# BYLAWS OF THE CAPE COD AND ISLANDS WATER PROTECTION FUND MANAGEMENT BOARD

**Amended <date>**

## ARTICLE I

## Definitions

**Section 1.1.** Except as defined below, capitalized terms shall have the meaning ascribed to them by M.G.L. c. 29C, § 1.

**Section 1.2.** As used in these Bylaws, the following terms shall have the following meanings:

"Act" shall mean M.G.L. c. 29C, as amended by Chapter 337 of the Acts of 2018, ~~and by~~ Chapter 5 of the Acts of 2019, and Chapter 140 of the Acts of 2024, and as may be further amended.

"Appointing Authority" shall mean the ~~board of selectmen~~select board or town council in each municipality that is a member of the Fund.

"Attendance Policy" shall mean the policy set forth in Section 11.3 of these Bylaws.

~~"Audit Recipients" shall mean the chairs of the joint committee on environment, natural resources and agriculture and each representative and senator who represents at least one municipality in Barnstable, Dukes or Nantucket counties.~~

"Board" shall mean the Cape Cod and Islands Water Protection Fund Management Board established by §§ 19-20 of the Act.

"Code of Conduct" shall mean the standards set forth in Sections 11.1 and 11.4 of these Bylaws.

"Committee" shall mean any committee, subcommittee, advisory board, or other subgroup or panel appointed by the Board under these Bylaws.

"Conflict of Interest Law" shall mean G.L. c. 268A.

~~"Department" shall mean the Massachusetts Department of Environmental Protection.~~

"Ex-Officio Members" shall mean the executive director of the Cape Cod Commission, the executive director of the Martha's Vineyard Commission, and the town manager of Nantucket.

"Fund" shall mean the Cape Cod and Islands Water Protection Fund established by the Act.

"Open Meeting Law" shall mean M.G.L. c. 30A, §§ 18-25.

"Participating Local Government Unit" shall mean a Local Government Unit that is or is part of a municipality (i) that is a member of the Water Protection Fund pursuant to M.G.L. c. 29C, §§ 19 and 20; and (ii) in which the Excise Tax is being collected. Participating Local Government Units do not include Local Government Units in municipalities where the Excise Tax is not being collected (e.g., municipalities where the chief executive officers deferred collection of the Excise Tax to a later calendar quarter after joining the Fund pursuant to Section 11 of Chapter 337 of the Acts of 2018). Provided that the municipality is a member of the Water Protection Fund, a Local Government Unit becomes a Participating Local Government Unit as soon as collections of the Excise Tax begin and remains a Participating Local Government Unit while the Excise Tax is being collected.

"Public Records Law" shall mean M.G.L. c. 66.

"Report Recipients" shall mean the chairs of the joint committee on environment and~~,~~ natural resources ~~and agriculture~~ and each representative and senator who represents at least one municipality in Barnstable, Dukes or Nantucket counties.

## ARTICLE II

## Name and Offices

**Section 2.1.** Establishment. The Board is established to carry out the purposes set forth in §§ 19-20 of the Act.

**Section 2.2.** Offices. The Board has its principal office at the office of the Cape Cod Commission, ~~3225 Main Street (Route 6A), Barnstable, Massachusetts 02630~~as such office may be located from time to time.

**Section 2.3.** Official Website. The Board shall maintain a website to share information that the Board deems relevant to its purpose and procedures. The Board shall post the public notices and agendas for all public meetings and hearings on the website. Aside from posting these notices and agendas, the Board has complete discretion to determine what information to publish on the website.

## ARTICLE III

## Purpose and Powers

**Section 3.1.** Purpose. The purpose of the Board is to fulfill the statutory duties set forth in the Act. Those duties include:

(a) Ensuring that the Fund is spent only for the purposes set forth in M.G.L. c. 29C, § 19;

(b) Determining the method for subsidy allocation, including, but not limited to, an equitable distribution among ~~participating municipalities~~Participating Local Government Units consistent with revenue deposited into the Fund from each ~~municipality that is a member~~Participating Local Government Unit;

