of the Board of Overseers, designate additional throughways as safety may require.

V. Rules of Harbor Use

A. Bustins Island Float and Steamer Dock.

The use of the Float and the Dock is restricted to the Bustins Island Ferry and to the residents of Bustins Island and their invited guests. Use of the float by non-residents is allowed only with permission of the Harbor Master and/or the Island Superintendent.

- 1. The intended use of the Bustins Island Float is solely for the loading and unloading of vessels, and for the mooring of skiffs. No skiff or gear shall be stored on the float for more than one tide. Tie-ups at the float shall be limited as follows:
 - a. Face: Restricted for use of the Bustins Island Ferry and for the loading and unloading of passengers and freight by other vessels.
 - b. Rear: For the tie-up of skiffs under twelve (12) feet.
 - c. Sides: For the overflow tie-up of skiffs under twelve (12) feet. For the temporary tie-up of

vessels over twelve (12) feet, limited to forty-five (45) minutes.

2. The intended use of the Steamer Dock is for the loading and unloading of freight and materials and for the occasional loading and unloading of passengers, subject to the following restrictions:
 - a. Material shall not be stored on the Steamer Dock without the permission of the Harbor Master and/or the Island Superintendent.
 - b. Vessels or skiffs shall not be left unattended.

B. Operation of Vessels

Vessels shall be operated within the Bustins Island harbor limits in a reasonable manner so as not to endanger persons or property or to cause excessive wash. In no case should speed exceed five (5) knots while operating within the mooring or accepted anchorage areas.

C. Moorings and Outhauls

1. For municipal use, the Bustins Island Village Corporation shall have priority on selection of mooring and outhaul locations.
2. Residents may place moorings and outhauls at will, provided that said moorings and outhauls comply with the priority guidelines in Sub-Section C.1 above and as set out below. Non-resident moorings and outhauls may be placed upon registration with and the approval of the Harbor Master. Transient vessels may anchor at will, subject to the approval of the Harbor Master. Within space-available limits, requests for a particular location or area shall be approved by the Harbor Master in the following order of priority:
 - a. Resident shorefront owners for locations immediately adjacent to frontage.
 - b. Resident pleasure vessel owners.
 - c. Resident pleasure vessel owners with multiple locations.

- d. *Resident rental mooring owners.
- e. Resident commercial vessel owners.
- f. Non-resident pleasure vessel owners.
- g. Non-resident commercial vessel owners.

(*Private mooring rental requires prior written approval of Harbormaster and US Army Corps of Engineers.)

- 3. Any person using the Island facilities or the mooring areas shall assume all risk of damage or loss to his person or property. The Bustins Island Village Corporation shall not be responsible for any loss resulting from fire, theft, or an act of God; or for any damage of any kind to persons or vessels operating within the mooring areas or using said facilities.

D. Outhauls: Outhauls may be placed by residents without registration or fee but shall be placed so that the outhaul lines and the vessels attached thereto do not interfere with navigation through the mooring area or to existing or approved docks and/or moorings and the vessels normally tied thereto. Placement of outhauls shall be in accord with the priorities of Sub-Section C.2 above.

E. Registration: All moorings shall be registered with the Harbor Master.

- 1. Residents or designated family members of residents shall be entitled to register up to four (4) moorings. A separate specific boat owned by the resident shall be listed for each of these moorings except that one mooring may be designated and labeled as a guest mooring. Guest moorings may not be rented. Harbor Master may assign unoccupied guest moorings to transient vessels.
- 2. Non-Residents shall register moorings with the Harbor Master.
- 3. Each registration application shall be on a form provided by the Harbor Master.

4. Mooring ball markings: All mooring balls shall be white with a blue horizontal stripe and shall be clearly marked and visible at high tide with either the mooring owner's name, the vessel's name as it appears on the mooring registration or the mooring number assigned by the Harbor Master.
 5. The Harbor Master may remove from the anchorage area moorings that do not comply with this ordinance except that a grace period for existing moorings will extend through July 31, 2008.
 6. The Harbor Master shall keep a harbor plan showing at least the location of all moorings and all thruways through them.
- F. Waiting List: In the event that there be multiple requests for the same mooring site, the Harbormaster shall maintain a waiting list on a first-come-first-served basis within the priorities established in Sub-Section C.2 above.

VI. Restrictions

The following restrictions shall apply to the mooring area:

- A. The operation of Jet ski-type vessels is prohibited within the mooring area.
- B. No vessel involved in the towing of a person or persons on water skis, surfboards, aqualungs or similar device shall be permitted within the mooring area except for the purpose of entering or exiting the landing area.
- C. No person shall discharge, allow to be discharged, or spill sewage, garbage or other waste matters from watercraft within the mooring area.
- D. Lobster cars and work floats may be located in the harbor area with permission of the Harbor Master. Lobster buoys shall not be located in a thruway.
- E. Aquaculture in the harbor area requires a Conditional Use Permit from the Planning Board.

- F. Pier construction requires a Conditional Use Permit from the Planning Board and the Harbor Master shall advise the Planning Board on the merits of such pier construction.

VII. Enforcement

The Harbor Master of Bustins Island shall administer the rules of Harbor Use and Mooring Regulations, as set out herein, governing the marine facilities and mooring areas of Bustins Island. Said Harbor Master shall be appointed by the Board of Overseers for a term of not less than one year. The duties and responsibilities of the office are to be as prescribed by Title 38, M.R.S.A., and such additional duties as may be required to administer and enforce the provisions of this ordinance within the authority granted by law.

