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**BY-LAWS**

**OF THE**

**BOOTHBAY HARBOR SEWER DISTRICT**

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WHEREAS the Board of Trustees (hereinafter referred to as the Board) of the Boothbay Harbor Sewer District, Boothbay Harbor, Maine (hereinafter referred to as the District) is empowered, pursuant to the District Charter, to place into effect and to revise whenever it is deemed necessary or may be required rules regulating meetings, officers' duties, terms of office, a schedule of rates, customer charges, and fees for the connection and use of its wastewater system; and

WHEREAS the Board has determined, from time to time, that it is necessary to adopt regulations and policies affecting customer charges, rates, and fees; and the Board has determined that it would be helpful to the District staff and to its current and future customers to combine regulations and policies affecting customer charges, rates, and fees as part of these By-Laws which may be amended from time to time, as necessary.

NOW THEREFORE, BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE BOOTHBAY HARBOR SEWER DISTRICT, BOOTHBAY HARBOR, MAINE AS FOLLOWS:

**Article I – Meetings**

- 1.0 The annual meeting of the Trustees of the Boothbay Harbor Sewer District shall be held on the first Tuesday of January, each year at a time specified by the Trustees, at the Office of the District.
- 2.0 Regular meetings of the Board of Trustees shall be held the first and third Tuesday of each month, at 5:00 p.m., or at such time and place as the Chair, with consent of the majority of the Board, may designate. Such a meeting shall be duly advertised seven (7) days prior to the said meeting date.
- 3.0 Special meetings of the Board of Trustees may be held at any time. They shall be called by the Clerk of the District, at the request of the Chairman, or at written request of two (2) members of the Board of Trustees, by written notice given in hand to each Trustee, or addressed to each Trustee and posted with postage prepaid in the Boothbay Harbor Post Office, not less than forty-eight (48) hours before the time appointed for the meeting.

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- 4.0 A special meeting of the said Board of Trustees may be held at any time, without previous notice, and at any place within the Boothbay Harbor Sewer District, when and where all three (3) Trustees are present and unanimously consent to hold such meeting.
- 5.0 The Boothbay Harbor Sewer District Board of Trustees ("District Board") may allow members of this public body to participate in a public meeting using remote methods only under the following conditions.
- A. "Remote methods" of participation means telephonic or video technology allowing simultaneous reception of information and may include other means necessary to provide reasonable accommodation to a person with a disability. Public meetings by remote methods of participation may not be conducted by text-only means such as e-mail, text messages, or chat functions.
  - B. Members of the District Board are expected to be physically present for public meetings except when being physically present is not practicable, which may include the following circumstances:
    - 1. The existence of an emergency or urgent issue that requires the District Board to meet by remote methods;
    - 2. Illness, other physical condition or temporary absence from Boothbay and Boothbay Harbor that causes a member of the District Board to face significant difficulties traveling to the publicly noticed meeting location and attending the meeting in person; and
    - 3. The area of the District Board's authority includes geographic characteristics that impede or slow travel, including but not limited to islands not connected by bridges.

The chair or presiding officer of the District Board, in consultation with other members if appropriate and possible, will make a determination that remote methods of participation are necessary in as timely a manner as possible under the circumstances. A member of the District Board who is unable to attend a meeting in person will notify the chair or presiding officer as far in advance as possible.

- C. When any member or members of the District Board participate by remote methods, the public shall be provided a meaningful opportunity to attend by remote methods and reasonable accommodations must be provided when necessary to provide access to individuals with disabilities.
- D. If the District Board allows or is required to provide an opportunity for public input during the meeting, an effective means of communication between the members of the District Board and the public must be provided.