(c) Considering and, where appropriate, approving expenditures and disbursements from the Fund as is consistent with the statutory authorization, including ~~entering into a memorandum of understanding with the Department to~~ directing the comptroller to transfer an amount not to exceed 10% of the annual revenue deposited into the Fund ~~for the Department to contract with a regional planning agency,~~ to the Cape Cod Commission for the purposes of contracting with an entity or entities ~~institution of higher education or non-profit corporation~~ to evaluate and report on the efficacy of adaptive management measures to reduce nitrogen pollution of coastal waterways undertaken pursuant to an area wide water quality management plan or a suitable equivalent plan, to monitor the water quality and watersheds of areas subject to the study, and to support further assessment and water quality modeling to further refine area wide wastewater management plans or suitable equivalent plans in Barnstable, Nantucket, and Dukes counties;

(d) Maintaining itemized records of all receipts, expenditures, and disbursements from the Fund ~~,~~and, not later than January 15 of each year, producing and distributing an annual written report to the Report Recipients., ~~and subjecting its records to an annual audit by an independent certified public accountant,~~ consistent with paragraphs 3 through 5 of § 20 of the Act.

**Section 3.2.** The Board shall have all powers necessary and convenient to fulfill the purposes described above and any other purpose served by the Act.

## ARTICLE IV

## Members

**Section 4.1.** Membership and Qualifications. The Act establishes the membership of the Board. The Board consists of one person appointed by the board of selectmen or town council in each Participating Local Government Unit ~~municipality that is a member of the Fund~~. The appointee must be a member of its Appointing Authority, a town manager, a town administrator, or other municipally employed professional staff. The Board also includes the Ex-Officio Members.

**Section 4.2.** Term. As established by the Act, with the exception of the Ex-Officio Members, each member of the Board shall serve a three-year term and may be reappointed for additional terms without any limit as to the number of terms an individual serves, regardless of whether the terms are successive or intermittent. The Cape Cod Commission shall keep a list of Board members and the dates on which their terms start and end. Each Board member shall be responsible for providing the Cape Cod Commission with the date on which ~~he or she was~~they were appointed or reappointed.

**Section 4.3.** Removal and Resignation. The Board shall not have the power to remove members, who are appointed by their Appointing Authority, but may, by majority vote, recommend to an Appointing Authority that its designated Board member be removed for good cause, which shall include, but not be limited to, failure to comply with the Attendance Policy or the Code of Conduct. If a Board member chooses to resign, he or she must do so by tendering

resignation to ~~his or her~~their Appointing Authority in a manner consistent with local board or council practices.

**Section 4.4.** Vacancies. Vacancies shall be filled by the Appointing Authority and not the Board. In accordance with the Act, a new Board member shall be appointed to fill the vacancy for the remainder of the unexpired term of the vacant position.

**Section 4.5.** Ex-Officio Members. The Ex-Officio Members shall be full participants in all public meetings and deliberations and may make comments, ask questions, and submit information to the same extent as any other Board member, but shall not make motions, second motions, or vote on any motions made by a voting member of the Board. The Ex-Officio Members may be members of any Committee and may make motions, second motions, and vote on any motions made by a member of the Committee.

**Section 4.6.** Participating Non-Members. From time to time, the Board may vote to allow representatives of municipalities within Barnstable, Dukes, and Nantucket counties who are not members of the Fund to participate in Board meetings or in any Committee meetings on a non-voting basis. This participation shall be at the Board's absolute discretion and may be limited as the Board deems appropriate. A participating representative of a non-member municipality shall not make motions, second motions, or vote on any motions made by a Board member or Committee member, whichever is applicable.

## ARTICLE V

## Officers

**Section 5.1.** Chairperson and Vice Chairperson. As required by the Act, the Board shall have a Chairperson and a Vice Chairperson. The Board may appoint other officers as the Board, in the exercise of its discretion, deems appropriate or convenient for fulfilling its duties and managing its responsibilities under the Act.

**Section 5.2.** Appointment of Chairperson and Vice Chairperson; Term; Vacancies. The Chairperson and Vice Chairperson shall each be appointed for a one-year term, beginning on July 1st and ending on June 30th of each year. In the event of a removal or resignation under Section 5.6 below, or in the event that the Chairperson or Vice Chairperson is no longer able to carry out the duties of ~~his or her~~their office or is no longer qualified to serve on the Board, the Board shall appoint an interim chair for the remainder of the term of the position ~~he or she is~~they are filling. In the event that a new Chairperson or Vice Chairperson has not been reappointed prior to the expiration of their one-year term, the Chairperson or Vice Chairperson shall continue to serve until such time as a new Chairperson or Vice Chairperson is appointed, which new appointment may be made at any time during the existing one-year term but shall expire at the end of this one-year term.

