

Recitation of

Chapter ____ of the Acts of 2020

AN ACT ESTABLISHING THE FREETOWN/LAKEVILLE LAKE DISTRICT IN THE TOWNS OF FREETOWN AND LAKEVILLE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. There is hereby established within the towns of FREETOWN AND LAKEVILLE, the FREETOWN/LAKEVILLE Lake District which shall be described as follows:

Proprietors of property directly abutting Long Pond, or properties that lie within an association or neighborhood with access to Long Pond (e.g. Churchill Shores, Heaven Heights, Clark Shores, etc.), or properties with an easement that allows access to Long Pond.

SECTION 2. Membership in the district shall consist of the proprietors of 1 or more separately assessed parcels of land lying within the district boundaries as set forth in section 1. For the purposes of this act, "proprietor" shall include natural persons and other entities empowered to own real estate in the commonwealth including, but not limited to, corporations, partnerships, realty trusts and federal, state and local governmental units. "Proprietor" shall also include a mortgagee of record in possession of any 1 or more separately assessed parcels and persons or entities who jointly own 1 or more separately assessed parcels. Persons or entities that jointly own 1 or more separately assessed parcels within the district shall collectively constitute a proprietor for the purposes of this act.

SECTION 3. The district, upon establishment in the manner hereafter set forth, shall have the following powers:

- (a) to monitor, test and treat the water in the pond and to take such action as may be necessary for the control of all nuisance flora and fauna;
- (b) to adopt an annual budget and to raise and appropriate money by assessment in an amount necessary to carry out the purposes for which this district is formed;
- (c) to sue and be sued in its own name, and to plead and be impleaded; provided, however, that neither the district nor any officer or employee thereof shall be liable in tort except as provided in chapter 258 of the General Laws; and provided further, that the district may indemnify its officers and employees to the extent provided in said chapter 258;
- (d) to adopt by-laws for the regulation of its affairs in the conduct of its business, which by-laws shall be consistent with the powers conferred by this act and with applicable provisions of the General Laws;

(e) to procure liability insurance on all property and property interests owned by the district and to procure such other insurance against any loss in connection with carrying out the purposes of this act in such amount and from such insurers as it deems desirable;

(f) to make and enter into any contracts and agreements necessary or incidental to the accomplishment of its purposes, subject to appropriation by the district, and including, but not limited to, contracts for legal and engineering services;

(g) to employ such experts as may be deemed necessary in its judgment and to fix their compensation;

(h) to receive and accept from a federal agency, the Commonwealth, the municipality or from a charitable foundation, a private corporation or an individual, grants, gifts, loans and advances for or in aid of the purposes of this district including, but not limited to, revenue-sharing funds and community development block grant funds;

(i) from time to time, to borrow money in order to carry out the purposes of this act to the extent permitted for districts under chapter 44 of the General Laws;

(j) to invest any funds not required for the immediate use of the district in such manner and to the extent permitted under the General Laws for the investment of such funds by the treasurer of a town;

(k) to enter upon the streets and ways within the district in order to carry out the purposes of this act;

(l) to manage, purchase, lease, control and supervise equipment, materials, services and facilities necessary or appropriate to accomplish the purposes of this act including, but not limited to, weed harvesting equipment, dredging apparatus and lake draw-down facilities, and recreational swimming and boating facilities;

(m) to initiate and coordinate research and surveys for the purpose of gathering data and to plan and implement projects on the lake, related shore lands, watershed and the drainage basins relating to the reclamation, enhancement, preservation and maintenance of the lakes and the water quality in the lakes;

(n) to educate the public and to do all acts necessary to prevent, control, limit and or eradicate water pollution on Long Pond.

(o) to do all acts necessary or convenient to carry out the powers expressed or by necessary implication, conferred upon the district by this act and not inconsistent with the General Laws.