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- E. Notice of all public meetings must be provided in accordance with 1 M.R.S. § 406 and any applicable charter, statute, policy, regulation, or bylaw. When the public may attend by remote methods, notice must include the means by which members of the public may access the public meeting using remote methods and will provide a method for disabled persons to request necessary reasonable accommodation to access the public meeting. The notice must also identify a location where the public may attend the meeting in person. The District Board will not limit public attendance solely to remote methods except in the case of the existence of an emergency or urgent issue that requires the District Board to meet using remote methods.
  - F. A member of the District Board who participates in a public meeting remotely will be considered present for purposes of a quorum and voting.
  - G. All votes taken during a public meeting using remote methods must be taken by roll call vote that can be seen and heard if using video technology, or heard if using audio technology only, by other members of the District Board and the public.
  - H. The District Board must make all documents and other materials considered by it at the meeting available, electronically or otherwise, to the public who attend by remote methods to the same extent customarily available to the public who attend in person, provided no additional costs are incurred by the District Board. Therefore, last minute submission of documents and other materials to the District Board after the deadline for submission of these to the Boothbay Harbor Sewer District Superintendent in advance of each meeting is prohibited unless those documents and other materials are also made available to the public who attend by remote methods to the same extent customarily available to the public who attend in person.
- 6.0 As approved by the Boothbay Harbor Board of Selectmen at their regularly scheduled meeting on August 28, 2023, each Trustee shall receive annual compensation not to exceed \$1680.00 per year for their duties as Trustee. The Trustees shall receive an amount of \$70.00 per meeting attended.

### Article II- Quorum

- 1.0 At any meeting of the Board of Trustees, two (2) Trustees shall constitute a quorum the transaction of business: and all matters requiring the action of the Board of Trustees shall be determined by the vote of a majority of the Trustees present.

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### Article III - Elections

- 1.0 At each annual meeting the following officers of the District shall be chosen by ballot from the members of the Board: Chairman, Clerk, and Treasurer.
- 2.0 If for any reason all of the previously mentioned officers should not be elected at the annual meeting, any such officer not so elected may be elected at any subsequent regular meeting.
- 3.0 All said officers elected by the Board of Trustees shall serve until the next annual meeting or until their successors are elected and qualified, unless otherwise provided by the By-Laws.
- 4.0 At any regular or special meetings of said Board of Trustees, a Superintendent and other officers, not above specified, and employees may be chosen or employed to serve for no specified term; but only during the pleasure of said Board. At any regular or special meeting, the said Board may, at its pleasure, remove or discharge such superintendent or other officers mentioned in this section, or employees. Nothing herein, however, shall prevent the District from employing a superintendent or others for a definite term by written contract.

### Article IV - Vacancies

- 1.0 Any vacancy occurring in any office mentioned in Article III, Section 1.0, may be filled for the remainder of the unexpired term by ballot of the Trustees at any regular meeting of said Board of Trustees and pursuant to Section 14.8 of the District's charter.

### Article V — Chair

- 1.0 The Chair, when present, shall preside at the meetings of the Board of Trustees, and in his absence, a chair pro-tempore shall be elected. As Chair, he/she shall receive such compensation as the Trustees from time to time may establish.
- 2.0 The Chair shall have custody of the Treasurer's Bond.
- 3.0 The Chair shall, in the absence of the Treasurer, have the authority to sign all checks and make deposits on all funds belonging to said District.

Article VI — Clerk

- 1.0 The Clerk shall keep true and accurate records, including attendance, of all meetings of the Board of Trustees and during his term shall have custody of the same.
- 2.0 Under the direction of the Board of Trustees the Clerk shall attend to the correspondence of the Board and shall file for the Board all written communications received, and a copy of all communications sent by the Clerk or by said Board. The Clerk shall perform such other duties usually pertaining to the office as said Board may require.
- 3.0 In the absence of the Clerk from a meeting of said Board, or from said Town, the Board may elect a Clerk pro-tempore to perform all the duties of the Clerk during the Clerk's absence. The Clerk pro-tempore shall be sworn, and the certificate of oath entered on the records with the fact of the absence of the Clerk.