**Section 5.3.** No Term Limits. An individual Board member may serve as Chairperson or Vice Chairperson for any number of one-year terms, whether successive or intermittent.

**Section 5.4.** Duties of Chairperson. The Chairperson is responsible for setting the meeting schedule, establishing the agenda for each meeting, calling the meetings to order, presiding over

the meetings, and speaking on behalf of the Board when needed. The Chairperson shall also be responsible for resolving any questions of procedure. If the Cape Cod Commission requires clarification or direction with respect to any administrative or technical support matters to be provided to the Board, the Chairperson shall be responsible for providing that clarification or direction, and the Chairperson's directions shall take precedence over any inconsistent directions by other Board members.

**Section 5.5.** Duties of Vice Chairperson. In the event that the Chairperson is not present at a meeting or is not able to fulfill ~~his or her~~their duties within the time required to take action, or in the event that the office of the Chairperson is not filled, then the Vice Chairperson shall act as the Chairperson.

**Section 5.6.** Removal and Resignation. By a majority vote, the Board shall have the power to remove the Chairperson or Vice Chairperson in the event that the officer is not fulfilling ~~his or her~~ their duties under these Bylaws or fails to comply with the Attendance Policy or the Code of Conduct or other requirements of these Bylaws. The Chairperson or a Vice Chairperson may resign from their~~his or her~~ position at any time.

## ARTICLE VI

## Committees and Designees

**Section 6.1.** Power To Appoint Committees. The Board shall have the power to appoint Committees as necessary to fulfill its responsibilities under the Act. Committees shall consist of no less than five and no more than seven members of the Board. The Board may appoint alternate members to fulfill the responsibilities of a member of a Committee if that member is unavailable to act on a matter.

**Section 6.2.** Committees and Designees.

a. Executive Committee. The Board shall appoint and maintain, as a standing committee, an Executive Committee, which shall be responsible for developing recommendations for the full Board regarding annual subsidies; funding allocations for monitoring, modeling, and administrative and technical support; and any other matters that may impact the ability of the Board to carry out its responsibilities set forth in ~~M.G.L. c. 29C,~~ §§ 19-20 of the Act. The Executive Committee may approve reimbursement requests for administrative and technical support costs and provide testimony and comments on the Board's behalf on ~~the~~ draft Clean Water Intended Use Plans and relevant state policy initiatives and/or legislation. The Executive Committee shall consist of the Chairperson, Vice Chairperson, and three additional representatives, with consideration for subregional representation.~~reserves the right to appoint an Executive Committee should the need arise, with membership and powers to be determined by a future vote of the Board.~~

b. Bylaws and Regulations Committee. The Board shall appoint and maintain, as a standing committee, a Bylaws and Regulations Committee, which, in its discretion ~~shall~~may ~~be responsible for preparing~~prepare, for Board approval by a majority vote, ~~the~~ new or amended bylaws addressing internal governance matters and the regulations required by Article 10 of these Bylaws. The Bylaw and Regulations Committee shall reevaluate the

bylaws ~~no less than once every two years after the date on which the Board adopts the bylaws, and shall reevaluate the~~ and regulations ~~no less than once every five years after the date on which the Board adopts the regulations~~from time to time at the direction of the Board.

c. Powers of Committees. With the exception of the Executive Committee, which shall have the powers identified in a Board vote under Section 6.2.a. of these Bylaws, the powers of any Committee shall be limited to holding public meetings and hearings, investigating and researching matters within their scope, and making recommendations to the full Board for its consideration.

d. Designees. The Board may appoint one or more Board members or other persons, including Cape Cod Commission staff, to act as a designee for purposes of attending meetings, or for purposes of attending other events and being a point of contact with governmental authorities or other organizations.

## ARTICLE VII

## Action by Board; Meetings

**Section 7.1.** Official Actions. Except as stated in other provisions of these Bylaws or as otherwise allowed by law, the Board will take official actions solely through a majority vote at a public meeting in accordance with the Open Meeting Law. All references to a "majority vote" shall mean a majority vote of a quorum at a meeting. Wherever these Bylaws require or authorize the Board to act, a majority vote of members present or participating remotely is required, regardless of whether expressly stated, unless there is a clear statement to the contrary.