SECTION 4. Within 180 days after the effective date of this act, the selectmen of the towns of Freetown and Lakeville shall call a special town meeting of the district proprietors within their respective towns. The board of assessors shall furnish the selectmen with its then current listing of all district proprietors within the town. Upon receiving such list, the selectmen shall prepare and mail, postage prepaid, a notice to each proprietor, signed by the selectmen, setting forth a time and place of a meeting to occur within said 180-day period, but not less than 14 days from the date of mailing of the notice. The notice shall be in the form of a warrant specifying the matters upon which action shall be taken at the meeting and shall further clearly state that the purpose of

the meeting is to consider the organization of the district. The selectmen shall, not later than 14 days prior to the date of such meeting, cause a copy of the notice to be posted in 1 or more public access locations within the towns. At the initial meeting of the district, a selectman shall preside and shall call the meeting to order. The selectman shall determine whether or not a sufficient number of proprietors or their proxies are present to constitute a quorum. For the purposes of the initial meeting a quorum shall be not less than 100 proprietors or a majority of the proprietors whichever is less. A proprietor may be represented by a proxy. In the absence of a quorum, the meeting shall have no authority to act, but the selectmen may, in the manner above provided call additional meetings for the same purpose within such 180-day period.

SECTION 5. Provided that the number of proprietors present or represented by proxy constitute a quorum, the initial meeting of the district shall then proceed to the following order of business:

- (a) election of a moderator who shall be chosen by ballot;
- (b) certification by the moderator to the district meeting that a quorum is present, such initial quorum to be certified by the assessor as being current landowners of property located in the district; provided, however, that no person who has submitted an application for exclusion from the district pursuant to section 21 shall be eligible to vote;
- (c) the taking of a vote to determine whether or not the district established by this act shall be organized, which shall require an affirmative vote of two-thirds of the persons in attendance and authorized to vote; provided, however, that no person who has submitted an application for exclusion from the district pursuant to section 21 shall be eligible to vote; provided further, if the vote shall be in the negative, the meeting shall thereupon terminate and adjourn, but if the vote shall be in the affirmative, the meeting shall then proceed to consider the order of business set forth in clauses (d) to (g), inclusive;
- (d) the adoption of district by-laws and form of district seal;
- (e) the election of a clerk, treasurer, and the members of the lake district prudential committee. The clerk and the treasurer may be proprietors of the district entitled to vote at district meetings. If the district shall so elect, 1 person may serve as both clerk and treasurer. If the district or the proprietors at subsequent meetings, consider it advisable, they may also elect an assistant treasurer, who may also serve as clerk. The committee shall consist of 7 persons who are proprietors of the district. In addition to the 7 regular members of the committee, there shall be 2 alternate committee members, who shall vote in place of a member who is absent or in the event of a conflict. The committee members and alternate shall be chosen by election by the proprietors entitled to vote at district meetings. The clerk, treasurer and committee members shall serve from the date of the initial meeting until the election and qualification of their successors at or following the first annual meeting of the district, and thereafter as provided from time to time in the district by-laws; provided, however, that such interval between the election of those officers and committee members shall not be greater than 2 years; and provided further, that the clerk, assistant treasurer and the treasurer shall not be members of the committee.

(f) the adoption of an initial budget for the remainder of the fiscal year and the appropriation of monies to be raised by taxation in support thereof; and

(g) the consideration of such other business as shall be consistent with the power and authority conferred by this act. The clerk shall prepare a certificate of the vote taken to organize the district and shall affix the form of seal thereto as adopted by the initial district meeting and shall obtain the endorsement of the selectman initially presiding at the meeting thereon. Such certificate shall be forwarded to the attorney general within 30 days after adjournment of the meeting.

SECTION 6. Immediately upon its election at the initial meeting of the district and thereafter immediately following each annual meeting of the district, the committee shall meet and:

(a) elect a chairperson who shall preside at all meetings of the committee; provided, however, that the chairperson shall appoint a vice chairperson who shall preside at meetings of the committee in the absence of the chairperson or in the event of the chairperson's inability to act or because of a conflict of interest;

(b) adopt rules for the general conduct of its business; and

(c) conduct such other business as authorized by this act or by the by-laws of the district adopted pursuant to this act; provided, however, that upon completion of the first meeting of the district, written notice of the establishment thereof shall be sent by the clerk to the commissioner of revenue.