Article VII — Treasurer

- 1.0 The Treasurer shall receive and have custody of all money, funds, and securities belonging to said Boothbay Harbor Sewer District and deposit the same in the name of said Boothbay Harbor Sewer District, in such bank as the Board of Trustees may designate. The Treasurer shall keep a true account of all such funds and securities and of all money received and paid and make a written statement of the same at the annual and such regular meetings of the Board of Trustees.
- 2.0 No money shall be paid from the treasury unless authorized by a prepared warrant and by a majority vote of the Trustees at a regular or special meeting of the Board.
- 3.0 The Treasurer shall furnish security to the satisfaction of the Board of Trustees for the faithful performance of his duties and shall receive such compensation as said Board of Trustees shall determine.
- 4.0 Upon the expiration of the Treasurer's term of office, or in the event of death, resignation, or removal from office, the Treasurer or his/her legal representative shall deliver to his/her successor in office, all books, records, papers, moneys, and other property of said District.

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## Article VIII — Seal

- 1.0 The seal of the District shall be a circular disc upon which shall be inscribed the words "Boothbay Harbor Sewer District, Inc. 1961, Boothbay Harbor, Maine.

## Article IX — Customer Charges. Rates, and Fees for Use

- 1.0 The Board will not allow the transfer of wastewater service at an address to a new customer if there are any delinquent time payments or special assessments due for that address.
- 2.0 The Board will not allow any past or current customer to establish an account for wastewater service at a new address if the customer has delinquent wastewater charges or special assessments due for any current or former address.
- 3.0 When a property which abuts the public way in which public sewer is located, or has accessibility to, and does not connect to the District's wastewater system, in accordance with Section 2.0 of the Rules and Regulations of the District, the Board may impose a quarterly special assessment called "Ready-to-Serve". All assessments must be paid in order to avoid lien procedures.
- 4.0 When, in the opinion of the Board, gravity wastewater service is not reasonably accessible to a property that ordinarily would be required to connect to the District's wastewater system in accordance with Section 2.0 of the Rules and Regulations of the District, the Board may waive the requirement that the property connect to the wastewater system. Because the existence of the wastewater system benefits properties affected by this provision, each property may be assessed a quarterly "Ready-to-Serve" fee based on the current amount. Capacity fees and applicable connection charges will not be due until the property is connected to the wastewater system and will be assessed at the rate in effect at the time of connection.
- 5.0 All delinquent balances for wastewater charges and for special assessments will be charged late charges and interest not to exceed 18% per annum.
- 6.0 For those projects where the Board allows property owners to pay wastewater capacity fees, connection fees, etc. as a Special Assessment on a quarterly basis rather than in advance, the following regulations shall apply in addition to the other regulations contained in these By-Laws.
  - a. The property owner must sign a recordable Utility Fee Security Agreement in form satisfactory to the Board.

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- b. If there are no delinquent special assessment payments due, the Board will allow subsequent owners of the property to assume the obligations created by the Utility Fee Security Agreement but will not subordinate the Utility Fee Security Agreement to any mortgage or other obligation created by any property owner.
  - c. Where wastewater service is provided to a property, 50% of the Special Assessment must be paid at the time of connection with the remaining balance included on a separate quarterly bill for a period of five years and must be paid in order to avoid lien proceedings.
  - d. When the resident at an address is someone other than the property owner, the Board will require that the property owner be the customer and will send the quarterly bill for wastewater charges and for the Special Assessment to the property owner.
  - e. A vacant lot will not be liable for any fees, charges, or assessments until a permit to construct a habitable structure is requested on the property; at which time all wastewater capacity fees, connection charges, tap fees, and administrative charges must be paid in full.
- 7.0 If a lot, parcel of land, or building discharging wastewater or other liquids into the District's wastewater system, either directly or indirectly, is not a user of water supplied by the Boothbay Region Water District and the water used thereon or therein is not measured by a water meter, the amount of water used may be otherwise measured or estimated by the Board, or the owner, or other interested party, at his/her expense, may install and maintain a meter acceptable to the Board for said purpose. Residential wastewater customers who are not customers of the Boothbay Region Water District's water system and do not have a water or wastewater metering device acceptable to the Board will be charged a flat wastewater fee equal to the average residential customer cost per quarter for the use of the wastewater system. This charge will be calculated annually.
- 8.0 If total nominal water consumption for the maximum quarter of any 12-month period for a property connected to the District's wastewater system reflects usage of the water and/or wastewater systems that is 27,600 gallons or more greater than the allowable flow for the number of REU's for which capacity fees have been paid or which were assigned to the property, the Board will charge additional wastewater capacity fees. When additional capacity fees are charged, a proportionate share of the total amount to be charged will be billed to the customer quarterly for a period not to exceed sixty (60) months.