**Section 7.2.** Quorum. A quorum of the Board requires the presence of a simple majority of the voting membership of the Board. The Ex-Officio Members do not count for purposes of having a quorum.

**Section 7.3.** Remote Participation. ~~In accordance with~~Provided that such participation continues to be permitted by the Open Meeting Law and ~~the~~ its implementing regulations ~~at 940 CMR 29.10, as both may be amended from time to time~~, Board members ~~shall~~ may be allowed to participate remotely in meetings of the full Board and of any Committee. ~~In addition to the limitations imposed by the above-referenced state laws, a Board member may only participate remotely in a meeting if he or she is allowed to do so under the Attendance Policy.~~

**Section 7.4.** Notice of Meetings. ~~In accordance with~~Provided that such publication continues to be permitted by the Open Meeting Law and its implementing regulations, ~~940 CMR 29.03(3)(b),~~ the Board will publish notice of its meetings on its website as its official notice posting method. The Board shall file and post notice of its website address, as well as directions on how to locate notices on the website, in each city and town within the Barnstable, Nantucket and Dukes counties in the manner prescribed for local public bodies in that city or town.

## ARTICLE VIII

### Administration, Finance, and Record-Keeping

**Section 8.1.** Fiscal Year. The Board's fiscal year will be coterminous with the fiscal year of the Commonwealth of Massachusetts.

**Section 8.2.** Official Records. The official records of the Board will be maintained by the Cape Cod Commission at the Commission's offices. The records will be retained and destroyed in accordance with applicable law for regional public bodies in accordance with Public Records Law.

**Section 8.3.** Itemized Records. Paragraph 4 of Section 20 of the Act provides that the Board shall maintain complete itemized records of all receipts, expenditures and disbursements of the Fund in accordance with generally accepted accounting principles. The Board's ability to maintain these records may depend on information supplied by other governmental bodies and officials within the Commonwealth. In the event that the other governmental bodies or officials do not supply the necessary information, the Chairperson shall notify them in writing. To the extent possible based on information in its possession, the Board shall nonetheless maintain itemized records and produce, with appropriate limitations noted, the annual report ~~and audit report~~ required by the Act in accordance with applicable timelines, unless an extension is agreed upon by the Board and ~~either~~ the Report Recipients ~~or Audit Recipients, whichever is applicable~~.

**Section 8.4.** Annual Report. The Cape Cod Commission shall be responsible for preparing the annual written report required by the Act for review and for submitting the annual report to the Report Recipients. As required by the Act, the annual report shall include, but not be limited to: (i) an account of revenue generated under section M.G.L. c. 64G, § 3C; (ii) itemized expenses of the Board; (iii) summaries of the projects funded through the Fund; (iv) an account of administrative expenses of the Cape Cod Commission and the Martha's Vineyard Commission; and (v) five-year projections relative to expected revenue and upcoming projects. The full Board shall review and approve the annual report prior to its submittal to the Report Recipients.

~~**Section 8.5.** Annual Audit. The Board, which may act through the Cape Cod Commission, shall be responsible for making arrangements for an annual audit by an independent certified public accountant, as required by the Act, and for submitting a copy of the annual audit report to the Audit Recipients. The full Board shall review and approve the audit report prior to its submittal to the Audit Recipients.~~

~~**Section 8.6.**~~**Section 8.5.** Reimbursement of Cape Cod Commission Expenses. ~~By a majority vote, the Board may compensate the~~The Cape Cod Commission may be compensated for administrative and technical support and associated costs provided to the Board. The Cape Cod Commission may propose a budget for approval on an annual basis. The Board shall compensate the Commission for any costs set forth in the budget, if or as approved, but retains discretion with respect to costs not set forth in an approved budget.

## ARTICLE IX

## Execution of Instruments

**Section 9.1.** Authorized Signatories. The Chairperson and the Vice Chairperson are authorized to execute agreements and other documents on behalf of the Board, provided that signature reflects the vote of the Board or Executive Committee, as applicable.

**Section 9.2.** Designees. By majority vote, on either a general or a case-by-case basis, the Board may designate other persons to execute agreements and other documents on its behalf. The Cape Cod Commission shall include any such designation in the Board's official records.

**Section 9.3.** Electronic Signatures. Wherever a written instrument must be executed, an electronic signature, to the extent permitted by applicable law, shall be deemed a written signature.