SECTION 7. (a) Annual meetings of the district shall be held on the second Saturday in March or at such other time as the district shall establish from time to time in its by-laws. Annual and special meetings of the district shall be called by a warrant of the lake district prudential committee, notice of which shall be given at least 14 days before such meeting. The warrant shall be mailed first class, postage prepaid, to each proprietor of record in the district, unless an adopted bylaw allows for other communication means, and a copy of the same shall be directed to a constable of the town or to some other person who shall forthwith give notice of such meeting in the manner prescribed by the by-laws, or, if no provision therefor shall exist in the by-laws, by a vote of the district or by posting in at least 2 public places within the district or by advertising in a newspaper published in the town, if any, otherwise in a newspaper published in the county. The warrant for all district meetings shall state the time and place of holding the meeting and the subjects to be acted upon. The committee shall insert in the warrant for the annual meeting all subjects the insertion of which shall be requested of them in writing by 25 or more proprietors of the district.. The committee shall call a special district meeting at its own request or upon the request in writing of 50 proprietors within the district, whichever is less, and such meeting shall be held not later than 30 days after the receipt of such request and the committee shall insert in the warrant all subjects the insertion of which shall be requested by the petition. No action shall be valid unless the subject matter thereof is contained in the warrant. Two or more district meetings for distinct purposes may be called by the same warrant. At every district meeting, a moderator shall be chosen by ballot who shall have the powers of a moderator at a town meeting.

(b) At the initial district meeting and at all subsequent annual and special meetings, voting by proprietors shall be governed by the requirements of this section. Persons or entities owning 1 or more separately assessed parcels of land within the district shall be entitled to cast 1 vote for each separately assessed parcel on any matter or issue to be voted upon, notwithstanding the total number of parcels owned by such proprietor. Joint owners and entity proprietors shall designate, in writing to the clerk prior to the commencement of the meeting, 1 person who shall be authorized to vote on behalf of the proprietor at such meeting and such person shall be presumed qualified and authorized to represent the proprietor if such person shall be listed as record owner of the parcel or parcels or if such person shall, as evidenced by a public record maintained under the laws of the commonwealth, be listed as a partner, trustee, agent, officer or employee of a proprietor. A person owning 1 or more parcels together with his spouse shall not be required to furnish a written designation from his spouse and either shall be presumed to be qualified to vote but only 1 vote for each property owned shall be made. The authority of a person to cast a proxy vote on behalf of a proprietor shall be determined by the district by-laws. All proxies shall be tendered in writing prior to the commencement of a district meeting and shall clearly set forth the name and address of the proprietor entering the proxy, the name and address of the person authorized to exercise the proxy the signature of the proprietor designating the same and the date of execution. The district may, if it so elects, adopt in its by-laws requirements regarding the form of proxy, the duration of a proxy, and other requirements for the form of voting.

SECTION 8. District meetings and meetings of the committee shall be governed by chapter 39 of the General Laws except as otherwise provided in this act and the by-laws adopted hereunder.

SECTION 9. At least 30 days prior to the annual district meeting the board of assessors of the towns of Freetown and Lakeville shall prepare and forward to the committee a true and complete alphabetical listing, with addresses, of the proprietors reflected in their records, excluding the proprietors who have been granted exclusion from the district as of January 1 of that year and from the records maintained by the assessors pursuant to chapter 59 of the General Laws and other related provisions of the General Laws. A copy of such list shall be maintained in a manner accessible to the proprietors and the general public at all reasonable times by the committee and the district clerk and shall be available for inspection at the annual meeting and any special meeting of the district. The board of assessors shall likewise maintain a list of proprietors within their town by separate list or special designation on their list of all assessed parcels.

SECTION 10. The district may, at meetings called therefor, raise money by assessment for the purposes set forth in this act but for none other.

SECTION 11. The fiscal year of the district shall be the same fiscal year as established by the General Laws for cities and towns.

SECTION 12. Unless otherwise specified in this act or in the by-laws of the district or otherwise required by General Law, all actions permitted to be taken at annual or special

meetings of the district shall require a majority vote of those persons present at said meeting and entitled to vote, who shall constitute a quorum.

SECTION 13. At the first annual meeting of the district and at each annual meeting thereafter, the district shall elect in the manner provided for in its by-laws the members of the committee constituted as aforesaid and also a clerk and treasurer of the district. Upon their election, the committee, clerk and treasurer shall serve for the terms set forth in the by-laws and until their successors shall have been elected at the next annual meeting of the district called for that purpose. Vacancies in the committee due to resignation or other cause shall be filled at a special district meeting called for that purpose by the remaining members of the committee, which meeting shall occur within 90 days from the date of such vacancy. In the event that no member of the committee shall remain in office due to resignation or otherwise, the selectmen of the towns of Freetown of Lakeville may issue a warrant for a special meeting of the district to occur within said 90-day period and shall, in the interim, exercise the powers and duties of the committee until the successors shall be elected at the special meeting.