VIII. Penalties for Violations

- A. Violations of any of the provisions of this ordinance shall be deemed a civil violation for which a fine of not less than \$25.00 nor more than \$250.00 shall be adjudged. Said fines shall be enforceable by the Harbor Master or any other law enforcement officer with jurisdiction in the Town of Freeport. Each day a violation continues shall be considered a separate offense.
- B. Other violations of the laws of the State of Maine shall be penalized as provided in Title 38 M.R.S.A., Sect. 1 thru 285.

IX. Appeal

Persons aggrieved by the decisions of the Harbor Master may appeal to the Board of Overseers. Such appeal shall be made in writing and all decisions of the Board of Overseers shall be considered final.

Article XXII

SPECIAL REQUIREMENTS IN RESPECT OF INDEBTEDNESS

No action shall be taken at any meeting of the corporation to authorize any incurrence of indebtedness for borrowed money unless, at least 30 days prior to such meeting, notice of the time and date of the meeting and the proposed incurrence of

indebtedness shall have been mailed by first class mail to all the registered voters of the corporation as approved by the Overseers and certified by the Clerk from the official Assessor's records or from such other records as may be available to the Clerk.

Any action to authorize any incurrence of indebtedness for borrowed money shall require the affirmative vote of at least two-thirds of those voting thereon. In addition, if any such action is being considered at a meeting other than an annual meeting, the vote required for the taking of such action shall be at least three-quarters of the number of legal voters present and voting.

No amendment of this Article XXII may be made except upon the same notice, vote and quorum as would be required to authorize any incurrence of indebtedness for borrowed money.

The requirements of this Article XXII shall be in addition to any other requirements imposed by these By-Laws, the corporation's charter or applicable law.

Article XXIII

SPECIAL REQUIREMENTS IN RESPECT OF DISBURSEMENTS FROM THE CASCO FUND

No disbursement shall be made from the CASCO Fund except as authorized at a meeting of the BIVC. Any action at any meeting of the BIVC to authorize any disbursement from the fund established to provide monies to cover (to the extent available) catastrophes and special capital outlays (the "CASCO Fund") shall require the affirmative vote of at least two thirds of votes cast.

Notwithstanding the foregoing, during periods between Annual Meetings of the BIVC the Board of Overseers may approve disbursements from the CASCO Fund without the vote called for by the preceding paragraph if the Board determines that as a result of unforeseen emergencies disbursements from the CASCO Fund are essential to the preservation of the BIVC properties or facilities or the welfare of the Island because substantially all other BIVC reserves have been depleted or irrevocably committed and the BIVC has no other available funds. The types of unforeseen emergencies contemplated hereby are those that may

arise, for example, by reason of storm, fire, or other natural disasters, regulatory matters or legal proceedings. Whenever any disbursements are authorized by the Board of Overseers pursuant to the authority granted by this paragraph, the Board shall make a report of the amounts of such disbursements and the circumstances giving rise thereto at the next Annual Meeting of the BIVC and propose a plan to the voters for replacement of such amounts in the CASCO Fund.

No amendment of this article may be made except upon the same vote as would be required to authorize a disbursement from the CASCO Fund as provided in the first paragraph hereof.

ARTICLE XXIV

DEFENSE AND INDEMNIFICATION OF ELECTED AND APPOINTED BIVC OFFICIALS AND EMPLOYEES

The Board of Overseers shall in all cases provide competent legal counsel to defend the BIVC, any of its boards and committees, any Overseer, officer, employee or the member of any BIVC board or committee who is a party or is threatened to be made a party to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that said person is or was an Overseer, officer, employee, board member or committee member of the BIVC, and shall pay or indemnify such Overseer, officer, employee, board member or committee member as against all expenses, fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding, subject to the following:

(a) Exceptions. Nothing herein shall be construed to require the BIVC to provide or pay for legal counsel or such indemnification for any Overseer, officer, employee, board member or committee member in the following situations:

(1) In civil matters, where the Overseer, officer, employee, board member or committee member is the plaintiff or moving party; or where it shall be finally adjudicated in any action, suit or proceeding that said Overseer, officer, employee, board member or committee member shall

not have acted in good faith and in the reasonable belief that his or her action was in the best interest of the BIVC; or

(2) In criminal matters, where the Overseer, officer, employee, board member or committee member is the complaining party, or had reasonable cause to believe that such conduct was unlawful. Termination of any action, suit or proceeding by judgment, order or conviction adverse to such person, or by settlement, or by plea of *nolo contendere* or its equivalent, shall not of itself create a presumption that such person did not act in good faith and in the reasonable belief that his or her action was in the best interests of the BIVC, nor, with respect to any criminal action or proceeding, that such person had reasonable cause to believe that his or her conduct was unlawful.

(b) Other legal counsel. Nothing herein shall be construed to prohibit any such Overseer, officer, employee, board member or committee member from seeking additional legal counsel at his or her own expense. However, nothing herein shall be construed as to require the BIVC to pay any fees or other expenses incurred as a result of employment of such additional legal counsel.

(c) Other rights. The rights provided for in this Article XXIV shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any state statute or other ordinance, agreement or policy of the BIVC.

ARTICLE XXV

RETAIL MARIJUANA PROHIBITION

(as adopted August 5, 2017)

I. 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.

II. 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.

III. 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.

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

A. 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.

B. 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.

C. 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. Under no circumstances shall this provision be construed to allow caregiver retail stores, registered dispensaries, marijuana testing facilities, or manufacturing facilities to operate within this municipality.

V. 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.