



Petitioning For Food Sovereignty

While some municipal leaders are willing to include a LFCSGO when asked by citizens, others may resist. If one finds the latter is the case, then citizens have the right to petition the municipality. The purpose of this document is to provide background and guidance for citizens of municipalities with the Town Meeting form of governance who wish to bring an ordinance before the voters for their consideration.

Please understand that this is not legal advice and may not cover the specific situation of any one petitioner. In addition to a procedural outline, there is some discussion of the pros and cons of different approaches. These are merely observations and can be discounted or disregarded as appropriate.

Forms of Government

Maine municipalities have two major types of governing structures, Town Meeting and Town Council. The structure under consideration here is the Town Meeting form. This document does not discuss citizen initiatives in the Town Council form of government because the legislative authority of the municipality lies with the Council, not directly with the citizens.

The legislative body of the Town Meeting form of government lies with the voters of the Town assembled at Town Meeting. At Town Meeting, the citizens elect various town officers including the select board, which functions in a part-time capacity as the executive arm of the government, administering, enforcing, and carrying out the decisions made at a town meeting. They also approve a budget, levy the taxes, and pass any needed laws (ordinances) for the orderly governing of the town. This is the focus of the activity considered here.

Petition for the Town Meeting to Consider Specific Articles

Citizens have the right to petition to have a matter brought before the voters. But not all matters may be germane. Although Maine has a strong Home Rule statute (30-A MRSA, Chapter 111), ordinances or actions that frustrate or run counter to State Law can not be considered.

The Town cannot prevent the circulation of petitions for any local initiative (30-A MRSA §2504). Additionally, any registered voter of the state may circulate a petition for a local initiative. Note that the person who circulates the petition doesn't have to be a resident of the town in which the petition is circulated, but only the signatures of registered voters in the municipality count toward a required total.

If a number equal to at least 10% of the number of votes cast for all candidates in the town in the last gubernatorial election (but not less than ten) sign a written petition and submit it to the municipal officers (in this case, the Select Board), the municipal officers shall either insert the article in the next Town Meeting warrant or shall call a special meeting for citizens to consider it. (30-A MRSA §2552).

Now, if the Selectmen unreasonably refuse to call a Town Meeting, a notary public may call the Meeting if presented with a petition meeting the above requirements. This requires a separate petition. However, those who sign the petition to the notary do not have to be the same signers of the petition to the Selectmen.

Reasonable Refusal

The Selectmen can refuse to put a petitioned article on a warrant if they determine it's unreasonable. Selectmen cannot reasonably refuse a petition merely because they think they know what is best for the municipality, based on their own personal or political views. But there appears to be no definition of reasonable refusal in statute.

The Courts, though, have ruled on cases where it would be illegal or beyond the power of the municipality to act on certain measures. For example, the Selectmen can deny a petition that, if enacted, would be invalid; a petition to hold an election for vacancies of office that the Selectmen have the authority to appoint; a petition that would propose an ordinance change speed limits; or a petition that would provide an appropriation to use public monies for essentially private purposes (for example, plowing private driveways at public expense). To avoid the problems of back-and-forth actions by a municipality, absent any irregularities, a petition to reconsider an action after a formal adjournment of a Town Meeting or a referendum vote, the Courts have rules that the Selectmen may refuse consideration.

If the petition is unintelligible, where the article is contradictory, incomplete, unclear, or ambiguous, the Selectmen may decide to refuse the petition, but there appears to be no case law determining whether this would constitute a reasonable refusal.

Technical deficiencies in the petition format should not be a barrier. A petition that begins “We, the undersigned voters of the Town of Anywhere, Maine, hereby petition the municipal officers of the said Town to place the following article before the voters for their consideration...” should be sufficient in its form and content. It must be specified, however, whether the petitioners request a Town Meeting or a Referendum vote. This is discussed below.

Voting on The Issue

30-A MRSA §222 specifies that “municipal officers shall either insert a particular article in the next warrant issued or shall within 60 days call a special town meeting for its consideration.” Essentially, if there is a looming town meeting, the Selectmen can add the petitioned article to that warrant, and if there is no meeting scheduled, the Selectmen should call a special meeting. To avoid confusion and create clarity, the petition may include language like “at the next scheduled town meeting or within 60 days, whichever comes first.”