SECTION 14. The committee shall be responsible for the expenditure and shall expend, for the purposes prescribed by the district, the money so raised and borrowed by the district and shall annually prepare a budget with advice from the treasurer and, in his absence, the assistant treasurer and shall submit such budget to the annual district meeting for its approval. Upon approval of the budget by the district which shall be deemed to constitute an appropriation for the expenses enumerated therein, the clerk of the district shall certify to the assessors of the town all the votes of the district relative thereto and all sums of money voted to be raised which shall be assessed and collected in the same manner as town taxes, and shall be paid over to the district treasurer. The assessors, treasurer and collector of the towns of Freetown/Lakeville shall have the same powers and duties relative to the assessment, collection and abatement or granting of exemptions relative to money voted by the district as they have and exercise relative to the assessment, collection and abatement and granting of exemptions relative to town taxes and the sum so voted shall be assessed upon the assessed value of the land and buildings situated within the district or personal property situated thereon. The district shall include in its initial and in all subsequent annual appropriations, compensation for the town assessors and tax collector, pursuant to the provisions of section 108B of chapter 41 of the General Laws with respect to their duties and expenses hereunder.

SECTION 15. The district treasurer shall, in addition to any other powers and duties specified in this act, receive and take charge of all money belonging to the district and pay over and account for the same according to the order of the district or of its committee. The assistant treasurer and the treasurer shall be the only persons authorized to pay any district bill; provided, however, that this provision shall not prohibit the treasurer or assistant treasurer from paying such bill by the use of bank treasurer's or cashier's check. The district shall further have the authority given to an auditor by section 51 of chapter 41 of the General Laws, and shall annually render a true account

of his receipts and disbursements and a report of his official acts to the district. The treasurer and assistant treasurer, if there is one elected, shall give bond annually for the performance of his duties in a form approved by the commissioner of revenue and in such sum, which shall be not less than the amount established by said commissioner, as shall be fixed by the committee, with the costs of such bond to be paid by the district, and if either fails to give such bond within 10 days after his election or appointment, or if within 10 days after the expiration of the bond or a renewal of the bond either one fails to file a renewal thereof, the committee shall declare that office vacant and the vacancy shall be filled by the committee in the manner provided for the appointment of temporary town officers under section 40 of chapter 41 of the General Laws. Vacancies occurring in the office of treasurer or assistant treasurer for any other reason shall be filled by the committee in a like manner.

SECTION 16. Unless otherwise provided by district by-law, the clerk shall, in addition to the other duties specified herein, take all minutes at district meetings and maintain a record of such minutes in the manner provided for the maintenance of records of minutes of town meetings. Vacancies occurring in the office of clerk shall be filled by the committee by appointment in the same manner as provided for treasurer in section 15.

SECTION 17. Unless otherwise provided by district by-law, the committee shall, in addition to the other duties specified herein, decide by majority vote on all contracts, expenditures, investments or any other actions necessary for carrying out the purposes of the district. No monies shall be drawn from the district treasury except upon signature of the district treasurer or assistant treasurer and upon prior authorization by the committee to the extent required by district by-law. The committee shall meet as necessary, but not less than quarterly in order to approve contracts, expenditures and investments or to take other actions necessary for carrying out the purposes of the district. The district treasurer shall submit to the committee in a timely manner all contracts, bills, or other items requiring committee approval. A quorum of the committee shall be required at all meetings for the conduct of any business and shall consist of a majority of the total number of committee members then constituted by the district as the committee.

SECTION 18. The district may, by majority vote, agree upon appropriate compensation for its officers and employees, including the committee members, in the event that the district shall include in its budget appropriations for its employees or committee members to perform duties with respect to the lakes within the district.

SECTION 19. The towns of Freetown and Lakeville shall not be obligated for any debts of the district nor shall it, by virtue of this act, be required to pay for any expenses of the district; provided, however, that nothing in this act shall preclude the acceptance of any enabling legislation permitting the expenditure of monies by the town on activities under the jurisdiction of the district.

SECTION 20. If a person sustains bodily injury or property damage by reason of defect or want of repair for an activity performed by the district, claims for such injury or damage shall be governed by chapter 258 of the General Laws.