## ARTICLE X

## Regulations

**Section 10.1.** Regulations. The Board shall adopt regulations governing the method of allocating subsidies, and other matters that the Board, in its discretion, deems necessary or convenient to fulfilling the purposes of the Act.

## ARTICLE XI

## Code of Conduct

**Section 11.1.** Non-Discrimination. In all of its dealings, the Board shall not discriminate against any individual or group for reasons of race, color, creed, sex, age, culture, national origin, marital status, sexual preference, mental or physical handicap, or any category protected by Massachusetts or federal law.

**Section 11.2.** Open Meeting Law Training and Conflict of Interest Training. Board members shall comply with all training requirements under the Open Meeting Law and the Conflict of Interest Law. In accordance with the opinion of the State Ethics Commission, Board members are considered municipal officials for purposes of the Conflict of Interest Law. Board members are not ~~to be~~ required to undergo separate training for their membership on the Board if they are in compliance with training requirements through their position as a municipal official in another capacity. The Cape Cod Commission shall be responsible for informing Board members about their training requirements. ~~and including all certificates and other required records of this training in the official records of the Board.~~

**Section 11.3.** Attendance Policy. Board members are required to attend at least half of the meetings of the Board in a fiscal year ~~in person~~. In the event that a Board member has not attended at least half of the Board meetings ~~in person~~ in a fiscal year, then the Chairperson ~~shall~~may send a letter to the Board member's Appointing Authority identifying ~~his or her~~their attendance record and requesting ~~his or her~~their ~~in person~~ participation. If the Chairperson is the Board member who has not attended at least half of the Board meetings ~~in person~~, then the Vice

Chairperson ~~shall~~may send this letter. ~~Any Board member who did not attend in person at least half of the Board meetings for the prior fiscal year shall not be allowed to participate remotely in meetings for the first six months of the current fiscal year.~~ The provisions of this Attendance Policy shall not apply to the Ex-Officio Members or to the meetings of any Committee.

**Section 11.4.** Conduct of Official Business. Board members must treat all other persons, including members of the Board, non-voting participants, speakers, and members of the public, with respect. Board members shall demonstrate civil and professional behavior in all Board activities. Board members are responsible for being well informed of their duties and must recognize that the Board operates as a collective body, taking binding action only in publicly-posted meetings with a quorum of the Board present. Individual members cannot bind the Board. In the event that a Board member wishes to make a comment or state an opinion in ~~his or her~~their individual capacity, or on behalf of ~~his or her~~their Appointing Authority or municipality, the Board member shall make clear that the comment or opinion is not being made or expressed in ~~his or her~~their capacity as a Board member.

**Section 11.5.** Recourse for Violations of Code of Conduct. In the event that, in the opinion of the Chairperson, a Board member violates the Code of Conduct, then the Chairperson may send a letter to the Board member's Appointing Authority identifying this violation. The Chairperson may recommend a course of action and may make official statements for inclusion in the official records of a particular matter, but the Appointing Authority otherwise retains discretion to address the violation or alleged violation in the matter it sees fit. In the event that, in the opinion of a majority of the Board, the Chairperson, Vice Chairperson, any other officer, or any member of a Committee engages in conduct that violates the Code of Conduct, then, by a majority vote, the Board may remove the Chairperson or Vice Chairperson or other officer from office, or remove the Board member from any Committee he or she is assigned. Before any such vote, the Chairperson, Vice Chairperson, other officer, or Committee member shall have a reasonable~~n~~ opportunity to address the Board.

## ARTICLE XII

## Effective Date; Amendments

**Section 12.1.** Effective Date. These Bylaws shall take effect as of the date on which a majority of the Board votes to adopt them.

**Section 12.2.** Amendment and Repeal. These Bylaws may not be amended, repealed, or altered except by a majority vote of the Board. The full text of any proposed amendment shall be placed in the meeting notice for any public meeting at which the amendment will be considered.

## ARTICE XIII

## General Provisions

**Section 13.1.** Conflict with Applicable Law. These Bylaws are adopted subject to any applicable law. Whenever these Bylaws may conflict with any applicable law, the conflict shall be resolved in favor of the law.

**Section 13.2.** Invalid Provisions. If a provision of these Bylaws, or the applicability of the provision to a specific situation, is invalid or unenforceable, the provision shall be modified to the minimum extent necessary to make it or its application valid and enforceable, and the validity and enforceability of all other provisions of these Bylaws and all other applications of any provisions will not be affected.