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- 9.0 Additional capacity fees will be assessed for any construction or change in the use of a property that increases the use of the wastewater systems beyond that previously approved by the Board or beyond that for which capacity fees have already been paid. The amount of the additional capacity fees will be based on the capacity fees in effect at the time of such construction or change in use and must be paid to the District prior to such construction or change in use.
- 10.0 If a customer fails or refuses to pay additional capacity fees assessed by the District, lien proceedings shall commence.
- 11.0 The payment of excessive use charges does not relieve a customer from liability for additional capacity fees that may be assessed by the Board.
- 12.0 A quarterly wastewater Basic Facilities Charge (BFC) must be paid for each REU (Residential Equivalent Unit) applicable to a property regardless of the amount of water used during any quarter.
- 13.0 REU's are not a transferable asset and are paid for and assigned to a specific piece of property. The Board will not allow the transfer of REU's (capacity fees) between locations within its service area.
- 14.0 If a customer has a credit due on one account but owes wastewater charges, capacity fees, etc. on any other account, the Board may apply the credit due as an offset against the amount owed on any other account held by that customer.
- 15.0 BFC's will accrue for all buildings which are, or have been connected to the wastewater system, but which are not using the system. These charges plus interest must be paid before the Board will reestablish the account or will allow the transfer of the wastewater service to a new customer.
- 16.0 BFC's will accrue for all properties where buildings, which were connected to the wastewater system, are demolished. If the demolished building is replaced by new construction, REU's established for the demolished building will be credited to the capacity fees required for the new construction provided that all accrued BFC's plus interest are paid prior to the beginning of construction. If the customer chooses not to pay the accrued BFC's plus interest, full capacity fees will be due for the new construction.
- 17.0 When the District's wastewater system is available to a specific site planned for development and only a wastewater service lateral is required to connect the planned service to the District's wastewater system, wastewater capacity fees must be paid prior to or at the time of issuance of a building permit by the Town(s) of Boothbay, Boothbay Harbor, or Southport.
- 18.0 All deposits currently held by the District, or to be held in the future, will accrue simple interest at the current market rate.



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- 19.0 A customer will be required to make all payments to the District in cash or by certified check, when, within 365 days immediately preceding the payment, the customer has given the District three checks which were returned to the District as uncollectible for any reason.
- 20.0 A customer shall not be allowed to enter a payment deferment plan with the District if the customer participated in two or more payment deferments within the immediately preceding 365 days. A customer shall not have more than one active deferment.

### ARTICLE X – Miscellaneous

- 1.0 All or parts of the Rules and Regulations of the Boothbay Harbor Sewer District, Boothbay Harbor, Maine, are hereby repealed to the extent of such conflict.
- 2.0 A finding by any court or other authority that any part or provision of these Bylaws is invalid shall not affect the validity of any other part or provision of these By-Laws that can be implemented without the invalid parts or provisions.


### Article XI — Amendments

- 1.0 These By-Laws may be amended at any regular or special meetings by unanimous vote of the three (3) Trustees with a minimum of seven (7) days previous notice, or at any regular meeting by a majority vote, provided at least seven (7) days written notice of the proposed amendment was given at the last previous regular meeting.

Boothbay Harbor Sewer District

DONE, AMENDED, AND RATIFIED, this 2nd day of January 2024.

BOOTHBAY HARBOR SEWER DISTRICT  
BOARD OF TRUSTEES

  
\_\_\_\_\_  
Deryl P. Kipp, Board Chair

ATTEST:

  
\_\_\_\_\_  
James Stormont, Treasurer  
\_\_\_\_\_  
Russel Hoffman, Clerk

WITNESS:

  
\_\_\_\_\_  
Christopher Higgins, Superintendent