SECTION 21. The committee, at a meeting called therefor, may make corrections to proprietor membership if, in the judgment of the committee, the property has legal access to the lakes in the district and a majority of the committee members vote to expand the limits of the district. If a person requests to be included in the district, such person shall pay a fee in an amount to be determined by the committee based on the annual assessment for the years during which the person was excluded from the district. The committee also may, on the petition of any person, exclude him or his estate from the district; provided, however, that such exclusion shall not be granted by the district if the estate of the petitioner is directly abutting any body of water under the jurisdiction of the district; and provided further, that the petitioner shall agree to release any easement rights to access the lakes and the beaches in the district. The petition for exclusion or exemption from taxation shall be filed with the district committee not later than the date set for the filing of petitions for the insertion of articles in the warrant of the district meeting or at which the petition is to be acted upon, and shall state the petitioner's reason for seeking exclusion or exemption from taxation. An application for exclusion from the district may be filed with the board of selectmen for the towns of Freetown and Lakeville in which the proprietors property is located prior to the initial meeting for the creation of the district as set forth in section 5 and any such application shall be provided to the committee for vote after creation of the district. The committee shall cause an appropriate article to be inserted in the warrant for the meeting, shall examine the reasons stated and shall report its findings, with recommendations to the meeting. No property shall be subject to a tax assessed on account of the activities of the district if, in the judgment of the committee, after a hearing, due notice of which shall be given, such property is so situated that it does not benefit from the activities of the district. A petitioner aggrieved by the action of the committee or by the action of the proprietors of the district on his petition may appeal to the superior court sitting in equity within the county in which the district is located for a remedy. Upon such appeal, the court shall, if the reason set forth by the petitioner is found to lie within the intent of this section, grant the exclusion. The grant of exclusion shall exempt the property and estate of the petitioner from the lake district and from any tax levied by reason of an appropriation made by the district after the filing of the petition with the committee.

SECTION 22. The district shall establish an overlay account and a reserve fund as contemplated for towns under the provisions of section 25 of chapter 59 of the General Laws and section 5C of chapter 40 of the General Laws, except that the initial fiscal year of the operation of the district, the assessors for the towns of Freetown and Lakeville, may add to the amount to be assessed, a sum voted by the district equal to not more than 20 percent thereof for the purposes and subject to the remaining limitations set forth in said section 25 of said chapter 59. The district may establish and maintain a stabilization fund under section 5B of chapter 40 of the General Laws. The district shall further be subject to an audit of its accounts in the manner provided in section 40 of chapter 44 of the General Laws.

SECTION 23. By a petition in writing addressed to the committee and signed by a majority of the proprietors of the district who are entitled to vote at the most recent district meeting prior to the filing of the petition, such petitioners may request that the district be disbanded on the basis that there is no further need for its existence. A three-quarters affirmative vote of all proprietors shall be necessary to disband the district. Notwithstanding the foregoing provision, the district shall not be disbanded if, at the time of such vote, there are outstanding obligations with respect to which insufficient appropriated funds or surplus funds exist in the district treasury for the purpose of satisfying those obligations. If sufficient funds shall be determined to exist at the meeting to accomplish the payment of all outstanding obligations, such action shall be taken forthwith by the committee or by *the selectmen of the towns of Freetown or Lakeville upon the failure of the committee to act with respect thereto. In the event there shall exist in the district treasury surplus funds remaining after the payment of all outstanding obligations as aforesaid, such funds shall be distributed by the committee to the property owners within the district based upon the percentage that the most recent assessed valuation of the land for each district property owner shall bear to the total or aggregate assessed valuation of the land lying within the district. No such distribution of surplus shall be made by the committee until it shall have first published once a week for 3 successive weeks in a newspaper of at least weekly publication within the counties of Bristol and Plymouth, a notice of intent to disband the district which shall afford reasonable notice to all creditors and possible claimants against the district of the intended action. Further, within 10 days after an affirmative vote to disband, the district clerk shall file with the clerk of the towns of Freetown or Lakeville with the state secretary and with the commissioner of revenue an attested copy of the petition and a certified copy of the district vote. Upon completion of the aforesaid action and upon the expiration of 6 months after the date of the meeting and vote, the Freetown Lakeville Lake District shall cease to exist.

SECTION 24. If the first meeting of the district shall not be held within 1 year after the effective date of this act, this act shall cease to be operative.

SECTION 25. This act shall take effect upon its passage.